Tea
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136	2000 Appropriation Ordinance	1/1/2000
137	1999 Supplemental Appropriations	1/7/2000
138	REVISED ORDINANCES	
139	An Ordinance Revising Section 7.5 Truck Load Limit	6/8/2000
140	2001 Appropriation Ordinance	1/1/2001
141	2000 Supplemental Appropriations	
142	Amending Chapter 11, Section 11.01 (1)	9/18/2001
143(a)	2002 Appropriation Ordinance 1/1/2002	
143(b)	Ordinance for Adoption of the International Building	7/10/2002
144(a)	2001 Supplemental Appropriation 1/9/2002	
144(b)	Ordinance Adopting the Engineering Design Standard	7/9/2002
145	2003 Appropriations	1/1/2003
146	2002 Supplemental Appropriations	1/7/2003
147	Sump Pump Ordinance (not adopted)	
148	Garbage Haulers 311 112003	
149	Structures and New Additions Thereto Within the City or Within Three Miles of the Corporate Limits of Tea	7/22/2003
150	Amending The Municipal Gross Receipts Tax	1/1/2004
151	Amending Sales & Service Tax & Use Tax	1/1/2004
152	2004 Appropriation Ordinance	1/1/2004
153	Ordinance to Regulate Certain Vendors	1/27/2004
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155	Ordinance to regulate the Moving of Houses	4/6/2004
156	Ordinance to regulate speed on the Street.	4/13/2004
157	Subdivision Ordinance	4/6/2004
158	Ordinance to Regulate Parking on Main Ave.	7/7/2004
159	Amending Section 11.04 of Zoning Ordinance	12/7/2004
160	Cable Franchise Ordinance	11/3/2004

ORDINANCE NUMBER	ORDINANCE TITLE	EFFECTIVE DATE
161(a)	2004 Supplemental Appropriations	1/12/1900
161(b)	2005 Appropriation Ordinance	1/1/2005
162	Adopting the 2003 IBC	6/12/2005
163	Adopting 2003 IRC	6/21/2005
164	Amending Subdivision Ord. Section 707 Curb & GUI	7/5/2005
165(a)	Rural Subdivision	9/6/2005
165(b)	2006 Appropriation Ordinance	1/1/2006
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167	An Ordinance Amending Municipal Sales & Use Tax	
168	An Ordinance to Regulate Video Lottery Establishment	11/22/2005
169	Supplemental Appropriation 2005	1/24/2006
170	Flood Damage Protection	
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172	2007 Appropriation Ordinance	1/1/2007
173	2006 Supplemental Appropriations	1/24/2007
174	Ordinance Amending Section 1 102 ...(half streets)	5/22/2007
175	Ordinance ~establishing Park Board	3/27/2007
176	Ordinance Amending Zoning Chapter 4, Single Family Res. District	
177	Ordinance Amending Zoning Chapter 5, Multi Family	
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179	Ordinance Adding Section 11 .O6 Portable signs	
180	Ordinance Amending Chapter 1 1, section 1 1 .08 Fences	
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183	Rain Sensors	
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185	2007 Supplemental Budget	
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Chapter 1. ADMINISTRATIVE CODE

SECT. 1.01 MUNICIPAL EMPLOYEES

(a) Appointment of Officers.

At the first regular meeting after the annual election, there shall be appointed a Finance Officer, Chief of Police, Street Superintendent and Utilities Superintendent, and such other officers as may be provided by Ordinance, to hold office until the appointment and qualifications of successors. All such appointments shall be made by the Mayor with approval of the City Council. The City Council may by resolution enter into a contract pursuant to SDCL 9-14 with an attorney to provide legal services to the City as the City Attorney. (SDCL 9-14-3) Ord. 50

(b) Employment Policies.

All policies regarding personnel regulations and benefits of the City shall be included in a Personnel Policy Manual, which shall be filed with the Finance Officer and available to all municipal employees. Ord. 50

SECT. 1.02 MAYOR AND CITY COUNCIL

(a) Mayor - Duties.

The Mayor shall preside at all meetings of the City Council but shall have no vote except in case of a tie. The Mayor shall perform such other duties as may be prescribed by laws and ordinances and ensure that such laws and ordinances are faithfully executed, and shall have the power to veto any part or item of an ordinance or resolution appropriating money. (SDCL 9-8-3) Ord. 50

(b) Meetings.

Regular meetings of the City Council shall be held in the City Hall on the first and third Mondays of each month at 7:00 p.m. Special meetings may be held at the call of the Mayor to consider such matters as may be mentioned in the call for the meeting. (SDCL 9-8-8) Ord. 123

(c) President and Vice-President of Council.

At the first regular meeting after the annual election in each year and after the qualifications of the newly elected council members, the City Council shall elect from among its members a president and vice-president, who shall hold their respective offices for the municipal year. The president of the City Council, in the absence of the Mayor, shall be presiding officer of the City Council, and during the temporary disability or absence of the Mayor from the City, 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 City Council, the vice president shall perform the duties of the Mayor and president of the Council. (SDCL 9-8-7) Ord. 50

(d) Compensation.

The Mayor and members of the City Council shall be allowed compensation as provided by Resolution which shall be paid in such installments as may be determined by the City Council. (SDCL 9-14-28) Ord. 50

(e) Supervision of Departments.

The Mayor, with approval of the City Council, shall appoint each year members of the Council to act in a supervisory capacity in each of the departments, and such council members, so appointed, shall have supervision over the department and shall as requested by the Council, report as to the condition and matters in said department. (SDCL 9-8-9) Ord. 50

Chapter 2. BOUNDARIES, WARDS AND VOTING PRECINCTS

SECT. 2.01 BOUNDARIES

(a) Boundaries.

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

SECT. 2.02 WARDS AND VOTING PRECINCTS

(a) Wards and Voting Precincts.

The City shall be divided into three wards, which shall be combined and consolidated into one election precinct, and shall be designated as Wards One, Two and Three.

(i) That portion of the City west of Poplar Avenue shall be and constitute Ward Number One (1).

(ii) That portion of the City east of Poplar Avenue and west of Main Avenue between the northernmost city limit and Apple Street, east of Poplar Avenue and west of Joseph Avenue between Apple Street and First Street, and east of Poplar Avenue and between First Street and the southernmost city limit shall be and constitute Ward Number Two (2).

(iii) That portion of the city north of Apple Street between Main Avenue and Joseph Avenue, and north of First Street between Joseph Avenue and the easternmost city limit shall be and constitute Ward Number Three (3).

(b) Conflicts.

All prior Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed. Ord. 128

(c) Separability.

If any provision of this Ordinance is declared unconstitutional or otherwise invalid, the remainder of the Ordinance shall not be affected thereby.

Chapter 3. HEALTH AND SANITATION

SECT. 3.01 NUISANCES

(a) ***Prohibited and Defined.***

No person shall create, commit, maintain, or permit to be created, committed, or maintained any nuisance as defined herein, within the City of Tea. The following specific acts, conditions and things are, each and all of them, hereby declared to constitute nuisances:

(i) Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property, any household waste water, sewage, garbage, refuse, rubbish, fecal, excrement, decaying fruit, vegetables, fish, meat, bones, any fowl, putrid, or obnoxious liquid substance, putrescible and nonputrescible animal or vegetable wastes or solid wastes, or any other waste material which constitutes or tends to create a danger to public health, safety, and welfare. (SDCL 9-32-10, SDCL 34A-7-9)

(ii) The accumulation of manure, garbage or anything whatsoever which are breeding areas for flies, mosquitoes, and rodents. (SDCL 9-32-10)

(iii) Permitting weeds to grow to twelve inches on any private property, including but not limited to Canada thistle, sunflowers, ragweed, cockleburs burdock, black mustard, sweet clover, and bullthistle. Also, allowing the dense growth of any vegetation including brush or grass, without proper trimming or mowing, which may constitute a health, safety, or fire hazard. (SDCL 9-32-12)

(iv) For the owner of a dead animal to permit it to remain undisposed of longer than twenty-four (24) hours after its death. (SDCL 9-29-13)

(v) Any excavation, trench or open basement in which stagnant water is permitted to collect or which may jeopardize the life, limb or safety of the general public. (SDCL 9-29-13)

(vi) Throwing or letting fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth, fuel or wood while engaged in handling or removing any such substance. (SDCL 9-32-10)

(vii) Burning, causing or permitting to be burned upon any private or public property any dirt, filth, manure, garbage, sweepings, leaves, ashes, paper, rubbish or material of any kind, except as otherwise permitted by the City Council. This provision shall not apply to the burning of wood in outdoor fireplaces or wood burners. (SDCL 9-33-1)

(viii) Maintain, or causing or permitting the same, any building or premises which is determined to be dangerous or dilapidated. Any building or structure which has

any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or dilapidated building, if such conditions or defects thereby annoy, injure or endanger the comfort, repose, health, or safety of others, or if such conditions or defects exist to the extent that the life, health, property, value of property or safety of the public or its occupants are jeopardized:

1) Whenever any building or structure is (1) vacant and unoccupied for the purpose for which it was erected and; (2) the building is unfit for occupancy as it fails to meet minimum housing standards and; (3) the building has remained substantially in such condition for a period in excess of six (6) months.

2) Whenever any building or structure through lack of maintenance or attention and by virtue of its physical appearance and presence thereby depresses the market value of surrounding properties. (SDCL 9-29-13)

(ix) The failure of any owner, lessee, occupant or person having charge of any parcel of real estate to remove snow and ice from any sidewalk located on or adjacent to such parcel of real estate, in which case the Chief of Police, without notice may have such ice and snow removed therefrom. A bill for the expense incurred thereby shall be presented by the Chief of Police to the owner personally by leaving the same at his residence, or place of business, or if he is a non-resident, by mailing the same to his last-known address by prepaid first class mail, or, if the name of such owner or his place or residence cannot be determined or ascertained after due diligence, by posting the same in a conspicuous place on his premises, and; if he shall fail to pay the same within thirty (30) days thereafter, the Chief of Police shall cause an account to be kept against each lot for the cost of doing such work, and the same shall be certified to the Finance Officer on or before the first day of November of each year for assessment against said property in the manner provided by this Title.

(x) Throwing or letting fall on or permitting to remain on any street, alley, or public ground any soil, earth, mud, clay, rock, or combination thereof while engaged in handling, working with, working in or removing any such substance.

(b) Diseased Vegetation and Trees.

(i) Any owner, occupant, or person in charge of any property under the jurisdiction of the City of Tea shall remove at his or her own expense any trees, brush, wood, or debris infected with Dutch Elm disease or other infestations or infectious disease found thereon when so notified by the City to do so.

(ii) The notice requirements for nuisances for diseased vegetation and trees shall be governed by this section and not section 3.1(c). The City Council shall cause to be mailed to such owner, occupant, or person, written notice that they may appear before the said City Council at an appointed time not less than fourteen (14) days from the date of mailing of said written notice to show cause why said trees, brush wood, or debris should not be declared a public nuisance.

(iii) At said meeting the City Council may resolve and declare the same to be a

public nuisance and may order its removal by said owner, occupant, or person within twenty-one (21) days from the date of service of said resolution and order on said owner, occupant, or person.

(iv) Any diseased vegetation stored in the City shall be debarked or covered with four (4) to six (6) mil clear plastic from April 1st to October 1st, such plastic to be sealed by placing all edges in a three to four-inch trench covered with soil. In addition, any diseased vegetation which is removed and not stored in accordance with the provisions of this Section shall be properly disposed of by burning or burying in a designated disposal site. (SDCL 9-32-1-2)

(c) Nuisances How Abated.

Except as provided in Section 1, Subsection 3.1(a), the Chief of Police or Finance Officer shall give written notice or cause written notice to be given to any person creating, permitting, or maintaining any nuisance to abate such nuisance forthwith, and if such person shall neglect or refuse to do so within a reasonable time after such notice, he shall be deemed guilty of a violation of this Title. The City Council shall cause to be removed or abated any such nuisance upon the expiration of a reasonable time after the serving of such notice, and the City may recover the expenses so incurred from the person maintaining such nuisance in a civil suit instituted from such purpose, or may levy an assessment against the property and collect the same.

In addition to the methods herein provided, if any vegetation referred to in Section 1 (b) is found growing on any premises in the City from May 15th to September 15th of each year, the City may publish twice in the official newspaper, general notice covering all premises within the City, that unless such vegetation is destroyed within five working days from the date of publication of second notice, the City will destroy or cause to be destroyed the same, and the costs thereof will be assessed against the premises where said vegetation shall be found growing.

If the occupant, person in charge or owner of any lot or parcel of land fails to abate said nuisance in accordance with the notice given, the City Council may cause the abatement thereof and for such purpose may enter upon any such lot or parcel of land.

The Municipal Finance Officer shall cause an account to be kept against each lot or parcel of land for the cost of abating any nuisance thereon during the year, and the same shall be specially assessed as follows:

(i) The Finance Officer shall prepare an estimate of the assessment against each lot or parcel of land for such nuisance abatement, including therein the expense of levying such special assessment against each lot or parcel of land, and such estimate shall be submitted to the City Commission for its approval on or before the 1st day of January of each year.

(ii) The Finance Office shall cause to be published in the official newspaper a notice of the time and place when the City Council will meet for the purpose of approving such estimate, such notice to be published once not less than one week

before such hearing.

(iii) Upon a day so named, the City Council shall meet, and if they find said estimate correct, they shall approve the same by resolution; or if not correct, they shall correct or modify the same and approve the same as modified or corrected, and file such assessment roll with the Municipal Finance Officer.

(iv) From the date of the approval and filing of such assessment roll with the Finance Officer, the same shall be and become a special lien against the various pieces of property described in said assessment roll and shall be collected in like manner as special assessments for public improvements are collected.

(d) Keeping of Articles Abandoned or left on Private of Public Property.

It shall be the duty of the Police Department to take possession of any article or property abandoned, left, or placed on any public or private property, and if the same is believed to have any value, to keep it and attempt to locate the owner thereof, and to retain any such article heretofore so taken up by it. It shall be the duty of the Police Department to maintain a place for the keeping of any such article until the same shall be claimed for otherwise disposed of, and the City shall have a lien thereon for the reasonable expenses incurred in the storage of such article. The City may retain possession of any article or property until any and all liens against it are discharged.

(e) Disposition of Unclaimed Property.

If any abandoned article or property has been or is kept for thirty (30) days or more without being claimed, the same may be disposed of by the Police Department by one of the following methods.

(i) If of no value or slight value, it may be destroyed.

(ii) If of slight value but of use to the City it may be turned over to the proper department and used until claimed. Any lien incurred by the City against the property shall be regarded as a sufficient offset to the value of such use.

(iii) If of more than slight value, it may be sold by the Police Department ten (10) days after notice of such sale as been published in the City's legal newspaper, and the City may be a bidder at such sale. If on any such sale an amount is bid in excess of the charges or lien of the City, such excess shall be deposited in the City's general fund.

(f) Vegetation Nuisance Declared.

All weeds or plants declared to be primary or secondary noxious weeds by the state weed and pest control commission, all weeds declared to be locally noxious, and all other weeds or grasses growing upon any lot or parcel of land in the city to a greater height than (twelve) 12 inches, or which have gone or are about to go to seed, shall be deemed noxious, dangerous and unhealthful vegetation, and are hereby declared to be a nuisance. Fallen tree limbs, disease or dead trees, and

dead tree limbs shall also be declared dangerous and a nuisance. This shall not apply to vegetation which is not a primary or secondary noxious weed and is being grown as a crop, livestock pasture, native prairie display garden, wildflower display garden or other nature area designated by the department head of parks and recreation.

(g) Duty to correct.

It shall be the duty of the occupant, person in charge, or owner of any lot or parcel of land in the city to keep such lot, to include any abutting city right-of-way, commonly known as the "parkway," free of such vegetation nuisance by cutting, spraying or removal, as may be appropriate.

(h) Notice to correct.

The Chief of Police is responsible for requiring compliance with this article on all property, and has the authority to require compliance. The Chief of Police or Finance Officer may cause personal or public notice to be given requiring all lots or parcels of land in the city to be kept free from all vegetation declared by Section 3.1(b) to be a nuisance.

The notice shall provide that all vegetation determined to be a nuisance and left uncorrected may be cut, sprayed or removed by the City, and the cost thereof assessed against that property, to include the cost of levying such special assessment.

The notice shall be by general public notice, published in the official newspaper once a week for two consecutive weeks, and shall be deemed sufficient to allow those actions authorized by Sections 3.1(c) and 3.1(d). The Chief of Police or Finance Officer may also provide an individual personal notice by sending notice certified to the address of the property owner as indicated on the official books of the County Treasurer.

The occupant, person in charge, or owner of any lot or parcel of land shall cut, spray or remove, as appropriate, any vegetation which could constitute a nuisance.

(i) Correction by City.

If the occupant, person in charge, or owner of any lot or parcel of land fails to correct any such vegetation nuisance as required, the department head of parks and recreation, or his designate, may cause such vegetation to be cut, sprayed or removed, as appropriate, and for such purpose the person to do the work may enter upon any lot or parcel of land.

It is a public offense for any person to intentionally interfere or attempt to interfere with the cutting, spraying or removal of such vegetation nuisance, by physical force or violence.

(j) Special assessment.

The Finance Officer shall cause an account to be kept, against each lot, of the cost to the City for the correction and control of vegetation nuisance during the

growing season of each year, and the cost shall be certified to the County on or before September 1 of each year.

The Finance Officer shall prepare an estimate of the assessment against each lot for the correction and control of vegetation nuisance for the preceding growing season, including therein the expense of levying such special assessment against each lot. Such estimates shall be submitted to the City Commission.

Upon the filing of the assessment roll with the Finance Officer, the City Commission shall fix a time and place of hearing upon the assessment, not less than twenty (20) days from the date of filing thereof. The Finance Officer shall thereupon publish a notice of the time and place of hearing in the official newspaper, one week prior to the date set for the hearing. The notice shall in general terms describe the improvement for which the special assessment is levied, the date of filing of the assessment roll, the time and place of the hearing thereon, and that the roll will be open for public inspection at the office of the City Finance Officer, and shall refer to the special assessment roll for further particulars.

In addition to the publication of the notice of hearing, the Finance Officer shall mail a copy of the notice, by first class mail, addressed to the owner of any property to be assessed for the improvements, at his address as shown by the records of the Finance Officer. The mailings shall be at the least one (1) week prior to the date set for the hearing.

The owner of any lot or parcel of land against which a special assessment is to be so levied, or its occupant or person in charge, shall have the right to appear before the commission at such meeting to protest such assessment and to give reasons why such assessment should not be levied.

Upon the day so named, the commission shall meet, and if they find the estimate correct and the actions of the department head of parks and recreation resulting in the estimate to be in accordance with the provisions of this article, they shall approve the assessment by resolution and file such assessment roll with the Finance Officer; or, if not correct, they shall correct or modify the estimate, and approve the assessment as corrected or modified, and file such assessment roll with finance officer; or, if not in accordance with the provisions of this Title, shall disapprove such assessment.

From the date of the approval and filing of such assessment roll with the Finance Officer, the assessment shall be and become a special lien against the various pieces of property described in the assessment roll and shall be collected in a like manner as special assessments for public improvements as are now collected.

(k) Vegetation nuisance removal fund.

The City Commission may provide in the annual appropriation ordinance for a fund, to be expended under the direction of the department head of parks and recreation, for the correction and control of vegetation nuisances, as provided for in this Title. All monies collected for expense of correction and control of

vegetation nuisance pursuant to the provisions of this article shall be credited to such fund.

Chapter 4. COLLECTION OF GARBAGE

SECT. 4.01 OPERATORS, LICENSING AND RESTRICTIONS

(a) Private Operators.

The collection of garbage and refuse in the City shall be made by private contractors or operators approved by the City Council, who shall be subject to all local ordinances as well as all state and federal regulations. Collections shall be made at least once a week, unless otherwise required by the City Council by resolution and written notice to the private contractors.

(b) License Required. SEE ORDINANCE 148

~~(i) There shall be no more than three (3) private contractors or operators involved with the collection and disposition of garbage or refuse in the City, each of whom shall be required to apply in writing for an annual license to the City Council. Any license approved and issued may be revoked by City Council for violations of laws, regulations or stipulations concerning such operations. Any transfers of the annual license shall be subject to approval by the City Council. The annual license fee shall be set by resolution of the City Council.~~

(c) Restrictions on Equipment.

(i) In addition to compliance with license requirements, the equipment to be used by such licensees shall comply with the following:

SEE ORDINANCE 139 ↓

(ii) No licensee shall use a vehicle having a gross vehicle weight in excess of 10,000 pounds, except on posted truck routes. Customers requiring dumpster locations will be approved or rejected by the City Council.

(iii) All vehicles used by any such licensee shall be enclosed in a manner to retain within the vehicle all garbage or refuse being hauled by the vehicle.

***(d)* Penalty.**

Any person violating any of the provisions of this title shall be guilty of a Class II Misdemeanor, and upon conviction shall be subject to a fine of not more than One Hundred Dollars ($100), or imprisonment in the County Jail for not longer than thirty (30) days, or shall receive both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(e) City Not Liable.

The City shall not be liable for any expense incurred through the failure of a licensee or his agents and employees, to operate and maintain collection services in a proper and efficient manner, and for any actions that may result from or be attributed to such services performed. (SDCL 9-32-11)

SECT. 4.02 ON SITE GARBAGE LICENSE

(a) On Site Garbage License Required.

No person, firm or corporation may operate on site garbage service without having first obtained a license for it in compliance with this Ordinance. As used in this Ordinance, "on site garbage service" means the providing of garbage removal service for construction, remodeling or demolition projects by providing a container for such sites.

(b) Application and Fee.

Applications for on site licenses must be made to the City Finance Officer on a form provided by the Finance Officer. The application must show the location of the proposed on site garbage service, the name and address of the owner or operator and a telephone number where the owner or operator or an agent of the owner or operator can be reached twenty-four (24) hours of the day. The application will show the location of the proposed center, the size and location of access and parking, and the location and kind of containers or receptacles proposed to be used. The application must be accompanied by a fee of Five Dollars ($5).

(c) Containers.

Each on site garbage service must have containers with firmly closed lids, no smaller than one hundred (100) gallons. All containers and lids must be secured to prevent any container, lid or contents from blowing around during normal winds. Trailers may be used for containers if the trailers conform to all of the requirements of this Ordinance. Each container or trailer must be clearly marked with reflective material so as to be easily identifiable at night.

(d) Penalty.

Any person, firm or corporation violating any provision of this Ordinance will be fined not less that One Hundred Dollars ($100) for each offense, and a separate offense will be deemed committed on each day during or on which any offense occurs or continues. Ord. 124

SECT. 4.03 SWIMMING POOLS

(a) Compliance Required.

It shall be unlawful to construct, maintain, install or enlarge any swimming pool in the City except in compliance with all the provision of this Ordinance.

(b) Private Pool.

The term "swimming pool" is hereby defined as a receptacle for water, or any artificial pool for water having a depth at any point of more than two (2) feet, intended for the purpose of immersion or partial immersion therein of human beings, and including all appurtenant equipment.

(c) Location.

No portion of a swimming pool outside a building shall be located at a distance of less than stipulated by the established building codes and all pool construction shall be in compliance with the building codes. No pools shall be constructed in a front yard.

(d) Permit Required.

It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any private residential swimming pool and appurtenances within the City unless permits therefor shall have first been obtained from the City.

(e) Drawings, Plans and Permits.

(i) All drawings and plans for the construction, installation, enlargement or alteration of any swimming pool and appurtenances shall first be presented to the Zoning Board for examination and approval as to proper location and construction.

(ii) All plans and drawings shall be drawn to a scale of not less than one-eighth of an inch to the foot, on paper or cloth, in ink or by some process that will not fade or obliterate. All distances and dimensions shall be accurately figured and drawings made explicit and complete, showing the lot line, and including information pertaining to the pool, walk and fence construction, water supply system, drainage and water disposal systems, and all appurtenances pertaining to the swimming pool. Detail plans and vertical elevations shall also be provided in accordance with the Building Code.

(iii) All private residential swimming pools, appurtenances, water supply and drainage systems shall be constructed in conformity with the approved plans.

(f) Recirculation Pools.

All swimming pools shall be of the recirculation type in which circulation of the water is maintained through the pool by pumps, the water drawn from the pool being clarified and disinfected before being returned to the pool. Equipment shall be provided for the disinfecting of all pool water.

(g) Structural Design.

Swimming pools shall be designed to withstand the water pressure of the earth when the pool is empty.

(h) Fences

All outdoor swimming pools shall be completely enclosed by a fence. All fence openings or points of entry into pool area enclosure shall be equipped with gates. The fence and gates shall be four (4) feet in height above the grade level and shall be constructed of a minimum number 9 gauge woven wire mesh corrosion-resistant material, or non-climbable wooden fence. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gates.

(i) Outlets.

If pools are equipped with facilities for completely emptying the pool, then the discharge of pool water shall be into the storm sewer. There shall be an air break between the pool drain and the service sewer line. Every swimming pool shall have a recirculating system with an hourly capacity equal to the pool volume divided by eight (8).

(j) Electrical Requirements.

All electrical installations provided for, installed and used in conjunction with private residential swimming pools, shall be in conformance with the Ordinance regulating Electrical Installation, and pursuant to the provisions as set for in Article 680 of the National Electric Code of 1962 Edition Amendments thereto.

(k) Commercial Pools.

The design of any commercial pool for public use must be submitted to the State Department of Health of the State of South Dakota for approval. After obtaining written approval from the said State Department of Health, an application for permit may be submitted to the City of Tea, South Dakota.

SECT. 4.04 DECLARATION OF ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE MOTOR VEHICLES

(a) Definitions.

For the purpose of this Section, the following terms, phrases, works and their derivations shall have the meaning given herein:

(i) ***City* is the City of Tea**

(ii) ***Vehicle* is any vehicle which is designed to travel along the ground or in the water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go-carts, golf carts, boats, campers and trailers.**

(iii) ***Inoperable vehicle* is any vehicle, as defined by subsection (2) herein, which is not in operating condition due to damage, removal or in operability 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.**

(iv) ***Abandoned vehicle* is any vehicle, as defined by subsection (2) herein, which is left unattended or stored on any public property as defined by subsection (7) therein, in the same or substantially same place within the City for a longer period than twenty-four (24) hours.**

(v) ***Person* shall mean any person, firm, partnership, association, corporation, company or organization of any kind.**

(vi) ***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.**

(vii) ***Public property*** **shall mean any street, alley or highway which shall include the entire width between the boundary lines of every way publicity maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.**

(viii) ***Removal agency*** **is any public body, private or nonprofit organization authorized by the City to remove and salvage abandoned or inoperable vehicles.**

(b) 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 provision of this Section. It is unlawful to keep or place any of the above-described vehicles or vehicle parts:

(i) Upon public streets or property except on an emergency basis; or

(ii) 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 five (5) working days unless it is within a carport, fully enclosed building or structure. A tarpaulin, tent or of the similar temporary structure shall not be deemed to satisfy the requirements of this section.

(iii) In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any premises.

(c) Exceptions.

This article shall not apply to:

(i) An 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.

(ii) 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.

(iii) Junkyards operated and maintained in compliance with applicable City Ordinances.

(d) 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 remove 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.

(e) 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 Title for the costs of reasonable charges in taking custody of and storing such vehicles.

(f) 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 five (5) working days.

(g) 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.

(h) 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.

(i) 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.

(j) Content of Notice.

The notice shall contain the request for removal within five working (5) days after the mailing of such notice, and the notice shall advise that failure to comply with notice to remove shall be a violation of this article.

(k) Penalty.

Any person violating any of the provisions of this article shall be guilty of a Class II Misdemeanor, and upon conviction shall be subject to a fine of not more than One Hundred Dollars ($100.00). Each day such violation is committed or

permitted to continue shall constitute a separate offense and shall be punishable as such.

Chapter 5. LICENSES

SECT. 5.01 GENERAL PROVISIONS

(a) License, Unlawful Without.

It shall be unlawful for any person, persons, firm or corporation to engage in any activity for which a license is required without first having obtained a license, as hereinafter provided. The City Council may at any time expand the general provisions of this Title by requiring any person, persons, firm or corporation engaging in any trade, business or occupation within the City of Tea which is not specified by this Title to obtain a license, as deemed necessary.

(b) Application for License.

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

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

(c) License Expiration.

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

(d) Revocation.

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

(e) Issuance of License.

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

(f) Record of Licenses.

The Finance Officer shall keep a record of all licenses issued by the City stating when and to whom issued, for what purpose and for what length of time, the amount of money paid for said license, and the place where such activity is to be carried on. (SDCL 9-34-1)

SECT. 5.02 CONCERTS AND PUBLIC DANCES

(a) Public dances and concerts..

All public dances and concerts require a dance license. A public dance or concert is defined as any dance or concert conducted outdoors. The Dance or Concert applicant shall be responsible and liable for any damage or littering resulting from such activity and as such shall assume all liabilities.

(b) License requirement.

All public dances and concerts require a dance license. The applicant shall deliver to the finance officer .Fifty Dollars ($50) for a dance or concert license and an application which shall include:

shall pay to the Finance Officer a fee of a diagram of the proposed public dance or concert setting forth security, division or identification of minors where alcohol is served as may be required by state law;

Starting time, ending time not later than 1:00, and date;
Persons responsible for the event;
Whether the event is insured.
What type of security will be employed, if any.
The mayor or the City Council have the authority to approve an application.

(c) Supervision.

Public dances and concerts conducted hereunder may be required by the City Council to retain one or more supervisors, who shall be authorized to remove any person who is intoxicated or is conducting himself or herself in an improper or disorderly manner. No public dance, concert or public dance hall shall be conducted past the hour of one o'clock (1:00) a.m.

(d) Community Exception.

Nothing in this Title shall be construed to apply to dances or concerts conducted, maintained, or operated as a community enterprise and without personal profit to any person, firm or corporation. (SDCL 9-34-25, SDCL 42-4-1).

SECT. 5.03 TRANSIENT MERCHANTS, PEDDLERS
SEE ORDINANCE 153 FOR VENDOR RULES
DEFINITIONS.

For the purpose of this Title, a "transient merchant", "itinerant merchant" or "itinerant vendor" is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City of Tea or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said City. "Temporary business" is one established for temporary operation only. A business operated more than six (6) months in one place by the same person shall be deemed a permanent business, but one commenced and discontinued within six (6) months thereafter shall prima facie be presumed a temporary business, and its operator a transient merchant. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Title merely by reason by associating temporarily with any local dealer, trader, merchant, or by conducting such transient business in connection with as a part of or in the same of any local dealer, trader, or merchant. The word "peddler" as used herein shall include any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle, or other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, or merchandise, offering and exposing the same for sale, or making sales and delivering articles to purchasers. (SDCL 9-34-7)

(a) License Required.

Every transient merchant, itinerant merchant, or itinerant vendor as defined herein shall pay to the City a license fee of Twenty Five dollars ($25) per day that said transient merchant, itinerant merchant or itinerant vendor shall conduct said business licensed under this Title. Said license fee shall be payable in advance, and the license issued under this Title shall be posted conspicuously in the place of business named therein.

(b) Peddlers License.

It shall be unlawful for any person to be engaged in the business of peddler within the corporate limits of the City of Tea without first obtaining a permit and license therefore as provided herein. The fees required for such peddlers for said licenses shall be Twenty Five Dollars ($25) per day payable in advance, provided that no fees shall be required of one selling products actually produced by the seller. Peddlers are required to exhibit their licenses at the request of any citizen. (SDCL 9-34-8)

(c) Approval of License.

Any person seeking to obtain a license under the provisions of this Title shall pay to the Municipal Finance Officer the amount provided for by this Title for such license, for which the Finance Officer shall furnish the applicant a receipt designating kind of place and activity applied for. Both the Municipal Finance Officer and Chief of Police shall endorse said receipt.

(d) Applicants shall furnish the following information:

(i) Name of Applicant (s);

(ii) Permanent address of applicant (s);

(iii) Whether he transacts business for himself or someone else;

(iv) If for someone else, the name and address of the person, firm, or corporation he represents;

(v) Whether he sells and delivers the property directly to the purchaser or takes orders for it by carrying samples or catalogs;

(vi) Manner in which he intends to travel and a complete description of the vehicle he intends to use in doing so;

(vii) Copies of contracts and agreements he intends to make with the customers;

(viii) South Dakota Sales Tax license.

(ix) Any other information as the Municipal Finance Officer or Chief of Police may require.

(e) Use of Permit.

No more than one (1)or two (2) persons shall deal on the same permit as agents or otherwise, nor shall such permit be assignable from the persons to whom it was originally issued to any other person, firm, or corporation.

(f) Peddler Required to Leave.

No peddler shall remain upon the property of any customer or prospective customer who has requested the peddler or solicitor to leave such property. Any peddler, who does so, will have their license revoked without refund.

(g) Revocation of License.

Any license issued hereunder may be revoked, after notice and hearing, for any of the following causes:

(i) Fraud, misrepresentation or false statements contained in the application for license;

(ii) Fraud, misrepresentation or false statements made in the course of carrying on the business as a peddler, itinerant merchant, itinerant vendor or transient merchant hereunder;

(iii) Any violation of this Title;

(iv) Conviction of any crime or misdemeanor involving moral turpitude;

(v) Conducting the business licensed hereunder in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of public;

(vi)

(h) Penalties.

Any person violating any of the provisions of this Title, shall, upon conviction thereof, be punished by fine of not less than Twenty Five Dollars ($25.00), nor more than One Hundred Dollars ($100) or by imprisonment not to exceed thirty (30) days or both such fine and imprisonment for each day of operation in violation of this Title. Each day in violation of this Title shall be deemed a separate offense.

(i) Exceptions.

Nothing in this Title shall extend to any sale of livestock or farm products, or any second hand furniture or household goods by or for any person or persons who shall have actually used the same in the City of Tea, or to any sale of goods, wares, or merchandise by public officers in the pursuance of legal process, or to goods, wares, or merchandise sold by, nonprofit enterprises, except that such nonprofit enterprises shall be required to obtain a special permit for said sales. The Municipal Finance Officer shall issue special permits, without the payment of any license fees or other charges therefore, to any enterprise, either regularly or temporarily, when charitable educational, literary, scientific or religious purpose. An applicant for a special permit shall submit an application therefore to the Municipal Finance Officer and shall furnish such additional information and shall make such Affidavits as the Municipal Finance Officer shall require. A person or organization operating under a special permit shall operate his nonprofit enterprise in compliance with this Title and other applicable rules and regulations. (SDCL 9-34-1)

Chapter 6. OFFENSES

SECT. 6.01 ALCOHOLIC BEVERAGES

(a) License Required.

No person shall sell, offer for sale, keep 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 South Dakota Laws now in effect, or as hereafter amended. (SDCL 9-29-7, 35-1-1, 35-1-4, 35-1-5, 35-2 and 35-3)

(b) Video Lottery License Fees

There is hereby imposed on any person who is licensed pursuant to subdivision (4), (6), (11), (14) or (17), of SDCL 35-4-2 and who is issued a video lottery establishment license pursuant to SDCL 42-7A-41 an annual additional license fee for the privilege of locating video lottery machines on the licensed premises. The fee is established at Fifty Dollars ($50) for each video lottery machine and shall be paid at the same time and in the same manner as the fees paid in SDCL 35-4-2. All fees received under this Ordinance shall be deposited into the general fund of the City of Tea. Ord 85

(c) Application and License Fees.

In any instances in which applications may qualify, applications for licenses for the sale of alcoholic beverages in the City of Tea shall be submitted as prescribed by South Dakota Laws, as amended. (SDCL 35-4-2)

(d) License Restrictions.

Applications for any alcoholic beverage license submitted to the City of Tea shall be accompanied by the maximum fee for such license provided by State Law, unless such application fee has been modified previously by the City, and the granting or rejection of any such application shall be as provided by State Law, as amended from time to time and in accordance with any Ordinances of the City of Tea. (SDCL 35-2, 35-3 and 35-4)

(e) Approval or Disapproval of Applications.

The City Council shall have discretion to approve or disapprove all such applications depending on whether it deems the applicant a suitable person to hold such license and whether it considers the proposed location suitable. (SDCL 35-1.2 and 35-2-6.2)

(f) Times when On-Sale Service Prohibited.

No on-sale dealer, including malt beverage retailers, may sell, serve or allow to be consumed on the premises covered by that dealer's license, alcoholic beverages between the hours of two o'clock a.m. and seven o'clock a.m., or at any time on Christmas Day, or on Memorial Day after one o'clock a.m., or on Sundays after

midnight, except as herein provided. The City Council may approve applications for such on-sale licenses specifically requesting permission to sell alcoholic beverages on Sundays between the hours of eleven o'clock a.m. and midnight, if such applicant shall comply with the requirements of SDCL 35-4-2.1, as from time to time amended, and if said applicant shall also comply with such conditions and limitations which may be imposed on the granting of such applications by the City Council. (SDCL 35-4-81 and 35-4-2.1)

(g) Times When Off-Sale Service Prohibited.

No off-sale dealer, including a malt beverage package dealer, may sell, or allow to be sold, alcoholic beverages between the hours of twelve o'clock midnight and seven o'clock a.m. of the following day, or at any time on Memorial Day, Christmas Day or Sundays, except as herein provided. The City Council may approve applications for such off-sale licenses specifically requesting permission to sell alcoholic beverages, on Sunday between the hours of seven o'clock a.m. and twelve o'clock midnight, if such applicant shall comply with such conditions and limitations which may be imposed on the granting of such applications by the City Council. (SDCL 35-4-81.1)

(h) Sanitation Facilities.

Every on-sale dealer, shall maintain upon his or her licensed premises, toilets properly connected with the City water and sewer system with separate facilities for men and women. In each such facility there shall be maintained running water and approved sanitary drying facilities. Every licensee shall have such facilities equipped and maintained so as to comply with all federal, state or local health regulations at all times. (SDCL 34-18-20)

(i) Violations.

Any person, firm, or licensee in violation of any of the provisions of this Title shall be deemed guilty of a misdemeanor. For failure to correct any offense when applicable, after conviction, each day of failure to do so shall constitute an additional separate offense. Whenever any person shall as clerk, servant, agent, or employee of any other person or establishment violates any of the provisions of this Title he shall also be deemed as guilty as a principal. Failure to comply with all existing requirements, including the provisions in this Title, shall provide cause for revocation of any licenses granted under the provisions of the South Dakota Laws, now in effect or as hereafter amended. (SDCL 35-2-10)

(j) Open Containers.

It shall be unlawful to drink any alcoholic beverage or to possess any glass, can, or other unsealed container which contains any alcoholic beverage, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell such beverages unless authorized by the Common Council. (SDCL 35-1-5.3, SDCL 35-1-9.1)

SECT. 6.02 OFFENSES AGAINST PUBLIC WELFARE

(a) Disorderly Conduct.

A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:

(i) Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health;

(ii) Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;

(iii) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in boxing exhibitions duly authorized and licensed under law;

(iv) Interferes with another's pursuit of a lawful occupation by acts of violence;

(v) Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by the City Police or other lawful authority known to be such;

(vi) Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his own safety or the safety of others;

(vii) Resists or obstructs the performance of duties by the City Police or any other authorized official to the City when known to be such an official;

(viii) Incites, attempts to incite, or is involved in attempting to incite a riot;

(ix) Addresses abusive language or threats to any member of the City Police Department, any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance, or resentment are not prohibited;

(x) Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition;

(xi) Makes or causes to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;

(xii) Fails to obey a lawful order to disburse by a police officer, when known to be

such an officer, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is eminently threatened;

(xiii) Throws a stone, snowball or any other missile upon or at any vehicle, building, tree or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground;

As used above, the following definitions shall apply:

1) "Public place" - Any place to which the general public has access in the right resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the use of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

2) "Riot" - A public disturbance involving (i) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of another person or to the person or any other individual or (ii) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

3) "Inciting riots" - Shall mean, but is not limited to, urging or instigating other persons to riot, but shall be deemed to mean the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness, or the right to commit, any such act or acts.

This Section shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or lawful means of expressing public opinion not in contravention with other laws. (SDCL 9-29-3, SDCL 22-13-1)

(b) False Report of a Crime.

No person in the City shall make to, or file with, the Police Department of the City any false, misleading, or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the City. (SDCL 22-11-9)

(c) Injury or Removal of Public or Private Property.

No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or moveable or personal property belonging to the City or to any person in the City. (SDCL 22-34-1)

(d) Tampering in General.

No person in the City shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fireplug or hydrant, typographical survey marker or monument, or any other personal property erected or placed by the City. (SDCL 22-34-1)

(e) Tampering with Service Connections.

It shall be unlawful for any person to connect, disconnect, or otherwise tamper with any service connection of any franchised cable television company or Broadband Communications Service Company without the express prior approval from a designated agent of said Cable Television company or Broadband Communications Service Company. (SDCL 22-34-28)

(f) Carrying Concealed Weapons.

No person shall carry concealed about his person, display in a threatening manner, any dangerous or deadly weapon including but not limited to, any pistol or other firearm without a permit, brass knuckle or knuckles of other material, or any sandbag, 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 police officer may wear or carry such weapons as may be necessary and proper for the discharge of his official duties. (SDCL 22-14-8 through 22-14-10)

(g) 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 escape from any lawful confinement. No person shall assault or strike any police officer in the discharge of his duty. (SDCL 22-11-4)

(h) Indecency. As used in this Section, the following definitions shall apply:

(i) "Obscene" - To the average person applying contemporary community standards, taken as a whole, that the predominant appeal of the matter appeals to the prurient interests and (i) depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or (ii) depicts or describes patently offensive representations or descriptions of masturbation, excretory functions, or lewd exhibits of the genitals; and which, taken as a whole, lacks serious literary, artistic, political or scientific value.

(ii) "Prurient interest" - Shameful or morbid interest in nudity, sex or excretion which goes substantially beyond customary limits of candor in description or representation.

(iii) "Material" - Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial

representation or any statute or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.

(iv) "Dissemination" - To transfer possession of, with or without consideration.

(v) "Knowingly" - Being aware of the character and content of the material.

(vi) "Promote" - To cause, permit, procure, counsel or assist.

(i) It shall be unlawful for any person within the City of Tea to:

(i) Knowingly disseminate, distribute or make available to the public any obscene materials; or

(ii) Knowingly engage or participate in any obscene performance made available to the public; or

(iii) Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of the prurient appeal; or

(iv) Appear in any public state in a state of dress intended to deceive others as to his or her sex, or make any indecent exposure of his or her person. (SDCL 9-29-9)

SECT. 6.03 FIREWORKS, FIREARMS, AND EXPLOSIVES

(a) Discharging Firearms Prohibited.

No person shall discharge or shoot off any gun, pistol, or any other firearm within the City of Tea, unless permitted by the City Council in firing ranges.

(b) Fireworks Prohibited.

The use, throwing, lighting, firing, display, or sale of fireworks within the City shall be prohibited. The term fireworks as referred to in this section shall include firecrackers, torpedoes, roman candles, toy cannons, detonating canes, blank cartridges, sky rockets or other pyrotechnic displays, but shall not include or apply to ammunition for firearms nor to dynamite and devices for exploding the same used in any industry or for the same. The discharge of firecrackers or other fireworks which conform to state law shall be allowed between the hours of 8:00 a.m. to 12:00 p.m. on the 3rd, 4th, and 5th days of July. (Ord. 18 8-22-55)

(c) Exceptions Provided.

The provisions of this Title shall not apply to police officers of the City or to any person, firm or corporation duly licensed by the City Council in accordance with Title 4.1 of this Ordinance, to discharge fireworks for public entertainment at any public celebration in the City. (SDCL 9-33-1)

SECT. 6.04 MINORS

(a) Curfew Hours and Exceptions.

It shall be unlawful for any person under the age of sixteen (16) years to be on the streets, alleys, or public grounds of the City between the hours of 10:00 p.m. and 5:00 a.m. on the following day, and for any person under the age of eighteen (18) to be on the streets, alleys, or public grounds of the City between the hours of 11:00 p.m. and 5:00 a.m., unless accompanied by parents, legal guardian or some adult person over eighteen (18) years of age having the care and control of said person, or unless such person shall be upon some necessary errand by written permission of a parent, and except approved school functions and activities, and said person so permitted to be outdoors shall have with him or her such written permission and shall upon request of any police officer of the City exhibit the same to said police officer.

(b) Responsibility of Officers.

It shall be the duty of any police officer of the City to arrest and detain any person who violates any of the provisions of this Title and to keep such person detained until his or her parents, guardian, or person in control will appear before the police or other authorized personnel to answer to the charge of having violated this Title.

(c) Responsibility of Parents or Guardians.

It shall be unlawful for the parents, guardian, or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such a minor to 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 4:00 a.m. of the following day, except if the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian or other adult person having the care and custody of the minor.

Chapter 7. ANIMALS

SECT. 7.01 COMPULSORY LICENSING OF ANIMALS.

(a) License Required.

Each animal over the age of three (3) months shall be licensed by the City.

(b) Application for License.

The owner or keeper of any animal six months of age or older, shall submit to the Finance Office a license application for each animal, the license fee and rabies immunization certification

(c) Terms and License fees.

The initial license fee shall be Six Dollars ($6.00) for a new license and Three Dollars ($3.00) for each year thereafter. The City Common Council shall set the terms and the cost of the licenses periodically by resolution.

(d) Display of Tag.

An animal shall at all times display the license tag. The license shall be worn by all animals on a collar, harness, or chain when off the premises of the owner. If the animal wears a collar or harness, the license tag shall be affixed to the collar or harness in a manner to allow the tag to be easily seen.

(e) Notification of loss or death of animal.

The owner or keeper of the animal shall notify the City of the loss or death of such animal.

SECT. 7.02 COMPULSORY IMMUNIZATION OF ANIMALS FOR RABIES.

(a) Compulsory Immunization of Animals for Rabies.

Every dog, cat, or other animal held as a domestic pet in the City, six (6) months of age or older, shall be immunized against rabies by a licensed veterinarian or other qualified person designated by the City Council. Immunization against rabies shall be given at such intervals to guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian.

(i) Any owner acquiring a dog, cat, or other animal by purchase, gift, birth, or otherwise, shall have such animal immunized against rabies within one (1) month following acquisition or when such animal reaches the age of six (6) months.

(ii) Any animal impounded shall not be released by the Pound Master to any person until such animal has been immunized against rabies, provided, however, no animal so impounded shall be immunized if the owner can present a certificate

of a current immunization having been previously performed.

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

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

SECT. 7.03 RESPONSIBILITY OF OWNING, MAINTAINING OR ATTENDING ANIMALS, FOWL AND INSECTS

(a) Diseased Animal Restriction.

No person shall create or maintain any condition or operation any equipment or keep any animal, fowl, pet or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause transmission of diseases from animals or insects to man.

(b) Defecation Restriction.

No owner, keeper, caretaker or attendant of an animal shall allow an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property, the owner, keeper, caretaker or attendant must immediately and thoroughly clean the fecal matter from such property.

(c) Fecal Cleanup requirement.

Anyone walking an animal on public or private property other than his own must carry with him visible means of cleaning up any fecal matter left by the animal. Animals used in parades or involved in law enforcement are exempt from this section. Ord. 32

SECT. 7.04 RESPONSIBILITY OF OWNER TO PLACE ANIMAL FOR OBSERVATION.

(a) Responsibility of owner to Place Animal for Observation.

When any person owning or harboring a dog, cat or other animal has been notified that said animal has bitten or attacked any person, the owner shall within twenty-four (24) hours place the animal under the care and observation of the Pound Master or a licensed veterinarian for a period not less than ten (10) days.

(i) At the end of the ten (10) day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be reclaimed by the owner upon paying the expenses incident thereto.

(ii) Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies, or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed

necessary to determine a diagnosis.

(iii) Any person who shall suspect that any animal in the City is infected with rabies, shall report said animal to the Animal Control, Pound Master, the Police Department, or other health authority, describing the animal and giving the name and address of the owner if known.

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

(v) Any person within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to the Police Department of the City.

(vi) Any rabid animal may be destroyed by the Pound Master or Police Department.

(vii) Whenever the veterinarian, Police Department, Animal Control, Pound Master or Police Department shall have determined that there is danger of the existence or spread of rabies in the City, such facts shall be made known to the City Council in writing. The Council, upon receipt of said facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight (48) hours after the publication of said proclamation all animals found off the premises of the owner unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail. All animals seized and impounded shall be held for observation as hereinbefore provided for not less than ten (10) days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided.

SECT. 7.05 DISTURBANCE OF PEACE BY ANIMALS.

The owner or custodian of an animal shall not allow such animal to create a disturbance by making a load noises at any time of the day or night. 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. Any officer may remove and impound any animal which is disturbing the peace when the owner of the animal can not be located. A notice advising the owner of the impoundment shall be left at the premises. Any person having custody or control of any female dog or cat in heat shall be required to keep such dog or cat confined in a building, secure enclosure, veterinary hospital, or boarding kennel so that it cannot attract or come into contact with another animal on pubic or private property except for controlled breeding purposes.

SECT. 7.06 STRAY, ABANDONED, OR UNKEPT ANIMALS.

No person shall harbor or keep any stray animals within the City. Animals known to be strays shall be reported to the Police Department immediately. It shall be unlawful to abandon animals.

SECT. 7.07 DANGEROUS ANIMALS.

(a) Dangerous Animals.

The following animals are hereby declared to be dangerous animals.

(i) An Animal may be declared vicious by the health authority or the attending physician of the victim of an animal bite or scratch in cooperation with the health authority, after taking the following into consideration:

(ii) The nature of the severity of the incident

1) Whether the animal has shown a propensity to display dangerously aggressive behavior and is able or likely to inflict injury to another person or animal.

2) After such declaration, the owner of the animal shall be notified in writing of the declaration and shall not allow the animal off the premises of its owner unless muzzled and on a leash and in charge of a person over sixteen (16) years of age. Any vicious animal found off the premises of its owner, other than provided in this article, shall be seized by the animal control officer or police officer and impounded.

SECT. 7.08 DANGEROUS ANIMAL LICENSING.

(b) Dangerous Dog Requirements.

All owners of a dangerous animal are required to:

(i) Annually renew a "dangerous animal license" which must have been obtained prior to enactment of the ordinance,

(ii) Proves that the animal has been spaded or neutered and has been vaccinated against rabies,

(iii) Keeps the animal confined or securely leashed and muzzled;

(iv) Maintains a $100,000 in liability insurance; and

(v) Any additional requirements as may be set by resolution of the City Common Council.

(c) Dangerous Animal License.

All dangerous animals must have a dangerous animal license in addition to the regular license. An application for such license may be obtained from the City

Finance Office. The license fee for the dangerous animal license shall be set by the City Common Council annually.

SECT. 7.09 BANNING OF SPECIFIC BREEDS OF DOGS:

(d) Banned Breeds or dogs.

"Banned breeds or dogs" are banned entirely and may not owned or in the City of Tea, South Dakota. "Banned breeds or dogs" are defined as any one of the following:

(i) American Pit Bull Terrier;

(ii) Staffordshire Bull Terrier;

(iii) American Staffordshire Terrier;

(iv) Any dog whose sire or damn is a dog or a breed which is defined as a banned breed or dog herein;

(v) Any dog whose owner registers, defines, admits, or otherwise identifies said dog of being of a banned breed;

(vi) Any dog conforming, or substantially conforming, to the breed of American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier as defined by the United Kennel Club or American Kennel Clubs; or

(vii) Any dog which is of a breed commonly referred to as "Pit Bull" and commonly recognized and identifiable as such;

(viii) Any dangerous dog which is found at large.

Dogs owned as of date of May 22, 1996 the owner of a previously licensed Pit Bull may keep the dog only if the owner complies with the dangerous animal licensing requirements.

SECT. 7.10 RUNNING AT LARGE PROHIBITED.

(a) Definition and Penalties.

No owner of any dog, cat, or other animal held as a domestic pet in the City shall permit such animal to run at large at any time, and any such animal found at large may be impounded as hereinafter provided and/or such owner may be penalized as provided in the provisions of this ordinance. The term "running at large" shall mean intentionally left outside of the enclosure of a legal fence, and off of the lands owned or controlled by the owner of such animal.

(i) The City Council shall be authorized to appoint some person or persons, whose duty it shall be to impound any animals running at large, contrary to the provisions of this Title. Any police officer will likewise have such power. Upon impounding, the owner of such animal may at any time within three (3) working days after the same shall have been impounded, reclaim the animal by paying the

expense of keeping such animal. If any animal so impounded shall not be reclaimed within three (3) working days and all efforts to locate the owner have failed, the Pound Master is authorized to destroy, sell, or otherwise dispose of such animal.

(ii) 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.

(iii) The City Council shall be authorized to enter into a contract with some person, association or Humane Society to establish, operate and maintain an Animal Pound in and for the City of Tea. Such contract shall provide for the appointment of a Pound Master and his duties, for the enforcement of this Title, for the impounding, destroying and disposal of animals, for a schedule of fees to be charged for services rendered, and for a monthly amount to be paid by the City. The City may, in lieu of the provisions of this section, maintain its own impoundment area or quarters, under the supervision of the City Council.

(iv) Any owner allowing their animal to run at large as defined in the provisions of this section, if convicted, shall be guilty of a misdemeanor.

(b) Fines.

(i) The fines for animals running at large are as follows:

1) First offense shall be Fifty Dollars ($50) plus court costs.

2) Second and offenses thereafter shall be One Hundred Dollars ($100) plus court costs.

(ii) The fines shall not include the cost of housing the animals, which costs shall be paid to the entity housing the animals.

SECT. 7.11 CRUELTY TO ANIMALS.

No person shall willfully or negligently mistreat or abuse or neglect in a cruel or inhumane manner any animal or fowl. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, on the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any such animal. (SDCL 9-29-11)

SECT. 7.12 DISPOSITION OF ABUSED ANIMALS.

In cases where an animal or animals have been seized by the animal control officer based upon cruelty, neglect or abandonment, such animal may be adopted to another owner or humanely euthanized thereby extinguishing all property rights of the existing owner following tile procedures as hereinafter provided:

Upon seizure of the animal or animals, the animal control officer shall serve notice upon the existing owner, if the identity of said existing owner is known,

informing, said existing owner of the animal control officer's intent to have said animal disposed of.

(a) Time limit for owner.

The existing owner shall have three (3) business days to:

(i) Declare in writing and deliver to the animal shelter keeping said animal or animals:

1) Notice of said existing owner's intent to maintain ownership of the animal or animals and to object to the adoption or euthanasia thereof, and;

2) Notice that said existing owner shall pay where due all impoundment, board and veterinary costs until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.

(ii) Pay all impoundment, board and veterinary costs up to the date of the owner's declaration of intent to maintain his ownership of said animal or animals to the animal control shelter.

(b) Intent to maintain ownership.

Upon all notification of said existing owner's intent to maintain ownership of the animal or animals and the objection to the adoption or euthanasia thereof said existing owner shall continue said payments to the animal control shelter for impoundment, board and veterinary costs on a weekly basis until such time as the animal or animals shall be released to said existing owner or be adopted or euthanized.

(c) Failure to notify.

If the existing owner of the animal or animals fails to declare hereinbefore stated intent or fails to make any payment in a timely manner, or if the identity of said existing owner is unknown or notification to said existing owner cannot be made, ownership of the animal or animals will revert to the animal shelter.

SECT. 7.13 LIVESTOCK & POULTRY IN CITY.

No person shall keep or maintain any building or enclosure where livestock is kept, unless the same be at all times kept in a clean and sanitary condition. No person shall place, keep, or maintain any live hogs within the City. (SDCL 9-29-12)

SECT. 7.14 IMPOUNDMENT.

(e) Impoundment Facility.

The City is authorized to maintain its own impoundment area or quarters, under the supervision of the City Council. The City may also enter into a contract with any person, business or association to operate and maintain an impoundment

facility for the City. The contract may be on such terms as the City Common Council determines.

(f) ***Impoundment and destruction of animal.***

Whenever an animal has been seized and impounded, the owner has three (3) business days to claim the animal by paying the impoundment fee, paying any fines imposed and by providing proof of immunization as required by City Code.

(g) ***Notice to owners of licensed animals.***

The City shall notify the owner of an animal who has been licensed within twenty-four (24) hours of the impoundment, if possible.

(h) ***Destruction of animals.***

If an impounded animal shall not be claimed and all efforts to locate such owner have failed, the City is authorized to destroy, sell or otherwise dispose of the animal. If the animal has been seized due to cruelty, neglect or abandonment, such animal may be disposed of after:

(i) ***Notice to owner of intent to dispose of animal.***

Notice shall be served upon the existing owner, if such identity is known, informing the owner of the intent to dispose of the animal.

(j) ***Notice of Objection to disposal.***

(i) The owner shall have three (3) business days after notice to the City of his or her objection to disposal, of intent to maintain ownership and intent to pay in full all impoundment and treatment costs. In addition, the owner shall pay all costs up to the date of notice of intent, including any fines and pays in advance weekly any costs of impoundment and treatment. If owner fails to comply with this section, the City may dispose of the animal.

SECT. 7.15 KENNEL REGULATIONS

(a) Number of pets limited.

It is unlawful for any person to have or to keep more than four domestic pets over the age of six months, except birds and fish, on any lot or premises in the city, unless such person residing on or in the lot or premises has a valid kennel license issued by the city. The city humane society, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

(b) Definition of Kennel.

Kennel shall be defined as any premises or portion thereon where dogs, cats, or other household pets are raised, trained, boarded, harbored or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

(c) Kennels Require Conditional Use Permit.

A kennel shall require a conditional use permit for all zoning districts of the City.

(d) Kennels location.

Kennels should be located in areas where the noise generated by such use would not be a nuisance or detrimental to adjacent properties. Generally, a fence separating the kennel operation from adjacent property owners shall be required.

(e) Kennel License.

All persons owning and operating a kennel shall obtain an annual kennel license.

(f) Kennel License Fee.

The annual kennel license shall be set by resolution by the common council. The initial fee shall be $100 until said fee is changed by resolution.

Chapter 8. TRAFFIC CODE

SECT. 8.01 GENERAL PROVISIONS

(a) Definitions.

When in this Title the following terms are used they shall have the meanings respectively ascribed to them in this Section.

(i) "Authorized Emergency Vehicle" - Vehicles of any fire department, police vehicles, and such ambulances and emergency vehicles of municipal department or public service corporations as are designated or authorized by the Chief of Police or the City Council.

(ii) "Crosswalk" - That portion of a roadway ordinarily included within the extension 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.

(iii) "Intersection" - The area embraced within the extension of the lateral curb lines or, if none, then the lateral boundary lines of two or more streets or highways which join one another at an angle whether or not such street or highway crosses the other.

(iv) "Motor Vehicle" - Every vehicle, as herein defined, which is self-propelled.

(v) "Operator" - Any person who is in actual physical control of a vehicle.

(vi) "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 and signals.

(vii) "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.

***(b)* Police to Direct Traffic.**

It shall be the duty of the City Police Department to enforce the provision of this Title. Officers are hereby authorized to investigate accidents and to carry out all duties specifically covered by this Title, and to direct all traffic either in person or by means of visible or audible signals in conformance with the provisions of this title, provided that in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, officers may direct traffic, as conditions may require. (SDCL 9-29-19)

(c) Obedience to Police.

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a police officer, or refuse to submit to any lawful inspection or fail to comply with the provisions or requirements of any warning ticket issued by the police under this Title.

(d) Persons Riding Bicycles or Animals Shall Obey Traffic Regulations

Any person 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 nature can have no application. (SDCL 32-14-1)

(e) Operation of Snowmobiles.

Any person operating a snowmobile in the City of Tea shall observe all applicable regulations of this Title pertaining to motor vehicles. In addition, night driving shall be prohibited unless entering or leaving the City limits. (SDCL 32-20A-9)

SECT. 8.02 OPERATION OF VEHICLES

(a) Driver's License Required.

It shall be unlawful for any person to drive or operate upon any of the streets or highways within the City any motor vehicle without first having secured and having in his possession a valid license to do so. (SDCL 32-12-22)

(b) Age of Operator.

No person under the age of sixteen (16) years shall operate a motor vehicle upon the streets of the City unless such person is accompanied by the owner of the motor vehicle being operated, or is the holder of a restricted driving permit issued by the State. (SDCL 32-12-12)

(c) Drive on Right Side of Street.

Upon all streets the operator of a vehicle shall drive the same upon the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of a street unless it is impractical to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable to overtaking and passing set forth in this Title. (SDCL 36-26-1)

(d) Vehicles Shall Not Be Driven on Sidewalk.

The operator of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway. (SDCL 32-26-2-1-.1)

(e) Operation of Vehicles on Approach of Authorized Emergency Vehicle.

Upon the approach of any authorized emergency vehicle or vehicles giving audible signal by bell, siren or exhaust whistle, the operator of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by a police officer. (SDCL 32-31-6)

It shall be unlawful for the driver of any vehicle, other than one on official business, to follow (closer than 500 feet) any fire apparatus, or to park any vehicle within the block where such fire apparatus has stopped to answer a fire alarm. It shall be further unlawful for the driver of any vehicle to drive over any unprotected hose of the Fire Department without the consent of authorized personnel.. (SDCL 32-31-7)

(f) Backing Around Corners or into Intersection Prohibited.

It shall be unlawful for the operator of any vehicle to back such vehicle around a corner at an intersection or into an intersection of public streets. (SDCL 32-30-20)

(g) Reckless Driving.

Any person who drives any vehicle upon a street, avenue, or alley carelessly and heedlessly in disregard of the rights or safety of others, or without due caution, 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.

(h) Careless Driving.

Any person who drives any vehicle carelessly and without due caution, at a speed or in a manner so as to endanger any person or property, not amounting to reckless driving as defined in the previous section, shall be guilty of careless driving.

(i) Exhibition Driving.

Any person who drives any vehicle within the limits of the City in such a manner that creates or causes unnecessary engine noise, 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 away, shall be guilty of exhibition driving.

(j) Careless Driving, Reckless Driving and Exhibition Driving Prohibited.

No person shall operate a motor vehicle in such a manner as constitutes careless driving, reckless driving, or exhibition driving. (SDCL 32-24-1)

(k) Right-of-Way at Intersection.

The right-of-way rule as between vehicles at intersections is hereby declared as:

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

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

(iii) The operator of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he or she may otherwise have hereunder. (SDCL 32-26-12)

(l) U-Turn at Intersection.

At any intersection where warned by a traffic control sign displaying the words "No U-Turn", it shall be unlawful for the operator of a vehicle to turn such vehicle at the intersection in a half circle so as to proceed in the opposite direction.

(m) Right-of-Way, Left Turn.

The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said operator, having so yielded and having given a signal when and as required, may make such left turn and the operators of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn.

(n) Turning Around in Mid-block Prohibited.

The operator of a vehicle shall not turn such vehicle so as to park in the opposite direction or so as to proceed in the opposite direction except at an intersection.

(o) Required Condition of Vehicles.

Any vehicle having a loud or offensive muffler shall be considered illegal. Any vehicle not equipped with adequate brakes shall be prohibited from operating in the City. Any motor vehicle operated within the City shall be equipped with lights and a horn as required by state law. License plates shall be clearly displayed on each end of vehicle, and shall be kept clean and legible. (SDCL 32-14-2)

(p) Action Required at Stop Sign.

Except when directed to proceed by a police officer or traffic control signal, every operator of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the operator shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and shall not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage.

(q) Action Required at Yield Sign.

The operator of a vehicle approaching a sign authorized by the City Council bearing the word "Yield" or "Yield Right-of-Way" shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which such operator is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said operator having so yielded may proceed and the operators of all other vehicles approaching the intersection shall yield to the vehicle so proceeding.

(r) Obedience to Traffic Signs and Signals.

It shall be unlawful for any person to disobey the instructions of any official traffic sign or signal upon the street placed by the City Council, unless otherwise directed by a police officer.

(s) Stop Required Before Operator Entering From Alley, Building or Private Road.

The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where said operator has a view of approaching traffic thereon.

(t) Pedestrian's Right-of-Way.

The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block, except at intersections where the movement of traffic is being regulated by police officers or traffic control signals. Whenever any vehicle has stopped at a marked crosswalk or at any intersection to permit a pedestrian to cross a roadway, it shall be unlawful for the operator of any other vehicle approaching from the rear to overtake and pass such stopped vehicle. (SDCL 9-31-1)

SECT. 8.03 SPEED RESTRICTIONS

(a) General Restrictions. SEE ORDINANCE 156

~~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 Title.~~

(b) Speed Zones. SEE ORDINANCE 156

~~Establishment. No person shall drive a motor vehicle at a speed in excess of fifteen (15) miles per hour while passing through a school zone, or while traveling upon any street on or across which children are passing going to and from school during school days when such school children are present.~~

SECT. 8.04 PARKING, STOPPING

(a) Obstruction of Traffic.

No vehicle shall be operated or allowed to remain upon any street under the jurisdiction of the City in such a manner as to form an unreasonable obstruction to traffic. Whenever any police officer finds a vehicle which constitutes an obstruction to traffic, such officer shall be authorized to provide for the removal of such vehicle by towing, if necessary, at owner's expense, with no liability to the City.

(b) Parking in Streets.

In the event of snow, creating the necessity for the blading and/or removal of snow, it shall be unlawful to leave any vehicle parked on a City street for more than six (6) hours following such snowfall or snow alert, as determined by the Police Department, so as to not interfere with the Street Department's snow blading, and/or removal operations. All major streets, church areas, and school zones shall be designated emergency snow routes, and it shall be unlawful to park vehicles on such emergency snow routes during the time that snow blading and/or removal operations are in progress.

(c) Towing Vehicles.

The Police Department and all members thereof assigned to traffic duty shall be authorized to remove and tow away, or have removed and towed away by commercial towing service, any car or vehicle illegally parked, parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency vehicle, or in any way in violation with the provisions of this Title. Cars towed away for illegal parking shall be stored in a place designated by the Police Department and shall be restored to the owner or operator of such car upon payment of a fee of Twenty-Five Dollars ($25) plus towing charges, within twenty-four hours (24) after the time such car was removed, plus Five Dollars ($5) for each additional twenty-four (24) hours or fraction thereof.

(d) Abandoned Vehicles.

The abandonment of a motor vehicle or other vehicle or any part thereof on any street in the City shall be subject to action and penalties as provided for in this Title. The abandonment of a motor vehicle or other vehicles or any part thereof on private or public property, other than a street, in view of the general public, anywhere in the City shall be prohibited except on property of the owner of such abandoned vehicle. A motor vehicle or other vehicle or any part thereof so abandoned on private property may be authorized for removal by or upon the order of the Chief of Police after a waiting period of five (5) days or more has expired. The provisions of this Section may be waived for commercial or business enterprises insofar as off-street parking is concerned. (SDCL 32-30-12.1)

(e) Towing Costs.

When a vehicle is removed from either public or private property as authorized by order of the Chief of Police, the owner of the vehicle shall be responsible for all towing costs in addition to the fees provided in Section 7.4(c) hereof. In addition, the City shall not be liable for any damages to property or persons incurred as a result of such towing or storage.

(f) Record of Towed Vehicles.

When a motor vehicle or other vehicle is authorized to be towed away, the Police Department of the City shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, and license plate year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the officer authorizing the tow.

(g) Parking Prohibited in Certain Places.

At any time it shall be unlawful to permit any vehicle to stop, stand, or park in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a policeman or traffic control device:

(i) In any intersection.

(ii) In a crosswalk.

(iii) Within fifteen (15) feet of a fire hydrant.

(iv) At any place where the vehicle would block the use of a driveway.

(v) Within twenty (20) feet of the driveway entrance of a fire department station and on the side of the street opposite the entrance to any such station within one hundred (100) feet of such entrance.

(vi) On any sidewalk.

(vii) At any place where official signs prohibit parking.

(h) General Parking Restrictions.

No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets. It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise is peddled, unless authorized by the Chief of Police. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

(i) No Parking Areas.

The Chief of Police or any other person authorized by the City Council shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions, except that yellow curb painting may be used to indicate "No Parking" in certain street areas. (SDCL 9-31-1)

SECT. 8.05 TRUCKS

(a) Truck Routes.

No person shall drive or operate any truck upon any street in the City of Tea with or without load, other than those designated as truck routes. A truck shall be any vehicle with a gross weight of 26,000 pounds or greater or any vehicle defined in Section 3.2(c)(1). This definition shall include but not be limited to, truck tractors, commercial buses, motorized homes, house trailers when being moved, semitrailers and trailers. The following streets shall be designated as truck routes by the placing of appropriate signs along such routes:

First Street (County Highway 106)
All of Poplar north of First Street
All of Main north of Third Street
300 feet of James north of First Street
All of Mary south of First Street
Third Street from Mary Avenue to Main Avenue
Main Avenue from First Street to Third Street
Operation of Trucks.

It shall be unlawful for truck traffic to travel upon streets other than those designated as truck routes, and to park trucks on street areas where such action would be harmful to such areas, including hard surface streets in residential areas, or where otherwise determined on those streets with asphalt mat surfacing. Temporary parking to allow loading and unloading of trucks shall be permitted.

(b) Exceptions to Use of Truck Routes.

The provisions of this Title shall not apply to emergency vehicles of the police department, fire department or health department, nor to any public utility vehicles where actually engaged in the performance of emergency duties necessary to be performed by said public departments or public utilities, nor to any vehicle owned by or performing work for the United States of America, the State or the City. (SDCL 9-31-2)

SECT. 8.06 MISCELLANEOUS PROVISIONS

(a) Clinging to Moving Vehicles.

No person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any toy vehicles shall cling to or attach himself or such vehicle to any other moving vehicle upon any street.

(b) Riding on Outside of Vehicle.

No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to persons riding within truck bodies in space intended for merchandise.

(c) Exemptions 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 exemption shall not, however, exempt the operator of any such vehicle from the consequence of a reckless disregard of the safety of others.

(d) Application to Workers, Equipment.

The provisions of this Title shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work; provided, however, such persons and vehicles shall not indiscriminately block traffic, but shall allow reasonable room on the traveled portion of the street for other vehicles to pass.

(e) Immediate Notice of Accident.

The operator of a vehicle involved in an accident resulting in injury to or death of any person, or resulting in any property damage, shall immediately by the quickest means of communication give notice of such accident to the Police Department. (SDCL 32-34-3)

(f) When Driver Unable to Report.

An accident report shall not be required from any person, who is physically incapable of making such report during this period of such incapacity. Whenever the operator of a vehicle is physically incapable of making such report or is physically incapable of giving an immediate notice of an accident and there is another occupant in the vehicle at the time of the accident capable of doing so, such occupant in the vehicle at the time of accident shall cause to be given the notice not given by the operator.

(g) Duty to Give Information, Render Aid.

The operator of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and the license number of the vehicle he is driving, and shall upon request and if available, exhibit his operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or

surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(h) Personal Injury.

The operator of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 7.6(g). (SDCL 32-34-7)

(i) Property Damage.

The operator of any vehicle involved in an accident, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 7.6(g). Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor.

(j) Unattended Vehicle, Property.

The operator of any vehicle which collides with any vehicle or other property which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall attach securely in a conspicuous place in or on the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. Such driver shall without unnecessary delay notify the Police Department of such accident. (SDCL 32-34-4)

(k) Duty Upon Striking-Fixtures.

The operator of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's license and shall make report of such accident when and as required in Section 7.6(j).

(l) Duty Upon Striking Animal.

The operator of any vehicle which collides with any dog or domestic animal causing injury thereto shall stop and attempt to ascertain the owner of such animal and shall notify the Police Department of such accident.

(m) Authority to Install Traffic Control Devices.

The City Council shall place and maintain traffic control signs, signals, and devices when and as required under the traffic code of this City to make effective the provisions of said code, and may place and maintain such additional traffic control devices as may be necessary to regulate traffic under the traffic code of this City or under state law or to guide or warn traffic. (SDCL 32-14-5)

(n) Obedience to Traffic-Control Devices.

The operator of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed or held in accordance with the provisions of this Title unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this Title.

(o) Interference With Official Traffic Control Devices; Unauthorized Signs, Signals, or Markings.

No person shall, without lawful authority, attempt to or in fact alter, twist, deface, injure, knock down, remove, or interfere with the effective operation of any official traffic control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic control device or any railroad sign or signal.

This Section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

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

(p) Filing Accident Reports.

The Chief of Police shall maintain a suitable system of filing traffic accident reports. Accident reports referred to the Police Chief shall be filed alphabetically by location. Copies of such reports may be provided to any person, and the City may charge a reasonable fee for each copy so furnished, set from time to time, by the Chief of Police but not exceeding the amount under SDCL 32-34-13 for copies furnished by the Secretary of Public Safety.

(q) Load Limit Restrictions.

No person shall drive or operate any vehicle upon any designated street in the City of Tea, the gross weight of which including any load exceeds four (4) tons per axle. These load limits shall not apply to authorized emergency vehicles when such vehicles are responding to emergency calls in the city limits.

Chapter 9. STREETS, SIDEWALKS AND PUBLIC PLACES

SECT. 9.01 STREET NAMES AND ADDRESSES

(a) Names of Streets and Avenues.

The names of all streets and avenues in the City shall be fixed and adopted in accordance with the official map of the City on file in the Finance Office. All east-west thoroughfares shall be designated as streets and all north-south thoroughfares shall be designated as avenues. Any such act of naming, establishing, or vacating any street, alley or other public way in the City shall be so designated on such map.

(b) Numbering Plan.

A numbering plan for residences and businesses shall be maintained by the City Council. A listing of the assigned numbers and a map showing the location of addresses shall be maintained and filed with the Finance Officer. The Finance Officer shall be responsible for assigning new numbers, updating the list of such numbers, and updating of the location map. All residences and businesses shall be required to display their address number through the placement of numerals at least four inches (4") in height on the front of the said residence or business, in such a manner that the address number is clearly visible from the street fronting said residence of business.

(c) Numbering Streets.

The dividing line for numbering on all avenues running north and south shall be First Street. The dividing line for numbering all streets running east and west shall be Main Avenue. All streets and parts of streets running south from First Avenue shall be designated by prefixing to the names thereof the word south, and all streets and parts of streets running north from First Avenue shall be designated by prefixing to the names thereof the word north. All avenues and parts of avenues running west from Main Street shall be designated by prefixing to the names thereof the word west, and all avenues and parts of avenues running east from Main Street shall be designated by prefixing to the names thereof the word east.

(d) Numbering of Lots.

One number shall be apportioned to every subdivision of twenty-five (25) feet along all the thoroughfares of the City whether the same be occupied by buildings or not. In case any block or blocks or any lot or lots will not divide perfectly into subdivisions of twenty-five (25) feet, one whole number shall be assigned to the fractional part thereof.

In case more than one building is erected in a single space of twenty-five (25) feet the same may be numbered by placing thereon the regular number which appeared on the building formerly situated in said space or the number which

would otherwise be allotted to the space and on the second building to be erected thereon the regular number plus the fraction, one-half (1/2).

(e) Numbering Intervals.

All buildings shall be numbered consecutively in units as provided by the City Council, and all blocks consecutively in even hundreds. All numbering on east and west thoroughfares shall begin at the dividing line at Main Avenue and proceed outward to the limits of the City, placing odd numbers on the south side and even numbers on the north side of each thoroughfare. All numbering on north and south thoroughfares shall begin at the dividing line at First Street and proceed outward to the limits of each thoroughfare placing odd numbers on the west side and even numbers on the east side. The number of the first block on each side of the avenue proceeding from a dividing line shall be 100, the second shall be 200, and so on, and each block shall be numbered consecutively to the other limits of the City. The number on the first block on the south side of an east and west street, and on the west side of a north and south avenue, shall be 101 and the first number on the opposite sides thereof shall be 100. The first number on the second block shall be 201, and the first number on the opposite side thereof shall be 200, and so on, consecutively along all the streets and avenues throughout the City.

(i) SOURCE: SDCL 9-45-2 and Ord. 207 3-31-64

SECT. 9.02 STREETS, SIDEWALKS, CURB AND GUTTER

(a) Streets.

Only street department personnel or other authorized persons shall be permitted to work on any of the streets, avenues, or alleys in the City. (SDCL 9-45-1) All streets shall be designed and constructed in compliance with the currently approved Engineering Design Standards for the City of Tea.

(b) Street Surfacing.

The original hard surfacing of streets shall be at the expense of the owners of the property abutting the street(s) to be hard surfaced with materials meeting the currently approved Engineering Design Standards for the City of Tea. Total cost of the street improvement; including legal, engineering, grading and any other costs related to the improvement shall be assessed against the property on a frontage foot basis.

The cost of each street or alley intersection shall be assessed to all lots according to area so as to include one-half of the property between the street improved and the next street, whether such property abuts upon such street or not, but in no case shall such property situated more than three hundred (300) feet from such intersection be assessed. When the improvement is in or upon any alley, the assessment area shall be confined to the property within the block or blocks improved, and if not platted into blocks, to the property within one hundred fifty (150) feet of such alley. (SDCL 9-45-31)

(c) Sidewalks.

All sidewalks, except those designated hereafter, shall be designed and constructed in accordance with the currently approved Engineering Design Standards for the City of Tea (hereafter "EDS"). When considered necessary and advisable for the peace, welfare, and safety of the people, the City Council may direct that new sidewalk be constructed and assessed to any abutting property owner in accordance with SDCL 9-46. The Zoning Board has the authority to waive the EDS standards where EDS designed sidewalks would (1) not connect or would create sharp angles, (2) would interfere with public utilities, (3) would require removal of mature trees or (4) would require substantial earth and retaining wall work.

(d) Driveway Approaches.

All driveways shall be designed and constructed in accordance with the currently approved Engineering Design Standards for the City of Tea.

(e) Curb and Gutter.

All curb and gutter shall be designed and constructed in accordance with the currently approved Engineering Design standards for the City of Tea. The City Council may direct that curb and gutter be constructed and the cost assessed against any abutting property owner. (SDCL 9-45-5)

***(f)* Permits.**

When constructed separately from an over-all construction project, property owners or their agents shall submit applications for permits for approval by the City Council for sidewalks, driveway approaches, curbs, or curb and gutter. When these improvements are constructed simultaneously or as one project, only one application is necessary to include all improvements, and where any or all are part of new construction projects, only one permit for the over-all construction shall be issued. All installations and engineering recommendations shall be in conformance with the currently approved Engineering Design Standards for the City of Tea.

(g) Barrier-Free Construction.

Whenever any person, firm or corporation makes new installations of sidewalks, curbs or gutters, in both business and residential areas, it shall be required that they utilize barrier free construction ramps. All such ramps shall be designed and constructed or installed in accordance with design specifications according to currently approved Engineering Design Standards for the City of Tea and the most current American National Standards Specifications published by the American National Standards Institute. (SDCL 9-46-1.1)

SECT. 9.03 SNOW AND ICE REMOVAL

(a) Duty to Remove.

It shall be the duty of the owner, tenant, or person in possession of any property abutting on any sidewalk to keep such sidewalk free from snow and to cause any accumulated snow to be removed from any such abutting sidewalk within twenty-four (24) hours after the termination of any snowfall, or snow accumulation.

(b) Disposal of Snow.

It shall be the duty of the property owner, tenant, or person in possession of any public or private driveway, parking lot or parking area to dispose of accumulated snow upon such property in such manner that any snow when removed shall not be deposited upon any sidewalk, within or upon any public street or alley, or in a manner that will obstruct or interfere with the passage or vision of vehicle or pedestrian traffic.

It shall be the duty of the property owner, tenant, or person in possession of any property abutting on any sidewalk to dispose of accumulated snow upon such sidewalk in such a manner that any snow when removed shall not be deposited within or upon any public street or alley, after such public street or alley has been cleared of snow by the grading of such snow away from the curb or the picking up and carrying away of such snow by the City. It shall be unlawful to deposit snow upon any other persons private property without their written approval.

(c) Removal Costs Assessed.

In the event any owner, tenant, or person in possession of any property shall neglect or fail to or refuse to remove such snow or ice within the time provided, any police officer of the City may issue a citation for such violation and the City Council may authorize such removal with the costs to be assessed against the abutting property owner. (SDCL 9-30-5)

(d) Temporary Snow Fences.

No person shall erect, construct or maintain any temporary fence in the City of Tea which may cause or create accumulations of snow, ice or water on public streets and sidewalks or other private properties, which are greater than those accumulations that would occur without such fence.

(i) Any temporary snow fence hereafter erected, constructed and maintained in the City of Tea shall comply with all other ordinances of the City.

(ii) That a temporary fence shall be defined as any fence attached to the ground with a fixed location on the ground, and intended to be used for a limited period of time for the specific purpose of controlling snow accumulation.

(iii) That the penalty for failure to comply with the provisions of this Title shall be

in accordance with Chapter 17 of the Revised Ordinances of the City of Tea, South Dakota.

(e) Definitions.

For the purposes of this article, the following definitions shall apply:

(i) "Snow removal alert" shall mean such times as there is a snow accumulation on the public streets of two (2) inches or more, or such times as the Mayor declares that snow removal operations on the public streets will commence and that the provisions of this article in regard to parking on public streets during snow removal operations are effective and will be enforced.

(ii) "Street" shall mean the entire width of any public roadway within the City and it shall not be limited to those roadways designated as a "Street", but include "Avenues" and all other names by which public roadways are designated.

(f) Issuance of a Snow Removal Alert.

When the Mayor determines that snow removal from the public streets will commence, the Mayor will announce through the local news media that there has been declared a snow removal alert and that the provisions of this article will be effective and enforced, designating a particular date and time when such alert shall commence. The determination to declare a snow removal alert will be based on the then existing weather conditions and the amount of snow then on the ground or expected according to forecasts from the National Weather Service.

(g) Parking Restrictions During a Snow Removal Alert.

In the event of a snow removal alert, all public streets in the City are designated as emergency snow routes.

In the event of a snow removal alert, it shall be unlawful to leave any vehicle parked following the start of the alert, as determined by the Police Department, so as not to interfere with the City's snow blading and/or removal operations. North/South streets shall be cleared first; and upon their completion, East/West streets will be cleared.

Any vehicle remaining on a City street following the start of the alert shall be ticketed and towed as determined by the Police Department.

SECT. 9.04 MOVING BUILDINGS

(a) License Required.

No person shall move any building or part of building into, along or across any public street, alley, or grounds in the City without having obtained a moving license. (SDCL 9-30-2)

(b) Applications.

Written application for a moving license shall be filed with the Finance Officer, and shall include the name of the applicant, the name of the owner of the building,

a description of the lot on which such building is standing and the lot to which it is to be moved, if located in the City, the route along which it is proposed to move such building and the length of time which may be consumed in such moving. Any application so filed shall be considered by the City Council for approval, and any other conditions to be complied with by the applicant, shall be stated.

(c) Surety Bond.

No license shall be granted until the applicant shall file with the Finance Officer a bond running to the City in the penal sum to be established by the City Council by resolution, with sufficient surety, and conditioned that the applicant will promptly repair and make good, to the satisfaction of the Council, any and all damage to any pavement, sidewalk, cross walk, hydrant, street, alley, or other property, done or caused by himself or his employees, in moving such building or part thereof, or in connection with the moving thereof. The applicant shall indemnify and save harmless the City against any and all liability for damages, costs and expenses, arising or which may arise or be incurred in favor of any person by reason of any negligence or misconduct or act on his part or the part of his agents or employees, in connection with the moving of said building or part thereof, or the use of any public ground for the such purpose.

(d) Standing Buildings.

No building or part of a building being moved, shall be allowed to stand still in any public street or any public ground for more than twenty-four (24) consecutive hours.

(e) Permission of Property Owners.

No moving license granted by the City shall authorize the holder thereof to break, injure, or move any telephone or electric light or power wire or pole, or to cut, trim or otherwise interfere with any trees or to damage or in any manner interfere with any property without the written permission of the owner or owners thereof. (SDCL 9-34-1)

SECT. 9.05 MUNICIPAL TREES

(a) Authority and Jurisdiction.

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

(b) Permission to Plant and Maintain.

No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipal-owned property without first receiving permission from the City Council.

(c) Duties of Property Owners.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection, except where such services are provided for by utility firms. The minimum clearance of any overhanging portion thereof shall be ten (10) feet whenever practicable, and twelve (12) feet over all streets except truck thoroughfares where the clearances shall be from fourteen (14) to sixteen (16) feet, unless otherwise determined by the City Council.

(d) Abuse of Trees.

Unless otherwise specifically authorized by the City Council, no person shall intentionally damage, put, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

(e) Permission to Deposit Materials.

No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by permission of the City Council.

(f) Permission to Excavate.

All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box, and all building material, dirt, or other debris shall be kept outside such barrier. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining permission from the City Council.

(g) Removal of Hazards.

Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Title or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the City Council to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two (72) hours after receipt of notice. If not completed within that time, the City Council shall take immediate

action to have such items removed with all costs assessed to the property owner. (SDCL 9-38-2)

SECT. 9.06 ABANDONED PROPERTY

(a) Definition of Abandoned Property.

Any personal property, except for motor vehicles as described in Title 7 shall be deemed abandoned if it has been located for a period of at least forty-eight (48) hours on a street, sidewalk or other public place as the term "public place" is defined in Section 5.2.(a)(13)(A).

(b) Notice of Intent to Claim Property.

At such time as the City Council shall deem advisable, it shall cause to be published one time in the official newspaper of the City of Tea a notice describing all such abandoned property which has been taken into the possession of the City and further stating that, if such property is not

claimed and proof of ownership established by the owner thereof no later than thirty (30) days

following the date of such publication, such abandoned property shall be deemed to be the property of the City of Tea.

(c) Reimbursement of Expenses Incurred by City.

Any owner so claiming said abandoned property may have possession thereof upon payment to the City of all charges incurred by the City in connection with the storage of such property and the publication of such advertisement in the official newspaper, all such charges to be a lien against such property until paid in full.

Chapter 10. PROHIBITORY USES FOR PARKS, PARKWAYS AND PARK WATER AREAS

(a) Entering Park Lake Prohibited.

No person shall go on foot, swim in, or otherwise enter in or upon the park lake or water area.

(b) No Use of Park or Parkway Where Prohibited.

No person shall use a park or parkway in a manner and location where any prohibitory sign is posted.

(c) Picking, Cutting or Defacing Prohibited.

No person shall pick or cut any wild or cultivated flowers, or cut, break, dig or in any way deface any tree, shrub or plant within the limits of any park, parkway or park water area.

(d) Hunting, Trapping, Fishing Prohibited.

No person may hunt, trap or fish in any park except if allowed by the City and where a sign allowing the activity is posted and such activity is in accordance with the State Game, Fish and Parks regulations.

(e) Fine.

The fine for violation of this ordinance shall be Fifty Dollars ($50.00).

Chapter 11. WATER AND SEWER

SECT. 11.01 GENERAL PROVISIONS

***(a)* Utility Service-Application Required.**

Any person desiring any utility service furnished by the City, including water or sewer service, shall make application for the same to the City Council. Such application shall contain the applicant's name, address and the uses for which such service is desired. A separate application shall be made for each premise to be served. The applicant shall abide by the rules and regulations established by the City relative to utility service in effect at the time of such application and as they may be revised from time to time in addition to conditions and agreements as the Council or the Water and Sewer Committee shall deem advisable.

(b) Same-Not Available to Debtors.

The City may decline, fail, or cease to furnish utility service to any person who may be in debt to the City for any reason, except ad valorem taxes and special assessments.

(c) Termination of Service.

The City shall have the right to disconnect or refuse to connect any municipal utility service for the following reasons:

(i) Failure to meet the applicable provisions of law.

(ii) Violation of the rules and regulations pertaining to utility services.

(iii) Nonpayment of bills.

(iv) Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise.

(v) Tampering with any meter, seal, or other equipment controlling or regulating the supply of utility service.

(vi) Theft or diversion and/or use of service without payment therefore.

(vii) Vacancy of premises.

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

(d) Customer Disputes.

The procedure for customer disputes shall be as follows:

(i) Before the date of termination, the customer shall notify the City Finance Officer orally or in writing that the customer disputes all or a part of the amount shown on the municipal utility bill or the determination that a violation of this Section has occurred giving rights to a termination stating as completely as possible the basis for the dispute.

(ii) If the Finance Officer determines that the present dispute is untimely or invalid pursuant to 11.1(c) the Finance Officer shall notify the customer and proceed as if the customer had notified the municipal utility of the dispute.

(iii) If the Finance Officer determines that the present dispute is not untimely or invalid pursuant to 11.1(c) within three (3) days after the receipt of the customer's notice, the Finance officer shall arrange an informal meeting between the customer and the Finance Officer.

(iv) Based upon the municipal utility's records, the customers allegations and all other relevant materials available to the official, the Finance Officer shall resolve the dispute, attempting to do so in a manner satisfactory to both the municipal utility and the customer.

(v) Within five (5) days after the meeting, the Finance Officer shall mail to the customer a copy of the Finance Officer's decision resolving the dispute.

(vi) Within five (5) days of receipt of the notice, the customer may request, in writing, a formal hearing before the City Council.

(vii) The formal hearing shall be held within ten (10) days of the receipt of the request.

(viii) At the hearing, the City Council and the customer shall be entitled to present all evidence that is, in the Council's view, relevant and material to the dispute, be represented by counsel, and examine and cross-examine witnesses. A tape-recorded record of the hearing shall be maintained.

(ix) Based upon the record established at the hearing, the Council shall, within five (5) days of the completion of the hearing, issue its written decision formally resolving the dispute, which decision shall be final and binding upon the municipal utility and the customer.

Utilization of this dispute procedure shall not relieve a customer of his or her obligation to timely and completely pay all other undisputed municipal utility charges and the undisputed portions of any amounts subject to the present dispute. Failure to so pay shall subject the customer to termination.

(e) Termination After Customer Disputes.

Until the date of the Finance Officer's or the City Council's decision, whichever is later, the municipal utility shall not terminate the utility service of the customer and shall not issue a notice of termination solely for nonpayment of the disputed amounts. If it is determined that the customer must pay some or all of the disputed amounts, the utility shall promptly mail to or personally serve upon the customer a notice of termination containing the following:

(i) Amount to be paid or violation under this Section;

(ii) Date of notice of termination;

(iii) Date of termination which shall be at least five (5) days after notice;

(iv) Notice that unless the municipal utility receives complete payment of the amount shown, if any, prior to the date of termination, municipal utility service shall be terminated.

(f) Termination Procedures.

Except as provided in 11.1(e) with respect to disputes, all terminations of municipal utility services for violations of 11.1(c) shall follow these procedures:

If by the payment date shown on the municipal utility bill, complete payment has not been received by the municipal utility, or another violation of 11.1(c) has occurred, the municipal utility shall mail to, or personally serve upon, the customer a notice of termination at least three (3) days after the payment date containing (i) the amount to be paid or a statement of violation of Section 3; (ii) the date of the notice of termination; (iii) the date of termination which shall be at least fifteen (15) days from the notice of termination; (iv) notice that unless the municipal utility receives complete payment of the amount shown, if any, service shall be terminated, or notice that service shall be terminated for another violation of 11.1(c).

If prior to the date of termination when the termination is for nonpayment; (i) the municipal utility has not received complete payment of the amount shown on the notice of termination; or (ii) the customer has not notified the municipal utility that he or she disputes the correctness of all or part of the amount shown on the notice of termination, or (iii) if, prior to the date of termination for other violation of 11.1(c), the customer has not notified the municipal utility that he or she disputes the violation, then the municipal utility shall terminate municipal utility service provided to the customer on the date of termination.

(g) Provisions for Termination of Service.

The municipal utility shall terminate service hereunder only during the hours of 9:00 a.m. to 3:00 p.m. Monday through Thursday, except no termination shall be permitted on a legal holiday.

Municipal utility service shall be continued for a single thirty (30) day period upon receipt of a physician's certificate or notice from a public health or social service official that disconnection of municipal utility service will aggravate an

existing medical emergency of the customer or another permanent resident of the customer's premises.

At his or her discretion, the City Finance Officer may agree to the partial payment of at least one-third (1/3) of the balance of the municipal utility bill and the customer's entering into a written agreement to pay the balance within sixty (60) days. Failure to make payments as agreed shall also be grounds for termination under the provisions of this Title.

(h) Service Taps - Extensions.

Tapping of any water or sewer main for the purpose of making connection shall be done only by personnel authorized by the city and approved authorized city . Distribution mains shall be provided at the discretion of the City Council, in streets, avenues, or alleys abutting the property to be served. Extension of distribution or collection mains shall be only as specified by the Council in its discretion.

Any property owner may petition for a new hookup or connection to any city water and sewer line. The City Council, in its discretion, may allow such connection or hookup provided that the petitioning property owner pays the cost for said hookup or connection from the point it joins the City distribution or collection main for the total frontage to the petitioning property owner's lot line.

(i) Hookup Fees.

An initial hookup fee shall be paid by all applicants for each water or sewer service connection. Such fee shall be set by the City Council by resolution and paid before the building permit is issued. The applicant shall also pay all costs, including piping, fixtures, digging, and appurtenances necessary to produce the connections, as well as the costs of a qualified plumber making the installation. Payments to the City for water and sewer hookups shall be paid prior to the turning of such service. Persons shall give notice of desire to tap any main at least twenty-four (24) hours before the tap is to be made except in an emergency. All new connections for water and sewer service shall be inspected and approved by an authorized representative of the City.

(j) Extension of Lines.

The City may serve water or sewer customers outside the municipal corporate limits solely at the discretion of the City Council. Said water and sewer lines shall be constructed and maintained

by the customer, with all parties connecting onto such lines being regulated and charged connection fees and other fees as set forth and regulated by the City.

(k) Private Lines.

Private water or sewer mains shall not be installed in the City unless authorized by the City Council. For the purpose of this Section, the phrase "private water and sewer mains" shall be construed to include any rural water pipelines, pipes or waterlines.

(l) Responsibility of Property Owners. SEE ORDINANCE 142

~~Persons served by City water and sewer shall keep all piping, fixtures, stop valves, heaters, and other apparatus for the use of water or sewer (including meters) in good repair and protected from freezing. The property owner shall be responsible for and pay the charges for replacement of any corroded or damaged piping, fixtures, stop valves, heaters, or other apparatus for the use of water or sewer, and for any charges for the repair or replacement of water meters, occasioned by the negligence of the property owner or user, or the freezing, overheating, or other external damage to any water meters. The property owner and/or water user shall place and maintain a brass stop inside the basement of any building where water is to be used at the lowest point practicable on the service pipe entering the building and as close as practicable to the wall through which the pipe enters, and easily accessible so that the water may be turned on or off by the user or occupant. Service connection repairs to the curb stop shall be the responsibility of the property owner.~~

(m) Excavation Permits.

For the purposes of water and sewer connections and/or extensions, no person shall make or cause to be made any excavation in or under any street, parking area, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material therefrom without having first obtained a permit therefor as hereinafter provided. Applications for such permit shall be made to the City Council, and accompanied by a deposit in such sum as deemed necessary to insure the replacement and refilling of any such excavation or to cover any damages which may be caused to any street or for replacement of bituminous surfacing. Any unused portion of said permit shall be refunded to the applicant upon recommendation and approval of the City Council. The City Council may waive this provision as it deems appropriate.

(n) Excavation Requirements.

All excavations required for the installation of utilities shall be performed in accordance with the currently approved Engineering Design Standards for Public Improvements for the City of Tea.

(o) 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. No open trench shall be left open for any more time than considered absolutely necessary or reasonable.

(p) Liability of City.

The City shall not be liable for any damage to the property of any customer of any water and sewer service furnished by the City due to back flow of the sewage system, failure of water supply, information of service or any cause outside the direct control of the City.

(q) Right of Entry.

Any person authorized by the City shall have free access at any time to all premises supplied with any water and sewer service by the City for the purpose of examination in order to protect the utility services from abusive use.

(r) Damage, Trespass of Equipment.

It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any water and sewer service furnished by the City to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the City connected with any such service.

(s) Razing Permit.

No person shall raze or remove any building or structure which is connected to a water or sewer main or disconnect any building or structure from such main without first having obtained a permit therefor from the Water and Sewer Committee.

(t) Unlawful Use.

No person, other than employees of the City, shall be authorized to connect, turn on, turn off or disconnect any water and sewer service offered by the City, or remove, replace or repair any equipment connected to any such service.

(u) Violations.

The City may, in its discretion, notify any person violating any provision of this Title with written notice stating the nature of the violation and providing a reasonable time for the correction thereof, but such notice shall not be necessary for the prosecution of any violators hereof. Any person, whether receiving such notice or not, violation any provision of this Title shall be liable to the City for any expense, loss, or damage, occasioned the City by reason of such violation. All provisions of this Title shall be subject to applicable state and federal law. (SDCL 9-47, SDCL 9-48)

SECT. 11.02 WATER PROVISIONS

(a) Water Meters.

Water meters shall be installed in all new homes and existing homes and businesses or as otherwise authorized by the City Council. Installation shall be

done in accordance with the currently approved Engineering Design Standards for Public Improvements for the City of Tea.

(b) Inspection of Meters.

Any person authorized by the City Council to read water meters or make inspections shall be allowed free access at all reasonable hours to any building or premises where water is used. If such persons are not allowed such access, the City in its discretion, may estimate the water use, shut off the water, make additional charges, or take other action not inconsistent with the law.

(c) Testing Meters.

The owner of property may have his or her meter tested by depositing with the Finance Officer the sum set by the City Council by Resolution.

It is provided that should the meter register 105% or over, this sum will be returned to the property owner, and settlement made on the basis of over registration of meter; but should the meter be found to register 104.99% or less, the sum deposited will not be returned.

In case any meter fails to register for any cause the amount charged for water during such period shall be estimated by the City Council, such estimate to be based on the average amount register during a like period.

(d) Water Lines How Laid.

Waterlines shall be installed in conformance with the currently approved Engineering Design Standards for Public Improvements for the City of Tea.

***(e)* Water Line Requirements.**

Waterlines shall be of the material called for in the currently approved Engineering Design Standards for Public Improvements and referenced manuals therein.

***(f)* Payment of Water Rates.**

All meters shall be read and following said reading the City shall bill the property owner for water service, and amounts due from property owners for water used shall be due and payable on or before the 10th day of the month following the month of the billing.

Failure of property owners to comply with the time of payment of water bills shall subject them to be shut off from water service in accordance with Section 11.1(g). Rates for water service shall be set as the City Council in its discretion shall from time to time declare by resolution.

The property owner shall be primarily responsible for the payment of all charges arising out of the use of water at his or her premises, or any other charges provided for in this ordinance and assessed by the City Council. Such charges shall constitute a perpetual lien and continuing lien upon such property until paid

in full, and no water shall be furnished to any property against which any charge hereunder remains unpaid.

(g) Reconnection After Disconnection.

In the event that any water service is disconnected for nonpayment of a bill, every property owner shall have the right to have the same reconnected only upon the payment of the amount due, and in addition to a reconnection fee. Such fee shall be determined by the City Council.

(h) Voluntary Discontinuance of Service.

Persons wishing to shall give a five (5) day notice thereof to the Finance Officer. Failure to do so shall render them liable for the payment of all bills until such notice has been given.

(i) Interruption of Service.

The users of any water service furnished by the City are hereby notified that the supply of such utility may be temporarily shut off at any time. Notice shall be given, if feasible, of the contemplated shutoff, but accidents may render this impossible; hence the City hereby warns those dependent upon the utility service for any purpose of this hazard. Immediately upon finding the supply shut off it becomes the duty of the occupant of the premises to take prompt precautions to prevent damages.

(j) Restricting Use.

The City hereby reserves the right to at any time restrict or prevent the use of any water service furnished by the City during periods of emergency or circumstances demanding such restriction or prevention of use.

Water shall be used only for beneficial purposes and shall never be wasted. The right is reserved to suspend the use of sprinklers and hoses for watering lawns, yards, and gardens whenever, in the opinion of the City Council, a public emergency exists.

(k) Joint Water Users Liable.

In case two or more users are supplied with water from the same service pipe, if any of the parties fail to pay the water charge when due, or to comply with any rule of the City, the City reserves the right to cut off the water from the whole service until such charge is paid, or the rules strictly complied with, and it is expressly stipulated that no claim for damage or otherwise may be made against said City by any user whose water charge has been paid, or who has complied with the rules of said City, because of such turn-off, it being expressly stipulated that the necessity for such turn-off shall be deemed to be the joint act of all served through such service.

(l) Use Assumed.

All premises connected to any water service of the City shall be assumed to be using such service and the owner or occupant shall be charged therefore as long as such premises shall remain connected to the water service of the City. (SDCL 9-47)

SECT. 11.03 WATER UTILITY FUND RESERVE

(a) Water Facilities Replacement Fund.

A reserve fund called the Water Facilities Replacement Fund is hereby established within the water utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories, and appurtenances during the useful life (20 years) of the water facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed.

(b) Setting of Reserve.

The City Common Council shall set aside Ten Thousand Dollars ($10,000) per year.

SECT. 11.04 SEWER PROVISIONS

(a) Sanitary Sewer Required.

A separate and independent sanitary shall be provided for every building, except where one building stands at the rear of another on an interior lot and no sewer is available or can be

constructed to the rear building through an adjoining alley, court, yard, or driveway, the sewer from the front building may be extended to the rear building and the whole considered as one sanitary sewer. Multiple hook-ups in all cases shall be as prescribed by the City Council.

***(b)* Existing Sewer Connections.**

Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Utilities and Street Superintendent, to meet all requirements of this Title.

(c) Disconnection.

When a disconnection from the sanitary sewer is made, the sewer service shall be closed to the satisfaction of the Utilities and Street Superintendent. Closure shall be at the curb line on residential property and at the property line on commercial property.

***(d)* Sewer Pipe Requirements.**

All sanitary sewer shall be of the material approved by the installed in conformity with the currently approved Engineering Design Standards for Public Improvements for the City of Tea and referenced manuals therein.

(e) Certain Acts Prohibited.

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process

waters to any sanitary sewer.

It shall be unlawful to discharge to any natural outlet within the City of Tea, or in any area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Title.

The disposal by any and all persons of garbage, petroleum products, and other foreign debris into the sanitary sewer system of the City shall also be prohibited.

(f) Private Disposal System

No connection from any private sewage disposal system shall be made with any public sanitary sewer under jurisdiction of the City. (SDCL 9-48)

No person shall make, or cause to be made any direct or indirect connection with the storm sewer system of the City, but any and all drainage thereto shall be accomplished by natural run-off to said system, whether through the City street system or otherwise. *Ordinance 95*

SECT. 11.05 SEWER USE

(a) Definitions.

(i) Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1) Biochemical Oxygen Demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.

2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3) "Building sewer" shall mean the extension from the building drain to the public

sewer or other place of disposal, also called house connection.

4) "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.

5) "Easement" shall mean an acquired legal right for the specific use of land owned by others.

6) "Floatable oil" is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

7) "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

8) "Industrial wastes" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

9) "Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10) "May" is permissive.

11) ."Person" shall mean any individual, firm, company, association, society, corporation or group.

12) "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10.

13) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

14) "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.

15) "Sanitary sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

16) "Sewage" is the spent water of a community. The preferred term is "Wastewater".

17) "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.

18) "Shall" is mandatory.

19) "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

20) "Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

21) "Superintendent" shall mean the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the City of Tea, or his authorized deputy, agent, or representative.

22) "Suspended solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

23) "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

24) "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institution, together with any groundwater, surface water, and storm water that may be present.

25) "Wastewater facilities" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

26) "Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

27) "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

(b) **Use Of Public Sewers Required.**

(i) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Tea, South Dakota, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

(ii) It shall be unlawful to discharge to any natural outlet within the City of Tea, South Dakota, or in any area under the jurisdiction of said City, any sewage or

other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

(iii) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater for any properties within the City limits.

(iv) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within thirty (30) days after date of official notice to do so, provided that said public sewer is within 300 feet of the property line.

(c) Private Waste Water Disposal.

(i) Where a public sanitary or combined sewer is not available under the provisions of Section 11.05(b)(iv), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

(ii) Before commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the superintendent. The application for such permit shall be made an a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent.

(iii) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notice the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the superintendent.

(iv) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the department of public health of the State of South Dakota. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less then 43,560 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(v) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 11.5.(b)(iv), a direct connection shall be made to the public sewer within sixty (60) days in compliance with this ordinance, and any septic tanks, cesspools, and similar private

wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(vi) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.

(vii) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(d) Sanitary Sewers, Building Sewers and Connections.

(i) No unauthorized person(s) shall uncover, make any Connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

(ii) There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes, In either case, the owner(s) or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee shall be set by City resolution.

(iii) All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(iv) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(v) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance.

(vi) The size, slope, alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the AST.M. and WT.C.F. Manual of Practice No. 9 shall apply.

(vii) Whenever possible, the building sewer shall be brought to the building at an

elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(viii) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the superintendent for purposes of disposal of polluted surface drainage.

(ix) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A&T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.

(xi) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the works shall be restored in a manner satisfactory to the City.

SECT. 11.06 ESTABLISHING SEWER TRUNK AREA

(a) Trunk Areas Defined.

There is hereby created Trunk Area One Trunk. Area One shall consist of that marked area indicated on the attached Exhibit A to Ordinance No. 126 made a part hereof and described as Section 25, the Northeast Quarter of Section 26, the Southeast Quarter of the Southeast Quarter of Section 23 and the South Half of the South Half of Section 24, Township 100 Range 51 West of the 5th Principal Meridian, and the Southwest Half of the Southwest Quarter except that area used for the interstate highway of Section 19, the Northwest Quarter of Section 30 except that area used for the interstate highway, Township 100 Range 50 West of the 5th Principal Meridian, Lincoln County, South Dakota. No area in Trunk Area One shall be eligible to be served by the City services until such time as it is annexed within the City or such time as may be negotiated with the City.

(b) Amount to be Paid.

The City of Tea through issuance of a Borrower Bond has caused the construction of a trunk sewer line and lift station designated the Highway 111 Sanitary Sewer

Project. The City hereby finds that the amount to be apportioned shall be as follows:

Lift Station	$ 61,660.00
Line	$126,649.63
Apportioned Amount:	$188,309.63
City Apportionment:	$ 0.00

(c) Hookup Fees.

Those properties located in Trunk Area One shall pay the hookup fees at a rate of $154.10 per acre of land to be included in the service area.

(d) Collected Fees.

All hookup fees shall be collected at the time the final plat is approved by the City, the property annexed in the City or at the time of hookup, whichever is earliest. All hookup fees shall be placed into Sales Tax Fund of the City to reimburse the City for the costs of the construction of the trunk sewer line and lift station.

SECT. 11.07 ESTABLISHMENT OF WATER TRUNK AREAS.

(a) TRUNK AREA DEFINED.

There is hereby created Water Trunk Area One. Trunk Area One shall consist of TRACT A AND EAST 200 FEET OF TRACT B OF ZELMER FIRST ADDITION TO THE CITY OF TA, LINCOLN COUNTY, SOUTH DAKOTA AND THE WEST 200 FEET OF THE NORTHWEST QUARTER OF THE SOUTH WEST QUARTER OF SECTION TWENTY-FIVE TOWNSHIP ONE HUNDRED NORTH RANGE FIFTY ONE WEST FIFTH PRINCIPAL MERIDIAN LINCOLN COUNTY, SOUTH DAKOTA

(b) AMOUNT TO BE PAID.

The City hereby finds that the amount to be apportioned shall be as follows:

Line:	$18,000.00
Apportioned amount:	$ 9,000.00
City Apportionment:	$ 9,000.00

(c) HOOKUP FEES.

Those properties located in the Trunk Area One shall pay the hookup fees at the rate of $4.11 per funning foot fronting or abutting the service area.

(d) COLLECTED FEES.

All hookup fees shall be collected at the time of hookup.

Chapter 12. STORM DRAINAGE

SECT. 12.01 DEFINITIONS.

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

"Director" means the utilities support services manager appointed by the City Council members or their duly authorized representative.
"Manager" means the water/wastewater manager appointed by the City Council members or their duly authorized representative.
"Utility" means and includes the water, sewer, storm sewer, or any other utility services furnished by the City to consumers thereof.

SECT. 12.02 STORM DRAINAGE FEE.

The purpose of this division is to establish a charge against real property within the City, for the operation, maintenance and capital expenses of the storm sewer and drainage system.

(a) Storm Drainage Fee.

All real property, except property owned by cemetery corporations, within the City shall be charges an annual fee for the operation, maintenance and capital improvements of the storm sewer and drainage system. The fee for such property shall be based on the lot area, a runoff weighting factor and a unit financial charge, and which fee is determined as follows:

(i) Storm Drainage Fee Calculation.

STORM DRAINAGE FEE equals the RUNOFF WEIGHTING FACTOR, multiplied by PARCEL AREA (in square feet), multiplied by UNIT FINANCIAL CHARGE (in dollars per square feet).

(ii) Runoff Weighting Factor.

RUNOFF WEIGHTING FACTOR- The runoff weighting factor is determined by the type of land use, and indicates the relative volume of storm water runoff from a land parcel, as a function of the percentage of impervious surfaces covering each land parcel. The runoff weighting factor is to be assigned by land use type, as shown in Table I:

(iii) TABLE I

LAND USE CODE	LAND USE FACTOR	RUNOFF WEIGHTING
11	Estate (lot area over 30,000 square feet)	2.50
11	Single-family (lot area of 30,000 square feet or less)	7.50
12	Duplex	7.50
13	Townhouses	7.50
14	Apartment building (1-3 stories)	11.25
15	Apartment building (4 stories or more)	11.25
16	Dormitories	11.25
17	Mobile homes and trailers	11.25
18	Other residential	11.25
21	Apparel and textiles	17.00
22	Wood, furniture, fixtures	17.00
23	Lumberyards	17.00
24	Printing and publishing	17.00
25	Warehouse, indoor storage	17.00
26	Electronic, scientific, optical	17.00
27	Construction yards, including plumbing, electrical heating contractors	17.00
28	Chemical, petroleum storage	17.00
29	Other light, pollution-free manufacturing not included elsewhere	17.00
31	Food, agricultural processing, stockyards, rendering	17.00

32	Paper and pulp	17.00
33	Chemical, petroleum, rubber and plastic	17.00
34	Stone, glass, clay, cement, brick	17.00
35	Primary metal, smelting	17.00
36	Metal fabricating	17.00
37	Salvage, junkyard, resource recycling	7.50
38	Other heavy manufacturing not elsewhere coded	17.00
41	Bus, railroad yards, terminals, right-of-way	5.00
42	Airport	5.00
43	Auto parking ramps and lots (commercial or public only - not auxiliary parking)	18.75
44	Highway and street right-of-way	5.00
45	Communication (TV, radio, etc.)	17.00
46	Utilities (gas, sewer, water, telephone, etc.)	17.00
47	Truck terminal	17.00
48	Military base	17.00
49	Other transportation, communication and utilities	
	not elsewhere coded	17.00
51	Wholesale – food, produce	18.75
52	Wholesale – other	18.75
53	Extensive retail – building supplies, including lumber,	
	home repair supplies	18.75
54	Extensive retail - farm equipment and implements	18.75
55	Extensive retail - new and used car dealers	18.75
56	Extensive retail - recreational vehicles, marine	18.75

57	Extensive retail - tires, batteries, auto accessories	18.75
58	Extensive retail - auto repair, body shop	18.75
59	Extensive retail - other retail with outside storage	18.75
61	Food store	18.75
62	Neighborhood commercial, hardware, drugs, laundromat, beauty shop, barbershop, neighborhood shopping center	18.75
63	Gasoline, auto service station	18.75
64	Department store, discount store, regional shopping center	18.75
65	Clothes and apparel	18.75
66	Specialty retail – jewelry, gifts, etc-	18.75
67	Furniture, household appliances	18.76
68	Other retail not elsewhere coded	18.75
71	Banks and financial institutions	18.75
72	Churches	11.25
73	Nursing homes and hospitals	11.25
74	Colleges and universities, adult education	11.25
75	Primary and secondary education	11.25
76	Day care centers	11.25
77	Medical offices, clinics	18.75
78	Government offices	18.75
79	Offices not elsewhere coded (real estate, law, etc.)	18.75
81	Cultural activities - libraries, museums, etc.	18.75
82	Assembly areas, arenas, stadiums	18.75

83	Theaters	18.75
84	Restaurants, bars, lounges	18.75
85	Hotels, motels, resort lodging	18.75
86	Public parks, golf courses, fairgrounds	1.00
87	Private country club and other recreational uses	1.00
88	Other cultural and entertainment uses, not elsewhere coded	1.00
91	Cropland and farms	1.00
92	Feedlots	1.00
93	Grasslands	1.00
94	Mining and quarrying**	1.00
95	Cemetery	1.00
96	Sanitary landfills	1.00
97	Vacant	1.00
98	Under construction	1.00
99	Other not elsewhere coded	1.00
100	Retention, detention and wet lands	0

*Land included in the F-1 floodway zone shall have a runoff weighting factor of zero for the actual flood hazard area.

**Quarries are individually calculated with a runoff weighting factor of zero for the actual quarry area.

(iv) Owner Request for Study.

Upon written request from a property owner, a detailed site study will be conducted by the City Engineering Department/Firm to determine the runoff weighting factor. This written request must be submitted to the director on or before April 30 of the year the fees are charged to the subject land parcel. The Engineering Department shall calculate the percentage of impervious area for the subject parcel which contributes storm water runoff to the drainage system of the City. This system includes the storm sewer system, drainageways, and the diversion channel within the City. The runoff weighting factor is then determined through utilization of Table II. This calculation shall be completed by July 1 of the year the written appeal is requested.

(v) TABLE II

PERCENTAGE IMPERVIOUS AREA	AVERAGE RUNOFF TO RAINFALL RATIO (Rv*)	RUNOFF WEIGHTING FACTOR (Rv X 25)
0	0.04	1.00
10	0.19	4.75
15	0.26	6.50
20	0.30	7.50
30	0.38	9.50
40	0.45	11.25
50	0.53	13.25
60	0.60	15.00
70	0.68	17.00
80	0.75	18.75
90	0.83	20.75
100	0.90	22.50

*These values are derived from the "STORM" equation (figure 5-20, page 5-49), A Statistical Method for the Assessment of Urban Storm Drainage, EPA, Washington, D.C., January 1979. For low percentage impervious surfaces (zero percent to 20 percent), a linear relationship was assumed between the "STORM" equation and empirical data derived from drainage runoff in high depression storage, loose soils, and flat areas.

Interpolation of the runoff weighting factor for a given percentage of impervious area not listed in Table II may be obtained by assuming a linear relationship between the values listed.

The director may direct that the runoff weighting factor for a given parcel be calculated by a detailed site investigation and Table II, where an obvious departure from the percentage of impervious surfaces of similar land uses exists.

A determination of the runoff weighting factor, resulting from a detailed site investigation and Table II, brought about either by written request from a property owner or direction from the director, shall be used in the calculation of the subject parcels storm drainage fee and shall replace the factor previously derived from Table I, even if the resulting value is higher.

(vi) PARCEL AREA.

Parcel area is to be obtained from the records of the Lincoln County Assessor's Office.

(vii) UNIT FINANCIAL CHARGE.

The unit financial charge shall be determined by the Council by Resolution.

SECT. 12.03 COLLECTION.

The storm drainage fee established in Section 10.2 shall be an annual charge. The first half of the fee is due on May 1, and the second half is due on November 1, of the same year, payable at the office of County Treasurer within which the land parcel lies. These fees shall be remitted or turned over to the City Finance Director, at least once a month, by the County Treasurer.

SECT. 12.04 ESTABLISHED FUND.

The drainage fees paid to the City shall be kept in a separate fund to be known as the drainage and storm sewer fund. This fund shall be used to pay the cost of financing the operation, maintenance or construction of the drainage and storm sewer system.

SECT. 12.05 ANNUAL REVIEW.

The unit financial charge of this division shall be reviewed annually and shall be revised as necessary to keep revenues reasonable in balance with anticipated expenditures. Excess funds may be carried forward from year to year in order to build sufficient funds for large drainage construction projects which are scheduled or programmed for the near future. In addition, funds may be carried over to provide sufficient manias for unanticipated repairs, replacements, or maintenance of the drainage system.

Chapter 13. TAXATION AND SURCHARGE

SECT. 13.01 MUNICIPAL SALES TAX SEE ORDIANANCE 167

~~(a) Purpose.~~

~~The purpose of this Title is to provide additional needed revenue for the City of Tea, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.~~

~~(b) Effective Date.~~

~~From and after the first day of July, 1982, there shall be imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax of one percent (1%) on the gross receipts of all persons engaged in business within the jurisdiction of the City of Tea, Lincoln County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.~~

~~(c) Collection.~~

~~Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.~~

~~(d) Use Tax.~~

~~In addition there is hereby imposed an excise tax on the privilege of the use, storage and consumption within the jurisdiction of the City of tangible personal property purchased from and after the lst day of July, 1982, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto.~~

~~(e) Interpretation.~~

~~It is declared to be the intention of this Title and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.~~

~~(f) Penalty.~~

~~Any person failing or refusing to make reports on payments prescribed by this Title and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall~~

~~be fined not more than One Hundred Dollars ($100) or imprisoned in the city jail for not more than thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45 and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue. (SDCL 10-52)~~

SECT. 13.02 REDUCED VALUATION FOR TAX PURPOSES SEE ORDINANCE 149

(a) Structures to Apply.

Within the corporate limits of the City of Tea, all new industrial, commercial, and non-residential agricultural structures, or additions to existing structures, which new structures or additions have a true and full value of Thirty Thousand Dollars ($30,000) or more, added to real property are specifically classified for the purpose of taxation.

(b) Classification of Property.

All real property qualifying under this section shall be classified in the manner prescribed in this

Title unless waived by the property owner.

***(c)* Taxable Value Formula.**

Such structures or additions shall, following construction, be valued for taxation purposes in the usual manner, as now provided by law, except that the following formula for taxable value shall be used for tax purposes:

(i) For the first tax year following construction, not more than twenty percent (20%) of the taxable value shall be used for tax purposes on such property;

(ii) For the second year following construction, not more than forty percent (40%) of the taxable value shall be used for tax purposes on such property;

(iii) For the third year following construction, not more than sixty percent (60%) of the usual taxable value shall be used for tax purposes on such property;

(iv) For the fourth year following construction, not more than eighty percent (80%) of the taxable value shall be used for tax purposes on such property;

(v) For the fifth year following construction, not more than one hundred percent (100%) of the usual taxable value shall be used for tax purposes on such property; and

(vi) Thereafter, such property shall be taxed at the same percentage as is all other property for tax purposes. (SDCL 10-6-35.2 and Ord. 253 1-23-76)

SECT. 13.03 IMPOSITION OF SALES AND SERVICE TAX FOR CAPITAL IMPROVEMENTS SEE ORDIANCE 167

~~(a) Imposition of Sales and Service Tax for Capital Improvements.~~

~~To finance the making of capital improvements within the City of Tea, South Dakota, a municipal retail occupational sales and service tax is hereby imposed, in addition to any sales or use tax already imposed by the City of Tea, and said tax shall be measured by 1% of the gross receipts of all persons engaged in business within the City of Tea, Lincoln County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45, and acts amendatory thereto.~~

~~(b) Exemptions.~~

~~The following receipts are exempt from the tax imposed by this Title:~~

~~(i) Gross receipts from selling food, as defined by the Food Stamp Act of 1977 (P.L. 95-113) codified at 7 U.S.C. 2012(g), as amended through January 1, 1983.~~

~~(ii) Gross receipts from selling parts or repairs on machinery or equipment which are clearly identifiable as used primarily for agricultural purposes as taxed pursuant to SDCL 10-45-3, if the part replaced is a farm machinery part assigned a specific or generic part number by the manufacturer of the farm machinery, farm machinery or equipment tax pursuant to SDCL 10-45-3, and agricultural animal health products and medicines.~~

~~(iii) Gross receipts for material incorporated in construction work pursuant to construction contracts did or entered into on or before the effective date of this ordinance.~~

~~(c) Deposit of Taxes.~~

~~Any revenues received under this Title shall be deposited to the municipal treasury in a fund designated as the Tea Sales and Use Tax Capital Improvements Fund, pursuant to SDCL 9-22.~~

~~(d) Limited Use of Fund.~~

~~Said fund shall be used only for the making of capital improvements within or adjacent to the City of Tea, South Dakota, in the manner provided by law.~~

~~(e) Separability.~~

~~If any provision of this Title is declared unconstitutional or the application thereof to any person or circumstances held invalid, the constitutionality of the remainder of a Title and applicability thereof to other persons or circumstances shall not be affected thereby.~~

SECT. 13.04 ENTERTAINMENT TAX

(a) Findings.

The City finds that construction of park facilities and operation of a system of parks is directly related to the civil affairs of the City. The park facilities and park system shall be the City's athletic, civic and cultural center to be used for music, athletic, cultural, commercial and other spectator events as well as promotion of the City and promotion of civic affairs of the community. The City finds that the parks and its facilities are the civic center, auditorium and athletic facility of the City of Tea.

~~(b) Special Tax Rates.~~ SEE ORDINANCE 150

~~Notwithstanding the rate of tax established by Ordinance 50 and 67, from and after January 1, 1997, the rate of tax upon sales of leases or rentals of hotel, motel, campsites, or other lodging accommodations within the City for period of less than 28 consecutive days; sales of alcoholic beverages as defined in SDCL 35-1-1; sales of establishments where the public is invited to eat, dine, or purchase and carry out prepared food for immediate consumption; ticket sales or admissions to places of amusement, athletic, or cultural events is three percent (3%). Any revenues received under this Section in excess of two percent (2%) may be used only for the purposes of land acquisition, architectural fees, construction costs, and payment for parks and park facilities, including maintenance, staffing, and operations of such facilities and the promotion and advertising of the City, its facilities, attractions and activities.~~

(c) Collection. SEE ORDINANCE 150

~~Such tax imposed in the Section is levied pursuant to authorization granted by SDCL Ch. 10-52 and acts amendatory thereof and shall be collected by the State Department of Revenue in accordance with the same rules and regulations applicable to the state sales tax and under such additional rules and regulations as the State Commissioner of Revenue shall lawfully prescribe.~~

SECT. 13.05 ELEVATE TANK REVENUE FUND

(a) Creation of Special Fund.

There is created a special fund designated the Elevated Tank Revenue Fund.

(b) Surcharge for Bond Issue.

There shall be charged a monthly surcharge for the services provided by the improvement financed by the Elevated Tank Revenue Bonds, Series RD 1997. The surcharge shall be segregated from other revenues of the utility and shall be used for the payment of the revenue bond. Provided that such surcharge shall create net income, remaining from time to time after fist paying all reasonable and

current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements.

(c) Rates and Collection.

The rate herein specific will be collected as a surcharge for the utility improvement. This surcharge shall remain in effect until such time as the revenue bond is discharged. The initial surcharge and any amendments thereto shall be set by resolution. The surcharge shall be collected monthly at the same time as other charges of the utility. All users, current and future, shall be charged the surcharge for it has been found that all users benefit from the improvement. The surcharge is found to be equitable for the services provided by the improvement.

(d) Yearly Review.

The amount of the surcharge shall be reviewed periodically and may be modified in order to provide such funds as are set forth herein.

Chapter 14. PLANNING AND ZONING

SECT. 14.01 PLANNING COMMISSION

(a) Created.

There is hereby created a planning and zoning commission which shall be referred to as the City Planning Commission. (SDCL 11-6-2)

***(b)* Composition.**

The City Planning Commission shall consist of not less than five (5) members appointed by the City Council. The term of each appointed member shall be for five (5) years except that when the Planning Commission is first appointed three of the members shall be appointed for three (3) years and the balance of the members shall be appointed for five (5) years. Thereafter, appointments of each member shall be for terms of five (5) years so that there will be an overlapping of tenures.

(c) Powers and Duties.

The City Planning Commission may exercise all such planning and zoning powers granted in South Dakota Compiled Laws 11-4 and 11-6 and acts amendatory thereof, as may be necessary to enable it to fulfill and perform its functions, promote municipal planning or carry out all the purposes of this Title.

(d) Comprehensive Plan.

It shall be a function and duty of the City Planning Commission to make and adopt a comprehensive plan for the physical development of the City. The plan may include among other things, population and economic projections, park and recreation plans, a major street plan, water and sewer plans, and a land use plan which shows the Planning Commission's recommendations for future physical development. (SDCL 11-6-14)

(e) Zoning and Subdivision Regulations.

In exercising the duties granted to it by this Title, the City Planning Commission shall by ordinance adopt regulations governing land uses, building or set-back lines and the subdivision or platting of land within the City in accordance with SDCL 11-4 and 11-6.

SECT. 14.02 SECTION 2. ZONING AND SUBDIVISION REGULATIONS (SEE APPENDIX A)

Chapter 15. LANDSCAPE STANDARDS

SECT. 15.01 LANDSCAPE STANDARDS

(a) Landscape Standards.

It is the desire of the City of Tea to encourage development which is environmentally sensitive, socially responsive, as well as aesthetically pleasing. To assist in these objectives, a minimum standard for landscaped setback is prescribed, and landscape features are implemented to minimize the adverse effects commonly incidental to higher density residential, commercial and industrial property improvements. Under no circumstances is the use of artificial plantings acceptable to meet the requirements of this ordinance.

(b) Required Landscaping of Front Yard Setbacks.

At least ninety percent (90%) of required front yard setback in any zoning district shall be landscaped and maintained with living ground cover. The required setback may include necessary hard surfacing of driveways to reach allowable parking, loading or stacking areas. Poured or laid asphalt, concrete or similar hard surfacing shall not be used as allowable landscape material. Landscape areas must be capable of providing a substantially full expanse of foliage within three (3) years after planting.

(c) Trees.

Valuing the benefits provided from the use of trees in reducing heat, pollution, and the loss of habitat resulting from the use of expansive areas of hard surfacing for parking purposes, the following standards regarding trees shall be met and maintained:

(i) Total number of trees required: Trees shall be required at the rate of one (1) tree per fifty (50) feet of frontage or one (1) tree per six (6) parking, loading and stacking spaces provided on the site, whichever is greater. Where fractional trees result, the number of required trees shall be rounded to the nearest whole number.

(ii) Exception: If parking facilities or building can utilize zero setbacks, one (1) tree per fifty (50) feet of frontage shall be provided within the right-of-way subject to approval by the City Engineer.

(iii) Placement according to type and percentage allowed.

(iv) Deciduous shade tree - May be utilized for one hundred percent (100%) of the total tree requirement. Only deciduous shade trees may be utilized for required interior trees or optional right of way planting, and no more than twenty percent (20%) of the total tree requirement may be planted in the right of way area.

(v) Deciduous ornamental and evergreen or coniferous trees - Up to twenty-five percent (25%) of the required trees may be deciduous ornamental, evergreen or coniferous trees; however, they shall not be planted in a driveway or intersection

safety zone nor utilized for parking lot interior trees or right-of-way plantings.

(vi) Interior tree requirements: When enclosed interior parking spaces are provided on the site, one (1) tree shall be required for every eighteen(18) interior parking spaces. Every interior tree shall be located in a planting island entirely within the hard-surfaced area utilized for parking and maneuvering purposes. Said islands shall have dimensions of at least five (5) feet wide and contain a minimum of thirty six (36) square feet per tree. Planting islands shall utilize raised curbs or wheelstops necessary to prevent damage from vehicles.

(vii) Existing tree bonus: The City encourages preservation of any existing trees on a site which are in good condition and at least one and three-quarter (1 ¾) inch caliper in size. Such trees may be counted as part of the required number of trees on a site. A credit of two (2) trees toward the number of required trees shall be given for each existing tree on a site that is of an acceptable species which is over ten (10) inch caliper in size. This credit, however, may not be applied in reducing the number of required interior trees.

(d) Parking Lot Buffer Areas.

A setback area of at least five (5) feet shall be provided between the parking surface and property line where a parking lot abuts neighboring residentially used property.

Exception: Where a screen fence or wall is provided, the required setback may be reduced to two (2) feet.

(e) Parking Lot Screening.

A fence, wall, berm, or shrubbery four (4) feet in height and of a character necessary for adequate screening of a parking lot from adjacent residentially used property shall be provided. Where the residentially used property is across the right-of-way from a parking area, screening shall be provided in all cases except when the right-of-way is an arterial street.

Berms or other landscaping techniques may be used for all or part of the screening requirement and may be incorporated into a landscape setback area. Berms shall have a maximum grade of three (3) feet horizontal to one (1) foot vertical and shall be sodded or planted with other acceptable living ground cover.

(f) Screening Dumpsters.

All outside dumpsters or other garbage receptacles on the site shall be screened by an opaque fence or wall a minimum of six (6) feet in height.

(g) Installation Requirements.

Of the total number of trees required, a minimum of one (1) tree per forty (40) feet of street frontage shall be planted in the required front yard setback. Trees shall be located no closer than two (2) feet to any curb or hard surfaced area, and all landscape materials required by this section shall be installed in accordance

with accepted industry standards. Minimum planting sized of landscape materials to meet the requirements of this ordinance are as follows:

(i) Hedges: If hedges are utilized for the required screening of a parking lot, plantings shall be a minimum of eighteen(18) inches above ground level and of a species that is normally capable of reaching a height of four (4) feet within three (3) years. Spacing shall be eighteen (18) to thirty-six (36) inches apart, depending upon species.

(ii) Ground covers and shrubs: If ground covers or shrubs are utilized in area required to be landscaped, plantings shall be a minimum two (2) to five (5) gallon pot size and be spaced no more than four (4) feet on center depending upon species.

(iii) Deciduous shade tree: A minimum of one and three-quarters (1¾) inch caliper measured at a point six (6) inches above immediate ground level and normally capable of reaching a height of thirty (30) feet or more at maturity.

(iv) Deciduous ornamental tree: A minimum of one and one-fourth (1 ¼) inch caliper measured at a point six (6) inches above immediate ground level normally growing to a height of less than thirty (30) feet at maturity.

(v) Evergreen or coniferous tree: A minimum height of five (5) feet measured above immediate ground.

***(h)* Maintenance.**

The use of in-ground sprinkler systems is encouraged, and at a minimum, water services shall be conveniently located to provide a permanent and easily accessible means of watering. Property owners shall be ultimately responsible for the proper maintenance of all required landscape materials, and any dead or substantially damages landscape materials shall be replaced.

(i) Building and Parking Lot Lighting.

In order to minimize the negative impact of building and parking lot trespass on adjacent properties, the City requires the use of 'shoebox' style lighting fixtures adjacent to any residential district.

(j) Right-of-way Landscaping.

The unpaved portion of a dedicated public right-of-way abutting any development shall be landscaped with sod, seed, or other living ground cover approved by the City. Nonliving ground cover, including, but not limited to, rock, stone, brick, concrete, asphalt or other like materials shall not be used as landscape material except as provided herein.

The City Engineer may authorize the use of nonliving ground cover for landscaping a public right-of-way when it is determined that a location will not allow for adequate maintenance of sod or other living ground cover. This

exception shall not include the use of loose rock or asphalt as landscaping material.

Chapter 16. UTILITY FRANCHISES

SECT. 16.01 *COMMUNITY ANTENNA TELEVISION SYSTEM*

SEE ALSO ORDINANCE 160

(a) **Definitions.**

For the purposes of this Title, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(i) **"City" is the City of Tea, South Dakota.**

(ii) **"Council" is the City Council of Tea, South Dakota.**

(iii) **"Cable Television System" or Cable System" is a system utilizing coaxial cable and certain electronic and other components which deliver to subscribing members of the public various communications services.**

(iv) **"Cable Television Reception Service" means the simultaneous delivery by the Grantee to television receivers (or any other suitable type of audio-video communications receivers) of the signals over-the-air television broadcast stations licensed by the Federal Communications Commissions and authorized to be carried over said system and such additional closed-circuit channels at the option of Grantee for which no special charges are made.**

(v) **"FCC" shall mean Federal Communications Commission.**

(vi) **"Person" is any person, firm, partnership, association, corporation, company or organization of any kind and any other legally recognized entity.**

(vii) **"Grantee" is F.M. Keller Communications in accordance with the provisions of this Franchise.**

(viii) **"Subscribers" are those persons contracting to receive cable television reception services furnished under this Franchise by Grantee.**

(b) **Grant of Authority.**

(i) **There is hereby granted by the City to the Grantee the non-exclusive right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in said town of a Cable**

Television System for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs and various communications and other electronic services to the public.

(ii) The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive.

(c) Compliance With Applicable Laws and Ordinances.

The Grantee shall, at all times during the life of this Franchise, be subject to all lawful exercise of the police power by the City and to any such reasonable regulations as the City shall hereafter provide.

(d) Territorial Area Involved.

This Franchise relates to the present territorial limits of the City and to any area henceforth added thereto during the term of this Franchise.

(e) Liability and Indemnification Insurance.

(i) The Grantee shall be liable for all damages and penalties which said City may be legally required to pay as a result of the granting of this Franchise, which damages are the proximate results of the negligence of the Grantee, its agents and employees.

(ii) The Grantee shall indemnify and hold harmless said City for all expenses and damages incurred by said City, including reasonable attorney's fees, and costs of court which expenses and damages are incurred as a proximate result of any claims arising in any way from the acts or omissions of Grantee, its agents or employees pursuant to this Ordinance.

Grantee shall at all times while this Franchise is in effect maintain Workman's Compensation Insurance and Public Liability Insurance naming the City as an additional insured in the amounts as follows: Property Damage Liability Insurance to the extent of Fifty Thousand Dollars ($50,000), as to any person and One Hundred Thousand Dollars ($100,000) as to any one accident, and Personal Liability Insurance to the extent of One Hundred Thousand Dollars ($100,000) as to any one person and Three Hundred Thousand Dollars ($300,000) as to any one accident. The policies of insurance hereinabove mentioned are to be filed with the City before any work starts, and it shall be a further provision of all such insurance that the City is to be given at least ten (10) days written notice of any amendment or termination of such insurance before any such amendment or termination shall be effective. The City shall have the right to require Grantee to make reasonable increases in the amount and coverage provided by any insurance, and it is anticipated that this will be a matter for periodic review by the City Council.

(f) Color T.V.

The facilities used by the Grantee shall be capable of distributing color T.V. signals, and when the signals the Grantee distributes are received in color they shall be distributed in color where technically feasible.

(g) Technical Standards.

This Franchise is governed by and subject to all applicable rules, regulations and policies of the Federal Communications Commission, specifically including Part 76 and by the laws of the State. Should there be, any modifications of the provisions of Section 76.31 of the Rules and Regulations of the Federal Communications Commission which must be incorporated into this Franchise, the City and Grantee agree that such incorporation shall be accomplished within one (1) year after the effective date of FCC's adoption of the modification or upon renewal of this Franchise, whichever occurs first.

In addition to the FCC requirements, the Grantee shall:

(i) Transmit a video signal whether in black and white or in color, that is required by subscribers undistorted, free from ghost images, and accompanied by prior sound on standard production television sets in good repair.

(ii) Promptly locate and correct malfunctions attributable to Grantee's equipment and in no event permit a malfunction to remain uncorrected more than seventy two (72) hours after notice of the malfunction is given to Grantee, except in instances where repair equipment is unavailable, and in the latter instances, Grantee shall use all reasonable resources to obtain the needed equipment.

(h) Operation and Maintenance of System.

(i) The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.

(ii) The Grantee shall maintain an office or serviceman locally which subscribers may telephone during regular business hours without incurring added messages or toll charges, so that complaints regarding cable television may be taken care of.

(iii) Notice will be given to subscribers of procedures for reporting and resolving complaints at the time of the initial subscription to the cable system.

(i) Service to Schools and City.

The Grantee shall provide service to public and parochial school locations and teaching stations within the City for educational purposes upon request by the City and at no cost to it or to the public or parochial school system, and Grantee shall further provide to the City three (3) outlets for cable television service at no cost for the installation or use thereof.

(j) Public Access Channel.

The company shall reserve one channel of its system for joint use by the Grantor, school or other public bodies as a public service, educational or informational channel. The Grantor, school or other public body shall furnish any special equipment and personnel necessary to feed public service, educational or informational programs into the company's sytem. The company reserves the right to use this channel at any time or during any period for which no program or use of such channel is scheduled by the Grantor, school or other public body.

(k) Emergency Use of Facilities.

In the case of an emergency or disaster, the Grantee shall, upon request of the City Council, make available its facilities to the City for emergency use during the emergency or disaster period.

(l) Other Business Activities.

The Grantee hereunder shall not engage in selling, repairing or installing television receivers, radio receivers, or accessories for such receivers within said City during the term of this Franchise.

(m) Individual Antennas.

Nothing in this Title shall limit or deny service as presently provided by direct reception or limit the right of individuals to erect and maintain antennas for their own use.

(n) Safety Requirements.

The Grantee shall at all times employ reasonable care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

(i) The Grantee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electrical Safety Code as promulgated by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, any City safety codes, and in such manner that they will not interfere with any installation of the City or of a public utility serving the City.

(ii) All structures and all lines, equipment, and connections in, over, under, and upon the street, sidewalks, alleys, and public areas or places of the City, wherever situated or located shall at all times be kept and maintained in a safe, suitable substantial condition, and in good order and repair.

(iii) Any damages caused by Grantee in connection with the installation or operation of any part of its cable television facilities shall be repaired by Grantee within a reasonable time after such damage is incurred.

(iv) The Grantee shall maintain a force of one or more agents or employees at all times and shall have sufficient employees to provide safe, adequate, and prompt

service for its facilities.

(o) **New Developments.**

It shall be the policy of the City liberally to amend this Franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently, or economically to serve its subscribers; provided, however, that this Section shall not be construed to require the City to make any amendment.

(p) **Limitations of Rights Granted.**

(i) **All transmissions and distribution structures, lines, and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places, and said poles or towers shall be removed by Grantee, whenever, in the opinion of the City Council for the City, the same restricts or obstructs the operation or location of any future streets or public places in the City.**

(ii) **Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable Ordinances and regulations of said City affecting electrical installations, which may be presently in effect.**

(iii) **In case of disturbance of any street, sidewalk, alley, public way, or paved area, the Grantee shall, at its own cost and expense and in a manner approved by the City Council, replace and restore such street, sidewalk, alley, public way, or paved area in as good a condition as before the work involving such disturbance was done.**

(iv) **If at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the Grantee, upon reasonable notice by the City shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.**

(v) **Any poles or other fixtures placed in any public way by the Grantee shall be placed in such manner as not to interfere with the usual travel on such public way.**

(vi) **The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The such temporary removal or raising of wires shall be paid by the person the same, and the Grantee shall have authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.**

(vii) The Grantee shall have the authority to trim trees upon the overhanging streets, alleys, sidewalks and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.

(viii) Grantee shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place, any property of Grantee when required by the City by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishments of street grade, installation of sewers, drains, waterpipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental or proprietary capacity, or other structure of public improvement, provided, however, that Grantee shall in all such cases have the privileges and be subject to the obligations to abandon any property of Grantee in place as hereinafter provided.

(ix) In all sections of the City where the cables, wires or other like facilities of public utilities are placed underground, the Grantee shall place its wires, cables or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.

(x) In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such systems or property has been installed in any street or public place without complying with the requirements of this Title, or the rights granted hereunder have been terminated, cancelled or have expired, Grantee shall promptly remove from the streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.

(xi) Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.

(q) Preferential or Discriminatory Practices Prohibited.

The Grantee shall not, as to rates, charges, services, service facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage to any person, nor subject any person to any prejudice or disadvantage, however, this Section shall not preclude the Grantee from establishing different rates for persons in different classifications, e.g., residential and commercial. it being understood that Grantee shall not be required to furnish service to any customer farther than four hundred (400) feet from a customer then wired and receiving Grantee's service, except in cases where not less than six (6) subscribers

are within eight hundred (800) feet of a wired customer receiving Grantee's service and request service.

(r) Removal of Facilities Upon Request.

Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

(s) Transfer of Franchise.

The Grantee shall not transfer this Franchise other than by corporate reorganization without prior approval of the City Council, which approval shall not be unreasonably withheld.

(t) Duration and Acceptance of Franchise.

(i) This Franchise and the rights, privileges and authority hereby granted shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of fifteen (15) years, provided that within sixty (60) days after the date of passage of this Ordinance the Grantee shall file with the City Finance Officer its unconditional acceptance of this Franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to, by or on behalf of the Grantee before a Notary Public or other officer authorized by law to administer oaths. Any extension or renewal of the rights, privileges and authority herein granted, beyond the fifteen (15) year period provided for in this Ordinance, shall be re-negotiated with the City, upon the expiration of the present term hereof.

(ii) Should the Grantee fail to comply with 14.1(t)(1) above, it shall acquire no rights, privileges or authority under this Franchise whatever.

(iii) Grantee shall have the option to request renewal of this Franchise for an additional period not to exceed fifteen (15) years. Should Grantee desire to exercise this option, it shall so notify the City in writing, not less than three (3) months prior to expiration of this Franchise. Upon exercise of this option by Grantee, the City shall conduct a full, open, and public renewal proceeding upon prior notice and opportunity of all interested parties to be heard. The renewal proceeding shall be held for the purpose of considering Grantee's performance under this Franchise. Renewal shall not be unreasonably denied and shall be granted unless Grantee is found to be unqualified to continue operation of this cable television system. If this Franchise is renewed by the City, all of the terms and provisions contained herein shall be controlling during the renewal period, except to the extent that said terms and provisions are modified by the City or unless this Franchise is superseded by a new Franchise. Should the City, for any

[illegible]

[illegible] be removed or modified by the Grantee at its own expense whenever the City Council determines that the public convenience would be enhanced thereby.

(ii) Where poles or other wire-holding structures already exist in use in serving

Transferring to new location with existing service	$15.00

c. Basic Service Rate:

Residential, first outlet	$10.00 Mo.
Each additional outlet	$ 1.50 Mo.
Commercial, first outlet	$10.00 Mo.
Each additional outlet	$ 2.50 Mo.

Where there is more than four hundred (400) feet of distance from cable to connection of service to subscriber, Grantee will charge for installation on the basis of costs of material, labor, and customary overhead for the footage over four hundred (400) feet.

The Grantee shall have the right to waive the installation charge at any time for any business purpose.

The above listed rate schedule may be adjusted annually by the Grantee based on changes in one or more of the following:

1. U.S. Bureau of Labor Statistics Consumer Price Index;
2. New developments in the field of television or radio transmission;
3. Increase in the cost of transmission.

No increase in excess of five percent (5%) per annum may be made by Grantee without City approval. Increases in the rate schedule in excess of five percent (5%) per annum, may be made by the Grantee provided the City is notified in writing by service thereof on the City Finance Officer forty-five (45) days prior to the proposed change. If no action is taken by the City within the aforesaid forty-five (45) day period, the rate changes shall be effective on the 46th day after notice is served on the City Finance Officer. If the City objects to the proposed change, it may during the aforementioned forty-five (45) day period hold a public hearing affording due process to which the Grantee is an indispensable party. Following the hearing the City shall approve or disapprove the proposed rate changes within fifteen (15) days of the date of said hearing; and shall notify the Grantee within five (5) days thereafter of its action. Such notification shall be in writing and in the event the City has disapproved the proposed rate change, shall include the reasons for such disapproval.

(w) Compliance with FCC Franchise Standards.

Pursuant to applicable FCC standards, the following recitations and provisions are set forth:

(i) Grantee's legal character, financial, technical and other qualifications and the adequacy and feasibility of its construction arrangements have been approved by the City Council after consideration in a full public proceeding affording due

process to all interested persons.

(ii) Grantee shall accomplish significant construction within one year after receiving FCC certification and shall thereafter equitably and reasonably extend energized truck cable to twenty percent (20%) of the Franchise area each year thereafter.

(iii) The initial Franchise period shall be fifteen (15) years in duration and renewal Franchise periods shall also be fifteen (15) years in duration, pursuant to Section 14.1(t).

(iv) All complaints regarding the quality of service, equipment and malfunctions, disputes concerning installation, or subscription rates or violations of this Franchise shall be directed to Grantee at Grantee's local office. In the event Grantee fails to satisfy a complaint, then the complaint shall be forwarded by the person making the same to the City Finance Officer. Upon receipt of the complaint the City shall immediately serve notice of such violation upon the Grantee with directions to correct such violation within forty-five (45) days or show cause why such violation should not be corrected at a public hearing held in conjunction with the next regularly scheduled meeting of the City Council.

(v) The Franchise fee pursuant to Section 14.1(y) shall be no more than three percent (3%) of Grantee's gross subscriber revenues per year from cable television operations in the City (including all forms of considerations, such as initial lump sum payments).

(x) Unauthorized Cable Tapping.

It shall be unlawful for any person or persons to obtain any cable television services from any cable television company, or any firm or private person by installing, rearranging, or tampering with any facilities or equipment of said cable television company unless the same is done with the knowledge of and with permission of the cable television company. Any person or persons found guilty of a violation of the provisions of this Section shall be deemed guilty of a Class 2 misdemeanor.

(y) Payment to the City.

During the term of this granted Franchise, beginning with the service to subscribers, Grantee shall pay to the City (1%) one percent on the first and second year. On the third and fourth year (2%) two percent will be paid. On the fifth year and every year thereafter the fee will be (3%) three percent of the total annual gross receipts.

Gross receipts shall include monthly basic cable service charges but shall not include monies received as installation charges and charges and fees for reconnection, inspections, and all State and Federal taxes relating thereto. This amount payable by Grantee to the City shall be the sole amount payable for all of its rights under this Franchise, including but not limited to, the use of the streets

and other facilities of the City in the operation of the cable system and for the City supervision thereof.

Grantee shall file with the City within thirty (30) days after the expiration of the operating year during the term of the rights granted hereunder, a certified statement showing the gross receipts as defined herein. It shall be the duty of Grantee to pay the City within fifteen (15) days after the time for filing such statement, the amount due for the operating year covered by such statement.

The City reserves the right to require Grantee, at the sole expense of Grantee, to furnish a statement prepared by a Certified Public Accountant showing the gross receipts of Grantee for the purposes of this Section.

(z) Reservation of Rights by the City.

The City hereby reserves the following rights in addition to those provisions contained herein and in existing Ordinances and such additional regulations as the City deems necessary in the exercise of its police power, provided, however, that no such additional Ordinances and regulations are reasonable and not in conflict with the provisions of this Franchise.

(i) The City shall have the right to require by Ordinance the filing by the Grantee of a proper map showing the exact location of all underground cables and equipment of the Grantees together with a statement showing the exact nature of the same.

(ii) The City shall have the right to inspect the map, plans, and other like material of the Grantee upon reasonable notice to Grantee.

(iii) The City is hereby granted an easement to install and maintain free of charge upon the poles owned by Grantee any wire and pole fixture necessary for a police or civil defense alarm system, provided that such wire or fixture does not interfere with the cable system operation of the Grantee.

(iv) The City shall have the right to inspect and supervise all installation work performed by Grantee subject to the provisions of this Franchise for the purpose of ensuring compliance with the terms of this Franchise.

(v) At the termination of the term of this Franchise or any renewal period thereafter, the City may require the Grantee to remove at Grantee's expense, all portions of the cable system from all public ways within the City.

(vi) In addition to all other rights and powers reserved or pertaining to the City, the City reserves as an additional and as a separate and distinct remedy the right to revoke this Franchise and all rights and privileges of the Grantee hereunder for any of the following reasons:

1) Grantee fails after thirty (30) days prior written notice to comply with any of the provisions of the Ordinance granting this Franchisor has by act or omission violated any term or condition thereof; or

2) Any provision of such Ordinance shall be finally adjudged by a court of law invalid or unenforceable and the City Council further finds that such provision constitutes at all times a consideration material to the continuance of the Franchise granted herein; or

3) The Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt; or

4) All or part of Grantee's facilities should be sold under an instrument to secure a debt and are not redeemed by Grantee within 60 days from said sale; or

5) Grantee attempts to or does practice any fraud or deceit in its conduct or relations with the City under this Franchise; or

6) City condemns all of the property of Grantee within the City by the lawful exercise of eminent domain; or

7) Attempts to dispose of any of the facilities or property of its cable system with the intention of preventing the City from exercising its right of purchase as herein provided; or

8) Perpetrates any fraud or deceit upon the City or subscribers therein; or

9) No revocation provided for above, except for reason of condemnation as provided in sub-section 14.1(z)(6)(F) thereof, shall be effective unless or until the City Council shall have adopted an Ordinance setting forth the cause and reasons for the revocation and the effective date thereof, which Ordinance shall not be adopted without thirty (30) days prior notice thereof to Grantee and an opportunity for Grantee to be heard on the proposed adoption of such proposed Ordinance. If the revocation as proposed in said Ordinance depends on a Finding of Fact, such Finding of Fact is made by the City Council after the hearing provided for, if requested by Grantee, shall be conclusive.

(aa) Pole Use Fee.

The Grantee shall pay a pole use fee which is to be negotiated with the owner of the pole for each pole to which Grantee attaches its transmission cable or devices.

(bb)Program Presentations.

All programs of broadcasting stations carried by Grantee shall be distributed or transmitted to the subscriber in their entirety without delay from the time originally broadcast, and without additional announcements, or other deletions, additions, or changes to the programs, except nothing shall prohibit such changes or delays as may be required by law.

All programs of all broadcasting stations carried by Grantee shall be transmitted or distributed by Grantee without material degradation of picture quality or sound and without significant variation between the quality of the picture or sound transmitted or distributed by Grantee to the subscriber between the programs of one broadcasting station and another, so far as the same may be within the control of Grantee.

Whenever any broadcasting station carried by Grantee shall transmit or broadcast any television or part thereof in color, it shall be the duty of Grantee to distribute or transmit said program or said part in color to its subscribers.

(cc) Compliance with Law.

Grantee shall, at all times during the terms of this Franchise, be subject to all lawful exercises of the police power of City and to such reasonable regulations as City shall prescribe for the general conduct of persons providing cable television service within the City.

***(dd)* Filing of Communications.**

Copies of all petitions, applications and communications submitted by Grantee to the Federal Communications, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter effecting cable television operations, so far as the same might also be submitted simultaneously to the City by filing the same with the City Finance officer.

(ee) Books and Records.

The Grantee shall file with the City Finance Officer of the City true and accurate maps or plats of all existing and proposed installations on the streets of the City. At all reasonable times, Franchisee shall permit examination of any duly authorized representative of the City Council or the City Finance Officer Franchise situated within or without the City. Franchisee shall also permit any duly authorized representative of the City Council or the City Finance Officer to examine and transcribe any and all maps and other records kept or maintained by Franchisee or under its control concerning the operations, affairs, transactions or property of Franchisee. Financial records may only be reviewed by the City for the purpose of verifying proper payment of the Franchise fee, of determining the financial ability to provide new services, the setting of rates, and as needed upon termination of the Franchise.

(ff) Grantee Without Recourse.

Grantee shall have no recourse whatsoever against the City for any loss, cost or expense or damage arising out of any of the provisions or requirements of this Franchise or because of the enforcement thereof by City, nor for the failure of City to have the authority to grant all or any part of this Franchise.

Grantee expressly acknowledges that on accepting this Franchise it did so relying on its own investigation and understanding of the power and authority of the City to grant this Franchise.

By acceptance of this Franchise Grantee acknowledges that it has not been induced to enter into this Franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of City or by any other third person concerning any term or condition of this Franchise not expressed herein.

Grantee further acknowledges by the acceptance of this Franchise that is has carefully read the terms and conditions hereof, and is willing to and does accept all of the risks of the meaning of such terms and conditions and agrees that in the event of any ambiguity therein or in the event of any dispute over the meaning thereof the same shall be construed strictly against Grantee and in favor of City.

(gg) Rights Reserved to Grantor.

Without limitation on the rights which it might otherwise have, City does hereby expressly reserve the right, powers, and authority to exercise its governmental powers now or hereafter to the full extent that such powers may be vested in or granted to City; to determine through its City Council any question of fact relating to the meaning, terms, obligations or other factors of this Franchise; and to grant additional Franchises within the City to other persons for the conduct of Cable Television System under any conditions whatsoever acceptable to City, notwithstanding the same might be alleged to be more favorable than the rights granted herein.

(hh)Initial System Installation.

Operation of cable television service in the franchised area shall commence by January 1, 1983, and failure to comply with this provision shall be deemed grounds for revocation of this franchise, except that the City Council may, upon written application by Grantee, extend such time for completion upon a showing that forces and circumstances beyond the control of Grantee have precluded it from complying with this Section.

(ii) Acceptance of Franchise.

Within thirty (30) days of the effective date of this Ordinance, Grantee shall accept and agree to abide with the terms and conditions of this Franchise by filing a written acceptance thereof with the City Finance Officer of the City. If such acceptance shall not be filed within the time aforesaid, then the Ordinance granting this Franchise shall be deemed void and of no further force and effect, and the offer of Franchise contained in said Ordinance shall stand revoked.

(jj) Notice to Parties.

Whenever under the terms of this Franchise either party shall be required to or permitted to give notice to the other, such notice shall be in writing and is to be served on City, it shall be delivered either by first class United States mail or by handing such notice to the City Finance Officer at the City Hall, Tea, South Dakota 57064, and if to Grantee, then by delivering by first class United States mail or by handing such notice to such officer at such address as Grantee shall from time to time direct. The original name and address of the officer on behalf of Grantee shall be included in Grantee's acceptance of this Franchise.

(kk)General Provisions.

(i) Failure of City to Enforce Franchise: Grantee shall not be excused from

complying with any of the terms or conditions of this Franchise by any failure of City on any one or more occasions to insist on or to seek compliance with any such terms or conditions.

(ii) Time of the Essence: Whenever this Franchise shall set forth any time for any action to be performed by or on behalf of Grantee, said time shall be deemed of the essence and any failure of Grantee to perform within the time allotted shall always be sufficient grounds for the City to revoke this Franchise.

(iii) Contest of Validity: Grantee agrees by the acceptance of this Franchise that it will not at any time set up against the City in any claim or proceeding any condition or term of this Franchise as unreasonable, arbitrary, or void, or that the City had no power or authority to make such term or conditions, but shall be required to accept the validity of the terms and conditions of this Franchise in their entirety.

(ll) Separability.

(i) If any section, sub-section, sentence, clause, phrase or portion of this Title is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(ii) Should any provision of this Franchise be inconsistent or at variance with any rule, regulation, or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

(mm) Transfer of Franchise Ordinance.

Pursuant to the Franchise Ordinance, consent and approval is hereby granted by the City for the transfer and assignment of the Franchise Ordinance by Douglas to DTI. The Mayor, Council President, or Presiding Officer of the City, or any person designed by the Mayor, Council President, or Presiding Officer are hereby authorized to execute the Consent to Assignment attached hereto as Annex 1.

(nn)Ordinance Affirmed and Term Extended.

All terms and provision of the Franchise Ordinance shall continue in full force and effect except that the remaining term of the Franchise Ordinance shall be extended to expire on the fifteenth (15th) anniversary of the date of transfer by Douglas to DTI. As set forth in the Consent to Assignment, the City consents to the grant by DTI of a security interest in the Franchise Ordinance to its lenders to secure indebtedness or other obligations incurred by DTI with respect to the cable television system to be operated by DTI pursuant to the Franchise Ordinance.

(oo) Effective Date.

The transfer of the Franchise Ordinance shall be effective upon the closing of the sale by Douglas to DTI of the cable television facilities serving the City of Tea. DTI shall notify the City of the transfer of the Franchise Ordinance within thirty (30) days of such closing, and provide therewith a copy of the Assignment and Assumption of Franchise by which the Franchise Ordinance was transferred and assigned by Douglas to DTI.

***(pp)* Inconsistency.**

In the event any of the terms and provision of any other Ordinance or regulation of the City are inconsistent with the terms and provisions of this Ordinance, the terms and provisions of this Ordinance shall govern and control.

SECT. 16.02 NONEXCLUSIVE FRANCHISE - STERN OIL

14.2.(a).

The right is hereby granted to Stern Oil Company, Incorporated, its successors and assigns, a nonexclusive franchise for the limited purposed of erecting, construction, installing and laying, and thereafter using, operating, inspecting, repairing, maintaining, replacing and removing

natural gas distribution lines, and all other devices (which term does not include buildings, but does include block valves and other similar structures) used in connection with the operation of a natural gas system, over, under, across and through the streets, alleys or public places of the City of Tea, South Dakota together with the right of ingress and egress over the adjacent lands of its successors and assigns for the purpose of transmitting or distributing natural gas for a period of twenty (20) years from the 4th day of May, 1992, provided, however, that the right herein granted shall not be exclusive.

(a)

The Grantee shall at all times indemnify, protect and save harmless the City against and from all claims and demands and from any and all expenses, losses and liability arising out of the construction, installation, maintenance, presence of any pipes or other equipment, and of all the operations and repairs included in the Franchise as operated by the Grantee herein, except such as arises as a result of the negligence of the City, its agents, employees or officers.

(b)

Grantee is hereby authorized to make all the necessary excavations in the alleys, public places, sidewalks and streets within the corporate limits of the Grantor, but such excavation shall be completed with reasonable dispatch and with as little inconvenience or interference to rights of the public as may be reasonable. All mains, pipes and other natural gas apparatus and equipment laid or placed by the Grantee shall be so located in the alleys, public places and streets within the City

as not to interfere or obstruct any drains, sewers, water pipes or other structures already installed or hereafter installed. The Grantee shall avoid interfering with the use of any alley, street, or other highway where the paving or surface of the street would be disturbed whenever practicable.

(c)

In the event any obstruction caused by the Grantee shall remain longer than is reasonably necessary or in the event of negligence by the Grantee to safeguard any dangerous places, then the Grantor may remove such obstruction or safeguard such dangerous places at the expense of the Grantee. In the event any driveway, pavement, sidewalk, paving or surface of any alley or street shall be disturbed, it shall be restored in as good a condition as before said work was commenced, and Grantee shall maintain the restoration in an approved condition for a period of one year thereafter.

(d)

The Grantee shall file a surety bond in the amount of One Hundred Thousand Dollars ($100,000) with the City on or before its acceptance of this Franchise which is conditioned upon the faithful performance by the Grantee of all the conditions, convenants and terms contained in this Franchise, and Grantee shall at all times thereafter maintain the indemnity agreement in full force and effect for the entire term of this Franchise. In addition thereto, the Grantee shall defend and indemnify the City, and its City Council members agents, employees and officers against any and all liabilities for injury to or death of any person, or any damage to any property

caused by the Grantee, its agents, employees, officers or subcontractors in the construction, maintenance, operation or repairs of its distribution system or property, arising out of the exercise of any privilege or right under this Franchise, except such as arises as a result of the negligence of the City, its agents, employees or officers. Said surety bond is subject to approval by the City which approval or rejection by the City shall be within thirty (30) days after the surety bond is received by the City.

(e)

The Grantee shall at all times keep complete and full maps, plans and records reflecting the location of all natural gas lines and other facilities installed in the alleys, public places and streets within the corporate limits of the Grantor. In addition thereto, Grantee shall file a current map or set of such maps with the City Finance Officer upon the completion of the distribution system constructed by the Grantee, and annually update the map or set of maps.

(f)

Any facilities in the alley, public places or streets incidental to the Franchise that have been or at any future time are acquired, constructed or maintained in any manner by Grantee are thereupon to be deemed authorized and shall be subject to

the provisions of this Franchise to include any and all expansions of the corporate limits of the Grantor which consequently requires an expansion of the Grantee's facilities.

(g)

City may cancel and terminate this Franchise by an Ordinance upon giving ninety (90) days written notice of its intent to do so unto the Grantee, or its assigns or successors, if the Grantee is in default in its performance under the conditions or terms herein or at any time after five (5) years from the date this Ordinance is published if construction within the City has not been commenced prior thereto by the Grantee. A written notice of default must specify the provisions of this Franchise under which the default is claimed by the Grantor.

(h)

This Ordinance shall not be effective unless said Company shall filed its unconditional acceptance of the Ordinance with the City Council of said City within forty-five (45) days after the publication of said Ordinance.

Chapter 17. GENERAL PROVISIONS

SECT. 17.01 PENALTIES AND REPEALING CLAUSE

(a) Penalty in General.

Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of law, every violation of any of the provisions of this ordinance shall be punishable by a fine not exceeding One Hundred Dollars ($100.00) or by imprisonment for a period not exceeding thirty (30) days or by both such fine and imprisonment. (SDCL 9-19-3)

(b) Conflicting Ordinances Repealed

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

(c) 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.

Chapter 18. Flood Damage Prevention

SECT. 18.01 IN GENERAL

(a) Title.

This Title will be known as the "Flood Damage Prevention Ordinance of Tea."

(b) Purpose.

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

(i) To protect human life and health;

(ii) To minimize expenditure of public money for costly flood-control projects;

(iii) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(iv) To minimize prolonged business interruptions;

(v) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges, located in areas of special flood hazard;

(vi) To restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities;

(vii) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(viii) To ensure that potential buyers are notified that property is in an area of special flood hazard;

(ix) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and

(x) To assure that eligibility is maintained for property owners in the city to purchase flood insurance.

(c) Methods of reducing flood losses.

(i) In order to accomplish its purposes, this Ordinance includes methods and provisions for:

(ii) Restricting or prohibiting uses which are dangerous to health, safety and

property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;

(iii) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(iv) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

(v) Controlling filling, grading, dredging and other development which may increase flood damage; and

(vi) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(d) Definitions.

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meanings they have in common usage and to give this Ordinance its most reasonable application.

(i) *Appeal* means a request for review of the City Common Council's interpretation of any provision of this Ordinance or a request for a variance.

(ii) *Area of shallow flooding* means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

(iii) *Area of special flood hazard* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

(iv) *Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

(v) *Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, grading, excavating or drilling operations located within the area of special flood hazard.

(vi) *Existing manufactured home park or subdivision* means a manufactured home park for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the floodplain management regulations adopted by a community.

(vii) *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 manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

(viii) ***Flood or flooding*** **means a general and temporary condition of partial or complete inundation of normally dry land areas from:**

1) The overflow of inland or tidal waters; and/or

2) The unusual and rapid accumulation or runoff of surface waters from any source.

(ix) ***Flood insurance rate map (FIRM)*** **means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.**

(x) ***Flood insurance study*** **means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary floodway map, and the water surface elevation of the base flood.**

(xi) ***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.**

(xii) Historic structure means any structure that is:

1) 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;

2) 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;

3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a) By an approved state program as determined by the Secretary of the Interior; or

b) Directly by the Secretary of the Interior in states without approved programs.

(xiii) Lowest floor means the lowest floor, 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 nonelevation design requirements of this Ordinance.

(xiv) 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."

(xv) 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.

(xvi) New construction means structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

(xvii) 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.

(xviii) Recreational vehicle means a vehicle which is:

1) Built on a single chassis;

2) Four hundred square feet or less when measured at the largest horizontal projection;

(xix) Designed to be self-propelled or permanently towable by a light-duty truck, and

(xx) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

(xxi) Start of construction includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means 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.

(xxii) Structure means a walled and roofed building or manufactured home that is principally above ground.

(xxiii) *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.

(xxiv) ***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:**

1) 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

2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(xxv) ***Variance*** **means a grant of relief from the requirements of this Ordinance which would permit construction in a manner that would otherwise be prohibited by this Ordinance.**

(e) Boundaries of districts.

This Ordinance shall apply to all areas of special flood hazards within the City of Tea, South Dakota.

(f) 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 covering the City of Tea and the area of Lincoln County located near the City of Tea. The latest Flood Insurance Study for Tea, Lincoln County and vicinity, South Dakota, and an accompanying flood insurance rate map (FIRM) is hereby incorporated by reference and declared to be a part of this Ordinance. The Finance Officer shall keep a copy of said study and map in the City Office open for public inspection.

(g) Compliance.

No structure or land shall hereafter be used, constructed, located, extended, converted or altered without full compliance with the terms of this Ordinance and other applicable regulations.

(h) Abrogation and interpretation.

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.

In the interpretation and application of this Ordinance, all provisions shall be:

(i) Considered as minimum requirements;

(ii) Liberally construed in favor of the governing body; and

(iii) Deemed neither to limit nor repeal any other powers granted under state statutes.

(i) Warning and disclaimer of liability.

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that land outside the areas of special flood hazard 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 City of Tea, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

(j) Severability.

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

(k) Permits required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 18.1(f). Application for a development permit shall be made on forms furnished by the Zoning Board and may include, but not be limited to:

(i) Plans drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures; and

2) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(l) Powers and duties.

The Zoning Board is hereby appointed to administer and implement this Ordinance by granting or denying development permit applications in accordance with its provisions.

Duties of the Zoning Board shall include, but not be limited to:

(i) Permit review:

1) Review all development permits to determine that the permit requirements of this Ordinance have been satisfied.

2) Review all development permits to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required.

3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 18.3(k)(1) are met.

4) Notify adjacent communities and the Division of Emergency and Disaster Service, Department of Military and Veteran Affairs, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

5) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the floodcarrying capacity is not diminished.

(ii) Information to be obtained and maintained:

1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2) Maintain for public inspection all records pertaining to the provisions of this Ordinance.

(iii) ***Use of other flood data*****: When base flood elevation data have not been provided in accordance with 18.1(f), basis for establishing the areas of special flood hazard, the Zoning Board shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A are administered in accordance with 18.3 Minimum Standards.**

Interpretations of FIRM boundaries: Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards where there appears to be a conflict between a mapped boundary and actual field conditions.

SECT. 18.02 APPEALS

(a) Appeals board.

The City Common Council shall hear and decide appeals and requests for variances from the terms of this Ordinance.

(b) Factors to consider.

In passing upon appeals and variances from the terms of this Ordinance, the council shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Ordinance, and:

(i) The danger that materials, including but not limited to hazardous materials, may be swept onto other lands or waterways to the injury of others;

(ii) The danger to life and property due to flooding or erosion damage;

(iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

(iv) The importance of the services provided by the proposed facility to the community;

(v) The necessity to the facility of a waterfront location, where applicable;

(vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) The compatibility of the proposed use with the existing and anticipated development;

(viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater and the effects of wave action, if applicable, expected at the site; and

(xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such a sewer, gas, electrical, water systems, streets and bridges.

(c) Conditions for variances.

(i) Variances may be issued for the reconstruction, rehabilitation or restoration of historic structures without regard to the procedures set forth in the remainder of this Title.

(ii) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(iii) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(iv) Variances shall only be issued upon:

1) A showing of good and sufficient cause;

2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3) 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 as identified in 18.2 (b), or conflict with existing local laws or ordinances.

(v) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

(d) Variance procedure.

All procedures and conditions for the Board of Adjustment shall be on file with the Finance Officer and open to public inspection.

SECT. 18.03 MINIMUM STANDARDS

(a) Storage of materials, equipment or debris.

Storage of materials and equipment that are flammable or explosive or injurious to human, animal or plant life is prohibited, unless elevated two feet above the base flood elevation. Other materials, equipment, or debris that are buoyant shall be anchored to prevent movement due to floodwaters or [removed if such material, equipment or debris] can realistically be removed in the time available after flood warnings and the owner can provide assurance that he has the ability and will in fact take such action.

(b) Construction materials and methods.

(i) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(ii) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(iii) All new construction and 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.

(c) Anchoring.

All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.

(d) Utilities.

(i) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(ii) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwater into the systems and discharge of effluent from the systems into floodwaters.

(iii) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(iv) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damage or impaired systems.

(e) Subdivisions.

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities such a sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(iii) Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain passable during occurrence of a 100-year flood.

(iv) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(v) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(vi) New or Expansion of Existing Manufactured Home Park or Subdivision.

(vii) New or expansion to existing manufactured home parks or subdivisions and manufactured homes outside of a manufactured home park or subdivision that are placed or substantially improved.

(f) All manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the home is two (2) feet above the base flood elevation.

(g) Manufactured homes shall be located on reinforced piers or foundations, anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. The foundation and method of anchoring shall be approved by the Zoning Board.

(h) Existing manufactured home park or subdivision.

Manufactured homes that have incurred substantial damage as a result of a flood shall comply with the provisions of Section 18.03(f).

(i) Residential, nonresidential construction and recreational vehicles.

(i) New construction and substantial improvement of any residential, commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated to two (2) feet above the base flood elevation.

(ii) Within any AO and AH zone on the FIRM, all new construction and substantial improvements of nonresidential and residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the FIRM (at least two (2) feet if no depth number is specified).

(iii) Within the AO and AH zones, adequate drainage paths shall be made around structures on slopes to guide floodwaters around and away from proposed structures.

(iv) New construction and substantial improvement of any nonresidential structure shall include site work to provide all occupied buildings with a means of vehicular access that will remain passable during occurrence of a 100-year flood.

(v) Recreational vehicles placed on sites within the area of special flood hazard shall be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or comply with the provisions of Section 18.1(k) and Section 18.3(f).

(j) Openings in enclosures below lowest floor.

For all new construction and substantial improvements, fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two (2) openings, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding, shall be provided;

(ii) The bottoms of all openings shall be no higher than one (1) foot above grade;

(iii) Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(k) Floodproofing.

Floodproofing is not accepted as a method of protection in Tea.

(l) Floodways.

Located within the areas of special flood hazard established in Section 18.1(f) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(i) Encroachments, including fill, new construction, substantial improvements, and other development, are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(ii) If Section 18.3(k)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(iii) Buildings shall not be for human habitation.

(iv) Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

(v) Storage of material, equipment or debris is prohibited.

CITY OF TEA, SOUTH DAKOTA
ORDINANCE 136
2000 APPROPRIATION ORDINANCE

PART I (SDCL 9-21-2)
Be it ordained by the City of Tea that the following sums are appropriated to meet the obligations of the municipality.

	GENERAL FUND 101	3RD PENNY FUND 212	2ND PENNY FUND 212	STORM DRINAGE II FUND 220	ST. MAINT ASSESSMENT FUND 221	STORM DRAIN DEBT FUND 303	SPECIAL ASSESSMENT FUND 304	TOTAL
410 GENERAL GOVERNMENT								
411 Legislative	16,201							16,201
412 Executive	3,799							3,799
413 Elections	935							935
414 Financial Administration	56,326							56,326
419 Other	33,500	-	10,000					43,500
TOTAL GENERAL GOVERNMENT	**110,761**	**-**	**10,000**	**-**	**-**	**-**	**-**	**120,761**
420 PUBLIC SAFETY								
421 Police	109,355							109,355
422 Fire Department	11,100							11,100
TOTAL PUBLIC SAFETY	**120,455**	**-**	**-**	**-**	**-**	**-**	**-**	**120,455**
430 PUBLIC WORKS								
431 Highway and Streets	101,378		63,300		34,000			198,678
432 Sanitation	3,800							3,800
TOTAL PUBLIC WORKS	**105,178**	**-**	**63,300**	**-**	**34,000**	**-**	**-**	**202,478**
450 CULTURE AND RECREATION								
450 Recreation	48,500	43,875						92,375
TOTAL CULTURE AND RECREATION	**48,500**	**43,875**	**-**	**-**	**-**	**-**	**-**	**92,375**
440 DEBT SERVICE								
441 Principal			6,566	38,239		39,250	110,000	194,055
442 Interest			10,134	20,125		19,476	37,250	86,985
449 Other	7,151							7,151
TOTAL DEBT SERVICE	**7,151**	**-**	**16,700**	**58,364**	**-**	**58,726**	**147,250**	**288,191**
510 OTHER FINANCING USES								
511 Operating Transfer - Out	5,875							5,875
TOTAL OTHER FINANCING USES	**5,875**	**-**	**-**	**-**	**-**	**-**	**-**	**5,875**
TOTAL 2000 APPROPRIATIONS	**397,920**	**43,875**	**90,000**	**58,364**	**34,000**	**58,726**	**147,250**	**830,135**

CITY OF TEA, SOUTH DAKTOA
ORDINANCE 137
SUPPLEMENTAL APPROPRIATIONS

AN ORDINANCE PROVIDING SUPPLEMENTAL APPROPRIATIONS IN THE AMOUNT OF $24,700.00 FOR THE YEAR 1999 FROM UNOBLIGATED MONIES.

BE IT ORDAINED BY THE CITY OF TEA, SOUTH DAKOTA, that the finance officer is herby authorized and directed to appropriate as shown below:

General Fund 101

414	Finance	$	10,000
421	Public Safety		5,000
432	Sanitation		200
452	Parks		5,000
	Total General Fund	$	20,200

2nd Penney Sales Tax Fund 212

4400	Debt Service	$	1,500

221 Street Maintenance Assessment Fund 221

431	Highway Streets	$	3,000

This Ordinance shall take effect upon its passage and publication in accordance with the law.

Herman Otten, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading:	December 6, 1999
Second Reading	December 16, 1999
Passed:	December 16, 1999
Published:	December 17, 1999
Effective:	January 7, 2000

ORDINANCE NO. 139

AN ORDINANCE REVISING SECTION 7.5 OF THE TEA CITY ORDINANCES CONCERNING TRUCK LOAD LIMITS

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

Section 1. Trucks may operate on any City Street or Highway as long as the gross vehicle weight does not exceed 30,000 pounds and/or 18,000 pound per axle, and/or 550 pounds per inch tire width.

Section 2. Trucks whose gross vehicle weight is more than 30,000 pounds but does not exceed 80,000 pounds and/or 18,000 pounds per axle, and/or 550 pounds per inch tire width may operate only on designated truck routes as defined in the City's Ordinances.

Section 3. Trucks with a gross vehicle weight of more than 80,000 pounds shall not operate within the city limits without prior obtaining a permit from City of Tea.

Section 4. The form, detail and cost of the overweight permit shall be set periodically by the City Common Council by resolution.

Section 5. Violations of this ordinance shall carry with it a fine of $200.00 and\or thirty days in jail or both.

Herman Otten Mayor

ATTEST:

Dawn Murphy, Finance Officer

First Reading: May 1, 2000

Second Reading: May 15, 2000

Publication Date: May 19, 2000

Effective Date:(20 days after last publication): June 8, 2000

CITY OF TEA, SOUTH DAKOTA
ORDINANCE 140
2001 APPROPRIATION ORDINANCE

PART I (SDCL 9-21-2)
Be it ordained by the City of Tea that the following sums are appropriated to meet the obligations of the municipality.

	GENERAL FUND 101	3RD PENNY FUND 212	2ND PENNY FUND 212	STORM DRINAGE II FUND 220	ST. MAINT ASSESSMENT FUND 221	STORM DRAIN DEBT FUND 303	SPECIAL ASSESSMENT FUND 304	TOTAL
410 GENERAL GOVERNMENT								
411 Legislative	31,206							31,206
412 Executive	3,799							3,799
413 Elections	1,475							1,475
414 Financial Administration	63,936							63,936
419 Other	46,400	-	-					46,400
TOTAL GENERAL GOVERNMENT	**146,816**	-	-	-	-	-	-	**146,816**
420 PUBLIC SAFETY								
421 Police	125,231							125,231
422 Fire Department	18,000							18,000
TOTAL PUBLIC SAFETY	**143,231**	-	-	-	-	-	-	**143,231**
430 PUBLIC WORKS								
431 Highway and Streets	86,350		83,322		35,023			204,695
432 Sanitation	8,100							8,100
TOTAL PUBLIC WORKS	**94,450**	-	**83,322**	-	**35,023**	-	-	**212,795**
450 CULTURE AND RECREATION								
450 Recreation	41,100	27,000						68,100
TOTAL CULTURE AND RECREATION	**41,100**	**27,000**	-	-	-	-	-	**68,100**
440 DEBT SERVICE								
441 Principal			6,917	39,792		40,843	105,000	192,552
442 Interest			9,761	18,752		17,882	31,200	77,595
449 Other	37,668							37,668
TOTAL DEBT SERVICE	**37,668**	-	**16,678**	**58,544**	-	**58,725**	**136,200**	**307,815**
510 OTHER FINANCING USES								
511 Operating Transfer - Out	-							-
TOTAL OTHER FINANCING USES	-	-	-	-	-	-	-	-
TOTAL 2000 APPROPRIATIONS	**463,265**	**27,000**	**100,000**	**58,544**	**35,023**	**58,725**	**136,200**	**878,757**
	-							

PART II (SDCL 9-21-1; 9-21-19; 9-21-20)
The following designates the fund or funds that money derived from the following sources is applied to:

ORDINANCE 142

ORDINANCE AMENDING CHAPTER 11. WATER AND SEWER, SECTION 11.01 (l) RESPONSIBILITY OF PROPERTY OWNERS.

BE IT ORDAINED BY THE CITY OF TEA AS FOLLOWS:

SECTION 11.01 (l) of the City of Tea Code shall be amended to read as follows:

(l) Responsibility of Property Owners. Persons served by City water and sewer shall keep all piping, fixtures, stop valves, heaters, and other apparatus for the use of water or sewer (including meters) in good repair and protected from freezing. The property owner shall be responsible for and pay the charges for replacement of any corroded or damaged piping, fixtures, stop valves, heaters or other apparatus for the use of water or sewer, and for any charges for the repair or replacement of water meters, occasioned by the negligence of the property owner or user, or the freezing, overheating, or other external damage to any water meters. The property owner and/or water user shall place and maintain a brass stop inside the basement of any building where water is to be used at the lowest point practicable on the service pipe entering the building and as close as practicable to the wall through which the pipe enters, and easily accessible so that the water may be turned on or off by the user or occupant. Service connection repairs to the curb stop shall be the responsibility of the property owner. The property owner shall be responsible for any repairs and maintenance to the sewer service from the city sewer main to the house.

Earl Jacobson, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading: July 23, 2001

Second Reading: August 20, 2001

Publication August 29, 2001

Effective Date: September 18, 2001
(20 days after last publication)

ORDINANCE NO. 143

ORDINANCE FOR ADOPTION OF THE INTERNATIONAL BUILDING CODE

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TEA AS FOLLOWS:

Section 1. That a certain document, three copies of which are on file with the office of the Finance Officer, City of Tea, being marked and designate as the *International Building Code,* including Appendix C and Appendix I, as published by the International Code Council, Inc. be and is hereby adopted as the Building Code of the City of Tea in the State of South Dakota; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Building code are hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. In the event of any conflict between the provisions of the code adopted by this Ordinance and applicable provisions of this Code of Ordinances, state law or city ordinance, rule or regulation, the provisions of this Code of Ordinances, state law or city ordinance, rule or regulation shall prevail and be controlling.

Section 3. That the following sections and subsections of the building code adopted in this Ordinance shall be amended or added as follows. All other sections or subsections of the building code as published shall remain the same.

101.1 Title. These regulations shall be known as the Building Code of the City of Tea, South Dakota, hereinafter referred to as "this code."

101.4.1 Electrical. The provisions of the Electrical Code shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto.

101.4.4 Plumbing. The provisions of the Plumbing Code shall apply to the installation, alterations, repairs, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

103.2 Appointment. Delete.

104.8 Liability. The building official, member of the board of appeals, or employee charged with the enforcement of this code, while acting in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions

of this code shall be afforded all the protection provided by the city's insurance pool and any immunities and defenses provided by other applicable state and federal laws.

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

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

Except for homeowners, no person shall be issued a building permit for residential building defined as owner occupied one- and two-family dwellings including townhouses and accessory structures until that person or firm has been issued a residential contractor's license as required by this chapter.

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

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 200 square feet (18.58 square meters). A placement permit in accordance with the zoning ordinance is required.

2. Fences not over six feet (1,829 mm) high. A fence permit in accordance with the zoning ordinance is required.

3. Oil derricks.

4. Retaining walls which are not over four feet (1,219 mm) in height measured from the bottom grade elevation to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A liquids.

5. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.

6. Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.

7. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.

8. Temporary motion picture, television, and theater stage and scenery.

9. Prefabricated swimming pools accessory to a Group R-3 occupancy, as applicable in Section 101.2, which are less than 18 inches (457 mm) deep.

10. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

11. Swings and other playground equipment accessory to one- and two-family dwellings.

12. Window awnings supported by an exterior wall of Group R-3, as applicable in Section 101.2, and Group U occupancies.

13. Movable cases, counters, and partitions not over five feet nine inches (1,753 mm) in height.

Electrical:

Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but does apply to equipment and wiring for power supply, the installations of towers and antennas.

Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Gas:

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

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part which does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing ten pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

Plumbing:

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

107.1 General. The building official is authorized to issue a permit for temporary structures and temporary uses. Structures used as a temporary business office shall be provided with an accessible route and shall meet applicable accessibility requirements of this code. Such permits shall be limited as to time of service, but shall not be permitted for more than 365 days. Extensions beyond 365 days are not allowed.

107.3 Temporary power. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat, or power in the Electrical Code.

108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority. The fee for each building permit shall be as set forth in Table 1-A and Table 1-B and other inspections and fees shall be in accordance with Table No. 1-C.

Deleted: Table No. 1-A. Residential Building Permit Fees

Table No. 1-A
Residential Building Permit Fees Group R Division 3's, Group R Division 4's and Accessory Group U Occupancies

RESIDENTIAL PERMITS

BUILDING PERMIT VALUATION/FEE SCHEDULE

The base valuation to determine permit fees for residential buildings and additions are based n a dollar per square foot schedule per the following. The bid price must be quoted for renovations or remodels.

Dwellings – Single-family, duplexes, townhouses

Finished habitable space.....	$43.00 per square foot
Finished basements (new construction).....	$14.00 per square foot
Finished Basement (existing construction).....	[redacted]
Unfinished space (new construction -basement & upper levels)	$11.00 per square foot
Attached garages.....	$13.00 per square foot
Detached garages.....	$11.00 per square foot

Apartments – A building containing three or more dwelling units including residential condominiums exclusive of townhomes.

Apartment Valuation.....	$35.00 per square foot
Basement garages.....	$23.00 per square foot
Attached garages.....	$13.00 per square foot
Detached garages.....	$11.00 per square foot

RESIDENTIAL BUILDING PERMIT FEE SCHEDULE

TOTAL VALUATION	FEES

$ 1.00 – 2,000.00	$25.00
$ 2,001 – 25,000	$32.50 for the first $2,000 plus $6.00 for each additional $1,000 or fraction thereof, to and including $25,000
$25,001 – 50,000	$170.50 for the first $25,000 plus $4.50 for each additional $1,000 or fraction thereof, to and including $50,000
$50,001 – 100,000	$283.00 for the first $50,000 plus $3.00 for each additional $1,000 or fraction thereof, to and including $100,000
$100,001 and up	$433.00 for the first $100,000 plus $2.50 for each additional $1,000 or fraction there of

A flat $25.00 permit fee is charged for fences, decks, driveway approach, and sheds
Building Permits are not needed for _____

COMMERCIAL PERMITS
BUILDING PERMIT VALUATION/FEE SCHEDULE

The value to be used in computing the building permit fee for all commercial construction, remodeling, renovation and repairs shall be the total value of all construction work for which the permit is used as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing system, and other permanent equipment exclusive of site improvements and parking lots costs.

COMMERCIAL BUILDING PERMIT FEE SCHEDULE

TOTAL VALUATION	FEES
$ 1.00 – 2,000.00	$25.00
$ 2,001 – 25,000	$45.00 for the first $2,000 plus $9.00 for each additional $1,000 or fraction thereof, to and including $25,000
$25,001 – 50,000	$252.00 for the first $25,000 plus $6.50 for each additional $1,000 or fraction thereof, to and including $50,000
$50,001 – 100,000	$414.50 for the first $50,000 plus $4.50 for each additional $1,000 or fraction thereof, to and including $100,000
$100,001 – 500,000	$639.50 for the first $100,000 plus $3.50 for each additional $1,000 or fraction there of, to and including $500,000
$500,001-1,000,000	$2,039.50 for the first $500,000 plus $3.00 for each additional $1,000 or fraction thereof, to and including $1,000,000
$1,000,001 and up	$3,539.50 for the first $1,000,000 plus $2.00 for each additional $1,000 or fraction thereof

OTHER FEE SCHEDULE

Re-zoning appeals (Section 705)	$
Plat Review Fee (Subdivision Ord 205)	$10.00 for each plat plus $1.00 for each lot shown on the plat

TABLE INSET:
Total Valuation
Fee
$1.00 to $1,100.00
$20.00
$1,101.00 to $2,000.00
For valuation in excess of $1,100.00, $10.00 for the first $500.00, plus $1.50 for each additional $100.00 or fraction thereof, to and including $2,000.00
$2,001.00 to $25,000.00
$32.50 for the first $2,000.000, plus $6.00 for each additional $1,000.00 or fraction thereof, to and including $25,000.00
$25,001.00 to $50,000.00
$170.50 for the first $25,000.00, plus $4.50 for each additional $1,000.00 or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00
$283.00 for the first $50,000.00, plus $3.00 for each additional $1,000.00 or fraction thereof, to and including $100,000.00
$100,000.00 and up
$433.00 for the first $100,000.00, plus $2.50 for each additional $1,000.00 or fraction thereof

Table No. 1-B. Commercial Building Permit Fees

Table 1-B
Commercial Building Permit Fees Groups A, B, E, F, H, I, M, S, Group R Division 1's and Division 2's (including Group U's accessory to the R-1 and R-2 occupancies)

Total Valuation
Fee
$1.00 to $700.00
$20.00
$700.01 to $2,000.00
For values in excess of $700.00, $15.00 for the first $500.00, plus $2.00 for each additional $100.00 or fraction thereof, to and including $2,000.00
$2,000.01 to $25,000.00
$45.00 for the first $2,000.00, plus $9.00 for each additional $1,000.00 or fraction thereof, to and including $25,000.00
$25,001 to $50,000.00
$252.00 for the first $25,000.00, plus $6.50 for each additional $1,000.00 or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00

$414.50 for the first $50,000.00, plus $4.50 for each additional $1,000.00 or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00
$639.50 for the first $100,000.00, plus $3.50 for each additional $1,000.00 or fraction thereof, to and including $500,000.00
$500,001.00 to $1,000,000.00
$2,039.50 for the first $500,000.00, plus $3.00 for each additional $1,000.00 or fraction thereof, to and including $1,000.00
$1,000,000.00 and up
$3,539.50 for the first $1,000,000.00, plus $2.00 for each additional $1,000.00 or fraction thereof

Table No. 1-C. Other Inspections and Fees

1. Inspection outside of normal business hours, per hour* (minimum charge--one hour) . . . $42.00
2. Reinspection fees assessed under the provisions of Section 108.8, per hour* . . . 42.00
3. Inspections for which no fee is specifically indicated, per hour* (minimum charge--one-half hour) . . . 42.00
4. Additional plan review required by changes, additions, or revisions to approved plans, per hour (minimum charge--one-half hour) . . . 42.00

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

5. Wrecking (razing) permit fees . . . 20.00
6. Swimming pool fence enclosures . . . 20.00
7. Residential reshingle . . . 20.00
8. Residential resides (Group R and U occupancies) . . . 20.00
9. Board of appeals fees. Before any action is taken by the board, the party or parties requesting such hearing shall deposit with the secretary of the board or his authorized agent, the sum of $65.00 to cover the approximate cost of the procedure. Under no condition shall said sum or any part thereof be refunded for failure of said request to be approved.

Exception. Appeals referred to the board from the Code for Abatement of Dangerous Buildings.

10. A mileage fee based on the current rate per mile authorized by the Internal Revenue Service shall be charged for any inspection occurring outside city limits.
11. Residential contractor's license examination fee . . . 75.00
12. When submittal documents are required by Section 106, a plan review fee shall be paid when it is deemed that a plan review is required. Said plan review fee shall be 15 percent of the building permit fee as specified on Table 1-B. The plan review fee specified herein is a separate fee from the building permit fee and is in addition to the building permit fee. When submittal documents are incomplete or changed so as to require additional plan review or when a project involves deferred submittals as defined in Section 106.3.4.2, an additional plan review fee may be charged at 15 percent of the building permit fee specified on Table 1-B.

Exception: Group R Division 3 and Group U occupancies.

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

109.3.1 Footing. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any

required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

110.3 Certificate issued. After the building official inspects a new building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the building official shall issue certificate of occupancy that shall contain the following:

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

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112.1 General. There shall be and is hereby created a board of appeals and examiners to hear and decide appeals of orders, decisions, or determinations made by the building official and the assistant director of building services relative to the application and interpretation of this code, to review all proposed changes to the respective codes and to submit recommendations to the responsible official and the city council, to approve permits for house moves, and to examine applicants for licensing and to investigate matters brought before the board. Members shall be appointed by the mayor with the advice and consent of the city council and shall hold office for a term of three years. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building services department.

The board in exercising its authority over house moving may deny the request, or may require additional stipulations to be placed on the building permit to address the protection of property values and neighborhood compatibility.

112.2 Limitations on authority. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provision of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority relative to the administrative provisions of this code nor shall the board be empowered to waive the requirements of this code.

305.2 Day care. The use of a building or structure, or portion thereof, for educational, supervision, or personal care services for more than 12 children older than two and one-half years of age, shall be classified as a Group E occupancy.

402.10 Permanent kiosks. Permanent kiosks and similar structures shall meet the following requirements:

1. There shall be maintained an unobstructed access space of not less than ten feet (3,048 mm) between temporary or permanent kiosks and all other amenities, and there shall be maintained an unobstructed access width of not less than 15 feet (4,572 mm) parallel and adjacent to the mall storefronts.
2. The top of the kiosks shall be open and accessible to the sprinkler system, or the kiosk shall be provided with approved fire suppression and detection devices.
3. The mall way shall be sufficient to accommodate the occupant load immediately tributary thereto.
4. The total number of kiosks shall not exceed more than one for each 10,000 square feet (929 square meters) of mall way area.
5. Kiosks shall be composed of noncombustible materials or fire retardant treated wood.
6. Each kiosk or similar structure shall have a maximum area of 300 square feet (28 square meters).

704.3 Buildings on the same property and buildings containing courts. For the purposes of determining the required wall and opening protection and roof-covering requirements, buildings on the same property and court walls of buildings over one story in height shall be assumed to have a property line between them.

Exceptions: In court walls where opening protection is required, such protection is not required provided:
1. Not more than two levels open into the court;
2. The aggregate area of the building, including the court, is within the allowable area; and
3. The building is not classified as Group I.

Where a new building is to be erected on the same property as an existing building, the location of the assumed property line with relation to the existing building shall be such that the exterior wall and opening protection of the existing building meet the criteria as set forth in Sections 704.5 and 704.8.

Exceptions:
1. Two or more buildings on the same property shall either be regulated as separate buildings or shall be considered as portions of one building if the aggregate area of such buildings is within the limits specified in Chapter 5 for a single building. Where the buildings contain different occupancy groups or are of different types of construction, the area shall be that allowed for the most restrictive occupancy or construction.
2. A detached garage of a Group U Division 1 occupancy which is located on the same property as a Group R Division 3 occupancy may be considered the same as an attached garage for the purpose of requiring wall and opening protection. An occupancy separation as defined in Exception 3 of Section 302.3.3, Separated Uses, is permitted as meeting the protection requirements between the garage and dwelling.

716.4.2 Groups R-1 and R-2. Draft stopping shall be provided in attics, mansards, overhangs, or other concealed roof spaces of Group R-2 buildings with three or more dwelling units and in all Group R-1 buildings. Draft stopping shall be installed above, and in line with, tenant and dwelling unit separation walls that do not extend to the underside of the roof sheathing above.

Exceptions:
1. Where corridor walls provide a tenant or dwelling unit separation, draft stopping shall only be required above one of the corridor walls.

2. Draft stopping is not required in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.
3. In occupancies in Group R-1 and R-2 that do not exceed four stories in height, the attic space shall be subdivided by draft stops into areas not exceeding 3,000 square feet (279 mm) and shall be above and in line with the walls separating individual dwelling units and guest rooms from each other and from other uses provided heat detection is installed within the attic space in accordance with the Building and Fire Code.
4. Draft stopping is not required in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.2, provided that automatic sprinklers are also installed in the combustible concealed spaces.
903.2.5 Group I. An automatic sprinkler system shall be provided throughout buildings of Group I fire areas.
Exception: An automatic sprinkler system installed in accordance with Section 903.3.1.1, an NFPA 13 sprinkler system, shall be required in Group I-1 facilities.
903.2.9 Group R-4. An automatic sprinkler system shall be provided throughout all buildings with a Group R-4 fire area with more than eight occupants.
Exception: An automatic sprinkler system installed in accordance with Section 903.1.2 or Section 903.1.3 shall be allowed.

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907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies having an occupant load of 500 or more persons, more than 100 persons above or below the lowest level of exit discharge, or having more than two occupied levels.
Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system and the alarm notification appliances will activate upon sprinkler water flow.
907.2.3 Group E. A manual fire alarm system shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.
Exceptions:
1. Manual fire alarm boxes are not required in Group E Occupancies where all the following apply:
1.1 Interior corridors are protected by smoke detectors with alarm verification.
1.2 Auditoriums, cafeterias, gymnasiums, and the like are protected by heat detectors or other approved detection devices.
1.3 Shops and laboratories involving dusts or vapors are protected by heat detectors of other approved detection devices.
1.4 Off-premises monitoring is provided.
1.5 The capability to activate the activation signal from a central point is provided.
1.6 In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from where a general evacuation alarm can be sounded, except in locations specifically designated by the building official.

907.2.6.1 Group I-2. Corridors I nursing homes (both intermediate care and skilled nursing facilities), detoxification facilities and spaces open to the corridors shall be equipped with an automatic fire detection system.

Exception:

Corridor smoke detection is not required where patient sleeping rooms are provided with smoke detectors that comply with UL 268. Such detectors shall provide a visual display on the corridor side of each patient room and shall provide an audible and visual alarm at the nursing station attending each room.

907.2.8.2 Heat detection system. Heat detectors shall be installed in each attic subdivision unless protected by an NFPA 13 automatic fire-extinguishing system.

907.2.9 Group R-2. A fire alarm system shall be installed in Group R-2 occupancies where:

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

Exceptions:

1. A fire alarm system is not required in buildings not over two stories in height where all dwelling units and contiguous attic and crawl spaces are separated from each and public or common areas by at least one-hour fire partitions and each dwelling unit has an exit directly to a public way, exit directly to a public way, exit court, or yard.
2. A separate fire alarm system is not required in buildings that are equipped throughout with an approved, supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or Section 903.3.1.2 and which have a local alarm that meets the notification requirements of Section 907.9.2.

907.2.9.1 Heat detection system. Heat detectors shall be installed in each attic subdivision unless protected by an NFPA 13 automatic fire-extinguishing system.

1003.2.12.2 Opening limitations. Open guards shall have balusters or ornamental patterns such that a five-inch diameter (127 mm) sphere cannot pass through any opening up to a height of 34 inches (864 mm). From a height of 34 inches (864 mm) to 42 inches (1,067 mm) above the adjacent walking surfaces, a sphere eight inches (203 mm) diameter shall not pass.

Exceptions:

1. The triangular openings formed by the riser, tread, and bottom rail at the open side of a stairway shall be of a maximum size such that a sphere of six inches (152 mm) in diameter cannot pass through the opening.
2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, guards shall have balusters or be of solid materials such that a sphere with a diameter of 21 inches (533 mm) cannot pass through any opening.
3. In occupancies in Group I-3, F, H, or S, balusters, horizontal intermediate rails, or other construction shall not permit a sphere with a diameter of 21 inches (533 mm) to pass through any opening.
4. In assembly seating areas, guards at the end of aisles where they terminate at a fascia of boxes, balconies, and galleries shall have balusters or ornamental patterns such that a four-inch diameter (102 mm) sphere cannot pass through any opening up to a height of 26 inches (660

mm). From a height of 26 inches (660 mm) to 42 inches (1,067 mm) above the adjacent walking surfaces, a sphere eight inches (203 mm) in diameter shall not pass.
1003.3.3.11 Handrails. Stairways shall have handrails on each side. Handrails shall be adequate in strength and attachment in accordance with Section 1607.7

Exceptions:
1. Aisle stairs provided with a center handrail need not have additional handrails.
2. Stairways within dwelling units, spiral stairways, and aisle stairs serving seating only on one side are permitted to have a handrail on one side only.
3. Decks, patios, and walkways that have a single change in elevation where the landing depth on each side of the change of elevation is greater than what is required for a landing do not require handrails.
4. In Group R-3 occupancies, a change in elevation consisting of less than three risers does not require handrails.
5. Changes in room elevations of less than three risers within dwelling units in Group R-2 and R-3 occupancies do not require handrails.

Table 1005.2.2

Buildings with One Exit

TABLE INSET:
Occupancy
Maximum

Height of

Building Above

Grade Plane
Maximum Occupants

Dwelling Units)

per Floor and

Travel

Distance
A, B[c], E, F, M, U
1 Story travel distance
50 occupants and 75 feet
H-2, H-3
1 Story travel distance

3 occupants and 25 feet
H-4, H-5, I, R
1 Story travel distance
10 occupants and 75 feet
S[a]
1 Story travel distance
30 occupants and 100 feet
B[b], F, M, S[a]
2 Stories travel distance
30 occupants and 75 feet
R-2
2 Stories travel distance
4 dwelling units and 50 feet

For SI: One foot=304.8 mm.

a. For the required number of exits for open parking structures, see Section 1005.2.1.1.

b. For the required number of exits for air traffic control towers, see Section 412.1.

c. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 with an occupancy in Group B shall have a maximum travel distance of 100 feet.

1005.3.2.3 Discharge identification. A stairway in an exit enclosure shall not continue below the level of exit discharge unless an approved barrier or a directional means of egress identification as specified in Section 1003.2.10 is provided at the level of exit discharge to prevent persons from unintentionally continuing into levels below.

1009.1 General. In addition to the means of egress required by this chapter, provisions shall be made for emergency escape and rescue in Group R as applicable in Section 101.2 and Group I-1 occupancies. Basements in dwelling units which have a finished habitable room and sleeping rooms below the fourth story shall have at least one exterior emergency escape and rescue opening in accordance with this section. Such opening shall open directly into a public street, public alley, yard, or court.

Exceptions:

1. The emergency escape and rescue opening is permitted to open onto a balcony within an atrium in accordance with the requirements of Section 404 provided the balcony provides access to an exit, and the dwelling unit or sleeping room has a means of egress that is not open to the atrium.
2. Basements with a ceiling height of less than 80 inches (2,032 mm) shall not be required to have emergency escape and rescue windows.

1009.2 Minimum size. Emergency escape and rescue openings shall have a minimum net clear opening of five square feet (0.46 meters squared).

1009.3 Maximum height from floor. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 48 inches (1,219 mm) measured from the floor.

1009.5.2 Ladders or steps. Window wells with a vertical depth of more than 48 inches (1,219 mm) shall be equipped with an approved permanently affixed ladder or steps. Ladders or rungs shall have an inside width of at least 12 inches (305 mm), shall project at least three inches (76 mm) from the wall, and shall be spaced not more than 18 inches (457 mm) on center vertically for the full height of the window well. The ladder or steps shall not encroach into the required dimensions of the window well by more than six inches (152 mm). The ladder or steps shall not be obstructed by the emergency escape and rescue opening.

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multistory buildings and facilities.

Exceptions:

1. An accessible route from an accessible level is not required in facilities that are less than three stories in height or have less than 3,000 square feet (278.7 square meters) per story unless the level contains offices of health care providers (Group B or Group I), passenger transportation facilities and airports (Group A-3 or Group B), or multiple tenant facilities of Group M with five or more tenants.
2. In Groups A, I, R, and S occupancies and care facilities in accordance with Section 1107.4, levels that do not contain accessible elements or other spaces required by Section 1107 are not required to be served by an accessible route from an accessible level.

1104.5 Location. Delete

1107.4 Care facilities. Occupancies containing care facilities (Groups A-3, E, and I-4) shall be accessible as provided in this chapter.

Exception: Group R-3 occupancies.

1107.5.4 Accessible dwelling units. In occupancies in Groups R-2 and R-3 as applicable in Section 101.2 where there are four or more dwelling units in a single structure, every dwelling unit shall be a Type B dwelling unit. Type B dwelling units shall comply with ICC/ANSI A117.1. Dwelling units required to be Type B dwelling units are permitted to be designed and constructed as Type A dwelling units.

1204.4.1 Controls. The control for activation of the required stairway lighting shall be in accordance with the Electrical Code.

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

[P] 1503.4 Roof drainage. Design and installation of roof drainage systems shall comply with the Plumbing Code.

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

It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of Conventional Light-Frame Wood Construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

1608.1 General. Design snow loads shall be determined in accordance with Section 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607, or the following:

Roof slopes with a rise of three inches (76.2 mm) or less to 12 inches (305 mm) shall be designed for a full or unbalanced snow load of 30 pounds per square foot (1.44 kN/square meter) of horizontal projection. Where a roof system is designed to slope less than one-quarter inch (6.35

mm) per 12 inches (305 mm), a surcharge load of not less than five pounds per square foot (0.24 kN/square meter) in addition to the required live load due to snow shall be designed for.
Roof slopes with over three inches (76.2 mm) of rise per 12 inches (305 mm) shall be designed for a full or unbalanced snow load of 25 pounds per square foot (1.2 kN/square meter) of horizontal projection.
Potential unbalanced accumulation of snow at valleys, parapets, roof structures, and offsets in roofs of uneven configuration shall be considered.
1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the City of Sioux Falls, SD," dated September 17, 1979, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section. If there is a conflict between the provisions of this code and the city's floodplain management ordinance, the provisions of the floodplain management ordinance shall prevail.
1703.1 Approved agency. An approved agency or the design professional of record shall provide all information as necessary for the building official to determine that the agency meets the applicable requirements.
1704.1 General. Where application is made for construction as described in this section, the owner or the registered design professional in responsible charge acting as the owner's agent shall employ one or more special inspectors to provide inspections during construction of the types of work listed under Section 1704. The special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the building official, for inspection of the particular type of construction or operation requiring special inspection. These inspections are in addition to the inspections specified in Section 109.
Exceptions:
1. Special inspections are not required for work of a minor nature or as warranted by conditions in the jurisdiction as approved by the building official.
2. Special inspections are not required for building components unless the design involves the practice of professional engineering or architecture as defined by applicable state statutes and regulations governing the professional registration and certification of engineers or architects.
3. Unless otherwise required by the building official, special inspections are required for occupancies in Group R-3 as applicable in Section 101.2 and occupancies in Group U that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1
4. The frequency and amount of special inspections shall be as determined by the design professional of record. The continuous and periodic inspections referenced in Tables 1704.3, 1704.4, 1704.5.1, and 1704.5.3 shall be considered as a guideline.
1704.4 Concrete construction. The special inspections and verifications for concrete construction shall be as required by this section and Table 1704.4.
Exception: Special inspections shall not be required for:
1. Isolated spread concrete footings of buildings three stories or less in height that are fully supported on earth or rock.

2. Continuous concrete footings supporting walls of buildings three stories or less in height that are fully supported on earth or rock where:
2.1. The footings support walls of light frame construction;
2.2. The footings are designed in accordance with Table 1805.4.2; or
2.3. The structural design is based on a *f'c* no greater than 3,000 pounds per square inch (20.6 MPa).
3. Nonstructural concrete slabs supported directly on the ground, including prestressed slabs on grade, where the effective prestress in the concrete is less than 150 pounds per square inch (1.03 MPa).
4. Concrete foundation walls constructed in accordance with Table 1805.5(1), 1805.5(2), 1805.5(3), or 1805.5(4).
5. Concrete patios, driveways, and sidewalks on grade.
1704.12 Exterior insulation and finish systems (EIFS). Delete.
Section 1716. Prefabricated construction.
1716.1. General.
1716.1.1 Purpose. The purpose of this section is to regulate materials and establish methods of safe construction where any structure of portion thereof is wholly of partially prefabricated.
1716.1.2 Scope. Unless otherwise specifically stated in this section, all prefabricated construction and materials used therein shall conform to all the requirements of this code (see Section 104.11).
1716.1.3 Definition.
Prefabricated assembly is a structural unit, the integral parts of which have been built or assembled prior to incorporation in the building.
Prefabricated structures are structures the parts of which are fabricated and assembled in a central assembly point where on-site building, electrical, plumbing, and mechanical rough-in inspections occur at the assembly location.
1716.2 Tests of materials. Every approval of a material not specifically mentioned in this code shall incorporate as a proviso the kind and number of nationally recognized tests to be made during prefabrication.
1716.3 Tests of assemblies. The building official may require special tests to be made on assemblies to determine their durability and weather resistance.
1716.4 Connections. Every device used to connect prefabricated assemblies shall be designed as required by this code and shall be capable of developing the strength of the members connected, except in the case of members forming part of a structural frame as specified in Chapter 16. Connections shall be capable of withstanding uplift forces as specified in this code and in Chapter 16.
1716.5 Pipes and conduits. In structural design, due allowance shall be made for any material to be removed for the installation of pipes, conduit, and other equipment.
1716.6 Permits, materials, plans, fees, certificate, and inspections.
1716.6.1 Materials. Materials and the assembly thereof shall be inspected to determine compliance with this code. Every material shall be graded, marked, or labeled as required elsewhere in this code.
1716.6.2 Plans. One complete set of plans and specifications shall be submitted to the building inspection division of planning and building services for approval prior to issuing a building

permit for a prefabricated structure. Plans shall be of sufficient detail and clarity to indicate compliance with all applicable codes (electrical, plumbing, building, mechanical, and zoning).
1716.6.3. Permits and fees. Permit fees shall be as follows:
1. The fee for a building permit shall conform to Tables 1-A and 1-B as amended, and the plan review fee, if applicable, shall be in accordance with Table 1-C.
2. Electrical, plumbing, and mechanical permits and fees shall conform to the respective permit requirements and fee schedules.
1716.6.4 Certificate. A certificate of approval shall be furnished with every prefabricated assembly and prefabricated structures, except where the assembly is readily accessible to inspection at the site. The certificate of approval shall certify that the assembly in question has been inspected and meets all the requirements of this code. When mechanical equipment is installed so that it cannot be inspected at the site, the certificate of approval shall certify that such equipment complies with the laws applying thereto.
1716.6.5 Certifying agency. To be acceptable under this code, every certificate of approval shall be made by the approved agency.
1716.6.6 Field erection. The building official to determine compliance with this code shall inspect placement of prefabricated assemblies at the building site. Installation and finishing work at the building site must be performed by locally licensed contractors where required. Final inspections are to be made after the installation and finishing work has been completed and the building is ready for occupancy.
1716.6.7 Continuous inspection. If continuous inspection is required for certain materials where construction takes place on the site, it shall also be required where the same materials are used in prefabricated construction.
Exception: Continuous inspection will not be required during prefabrication if the approved agency certifies to the construction and furnishes evidence of compliance.
1716.6.8 Moving permits. A moving permit shall be obtained for each prefabricated structure being moved within the city in accordance with Section 3404 Moved Buildings. No person except a building mover licensed pursuant to Section 3404.2 of the Revised Ordinances of Sioux Falls shall move a prefabricated structure or part thereof across, along, or over public property.
1802.2.1 Assumed load-bearing capacity. Where an assumed soil bearing capacity is in excess of 2,000 psf (314 kPa/m), data to substantiate the use of the presumed higher value must be submitted from a soils engineer for approval by the building official. Where the safe-sustaining power of the soil is in doubt, or where a load-bearing value superior to that specified in this code is claimed, the building official shall require that the necessary investigation be made. Such investigation shall comply with the provisions of Sections 1802.4 through 1802.6.
1803.5 Grading permits required. No person shall do any excavation or grading without first obtaining approval form the city engineer. A separate grading permit must be obtained from the city engineer for each site, and may cover both excavations and fills.
Exceptions:
1. A separate grading permit is not required from the city engineer where a site plan for a new building, structure, or addition is submitted for plan review where an excavation below finished grade for basements, footings and foundations of a building, retaining wall, or other structure is authorized by a valid building permit.
2. A fill of less than one foot in depth and placed on natural terrain with a slope flatter than one unit vertical to five units horizontal (20 percent slope), or less than three feet (914 mm) in

depth not intended to support structures, which does not exceed 300 cubic yards (153 m^3) on any one lot and does not obstruct a drainage course.

3. Excavation, removal, or stockpiling of rock, sand, dirt, clay, or other like material, as may be required by the state, county, or city authorities in connection with the construction or maintenance of roads and highways. This shall not exempt work for street construction when such work is performed by private developers. When the private developer has obtained a permit to perform site grading, a second permit will not be required for street grading.

4. When approved by the city engineer, grading in an isolated, self-contained area if there is no danger to public or private property.

5. Cemetery graves.

6. Refuse disposal sites controlled by other regulations.

7. Excavations for wells, tunnels, or utilities.

8. Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.

9. Exploratory excavations under the direction of soils engineers or engineering geologists.

10. An excavation that (1) is less than two feet (610 mm) in depth or (2) does not create a cut slope of less than five feet (1,524 mm) in height and steeper than one unit vertical in one and one-half units horizontal (66.7 percent slope).

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

1803.5.1 Grading permit requirements. Grading shall be performed in accordance with a grading plan approved by the city engineer. Submitted plans shall indicate existing elevations, proposed elevations, method of erosion control, and shall include the legal description.

1805.2.1 Frost protection. Except where erected on solid rock or otherwise protected from frost, foundation walls, piers, and other permanent supports of buildings and structures larger than 1,500 square feet (138 square meters) in area or ten feet (3,048 mm) in height shall extend below the frost line of the locality, and spread footings of adequate size shall be provided where necessary to properly distribute the load within the allowable load-bearing value of the soil. Alternatively, such available footings shall not bear on frozen soils unless structures shall be supported on piles where solid earth or rock is not such frozen condition is of a permanent character.

2701.1 Scope. This chapter governs the electrical components, equipment, and systems used in buildings and structures covered by this code. Electrical components, equipment, and systems shall be designed and constructed in accordance with the provisions of the Electrical Code.

2702.1 Installation. Emergency and standby power systems shall be installed in accordance with the Electrical Code, NFPA 110, and NFPA 111.

2901.1 Scope. The provisions of this chapter and the Plumbing Code shall govern the erection, installation, alteration, repairs, relocation, replacement, addition to, use, or maintenance of plumbing equipment and systems. Plumbing systems and equipment shall be constructed, installed, and maintained in accordance with the Plumbing Code. Private sewage disposal systems shall conform to the Plumbing Code.

2902.1.1 Substitution for water closets. In a toilet room or bathroom, urinals shall not be substituted for more than 67 percent of the required water closets.
2902.1.2 Drinking fountains. Where water is served in restaurants, drinking fountains shall not be required.
3109.1 General. Swimming pools shall comply with the requirements of this section and other applicable sections of this code. These requirements shall be applicable to all new swimming pools hereafter constructed and shall apply to all existing pools which have a depth of 18 inches or more of water. No person in possession of land within the city, either as an owner, purchaser, lessee, tenant, or a licensee, upon which is situated a swimming pool having a depth of 18 inches or more shall fail to provide and maintain such a fence or wall as herein provided.
3109.2 Definition. The following word and term shall, for the purposes of this section and as used elsewhere in this code, have the meaning shown herein.
Swimming pools. Any structure intended for swimming, recreational bathing, or wading that contains water over 18 inches (457 mm) deep. This includes in-ground, aboveground, and on-ground pools; hot tubs; spas, and fixed-in-place wading pools.
3109.4.1.2 Solid barrier surfaces. Delete.
3109.4.1.3 Closely spaced horizontal members. Delete.
3109.4.1.4 Widely spaced horizontal members. Delete.
3109.4.1.5 Chain link dimensions. Delete.
3109.4.1.6 Diagonal members. Delete.
3109.4.1.2 Gates. Access gates shall comply with the requirements of Sections 3109.4.1.1 through 3109.4.1.6 and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outwards away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1,372 mm) from the bottom of the gate, the release mechanism shall be located on the poolside of the gate at least three inches (76 mm) below the top of the gate, and the gate and barrier shall have no opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.
3109.4.1.3 Dwelling unit wall as a barrier. Where a wall of a dwelling serves as part of the barrier, one the following shall apply:
1. The pool shall be equipped with a power safety cover which complies with ASTM F 1346.
2. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the administrative authority shall be accepted so long as the degree of protection afforded is not less than the protection afforded by Section 3109.4.1.8, Item 1 or 2.
3109.4.1.4 Pool structure as barrier. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then the ladder or steps either shall be capable of being secured, locked, or removed to prevent access, or the ladder or steps shall be surrounded by a barrier which meets the requirements of Sections 3109.4.1.1 through 3109.4.1.8. When the ladder or steps are secured, locked, or removed, any opening created shall not allow the passage of a four-inch (102 mm) diameter sphere.
3109.4.2 Indoor swimming pools. Walls surrounding indoor swimming pools shall not be required to comply with Section 3109.4.1.8.
3109.4.3 Prohibited locations. Barriers shall be located so as to prohibit permanent structures, equipment, or similar objects from being used to climb the barriers.

3109.4.4 Modifications. Modification in individual cases, upon a showing good cause with respect to height, nature, or location of a fence, wall, gates, or latches, or the necessity thereof, may be made by the building official, provided the protection as sought hereunder is not reduced thereby. The building official may grant permission for other protective devices or structures to be used as long as the degree of protection afforded by this substitute device or structure is not less than the protection afforded by the wall, fence, gate, and latch described herein. A reasonable period within which to comply with the requirements of this section for existing swimming pools shall be allowed, which period shall not exceed 90 days after notification by the building official.
3303.1 General. No person shall demolish or wreck a building or structure unless such person has obtained a razing permit. Permit fees shall be paid in accordance with Item 5 of Table 3-C. Construction documents and a schedule for demolition must be submitted when required by the building official. Where such information is required, no work shall be done until such construction documents or schedule, or both, are approved. It shall be the responsibility of the applicant to secure insurance covering any possible liability that could incur during demolition. The permittee shall comply with all applicable ordinances of the city and laws of the state.
3303.6 Utility connections. Service utility connections shall be discontinued and capped in accordance with the approved rules and the requirements of the authority having jurisdiction. Before a razing permit can be issued, the applicant must furnish approval from the city engineering department that applicable permits have been secured to assure that all utilities will be properly disconnected and inspected as per city engineer's specifications. The applicant shall be responsible for notifying other utilities of such anticipated demolition.
SECTION 3407 MOVED STRUCTURES
3407.1 Conformance. Structures moved into or within the jurisdiction shall comply with the provisions of this code for new structures.
Exceptions:
1. Mobile homes used as a dwelling and located in a mobile home park operated under a valid license;
2. Mobile homes used as a dwelling and located in a manufactured housing park;
3. Mobile homes used as a dwelling associated with a farm in conformance with Section 15.07.030;
4. Structures used as a temporary office or shelter on a construction or development site when approved by the building official;
5. Structures used as a temporary business office when approved by the building official and provided it meets the applicable accessibility requirements of this code for a period not to exceed one year;
6. Mobile homes used as a temporary dwelling as specified in Section 15.63.080(c)(2) of the Revised Ordinance of Sioux Falls;
7. Mobile homes used as caretaker quarters as specified in Section 15.49.110 of the Revised Ordinances of Sioux Falls;
8. Mobile homes/manufactured homes used as a sales office at a location where such homes are offered for sale provided it meets the applicable accessibility requirements of this code are met.
3407.2 Definitions. For the purpose of this section, the following words and phrases mean:

1. *Building mover.* Any person, firm, partnership, corporation, or association who engages in the business or work of moving a building across public property within the city limits.
2. *Building moving.* The moving of any house, building, structure, or any part or parts thereof, except structures or parts of structures less than nine feet wide and 13.5 feet high when loaded, from one location to another when moving requires traveling upon, across, along, or over any street, avenue, highway, thoroughfare, alley, sidewalk, or other public ground in the city. Building moving shall not apply to manufactured homes.
3. *Agency.* The planning and building services department, police department, city forester, and city engineering department.
3407.3 License required. No person except a building mover licensed by the city shall move any building, house, or structure or part thereof across, along, or over any public property.
3407.4 License application. Any person desiring to engage in the business of building moving must file a written application for the building mover's license in the city engineering department.
3407.5 Bonding. The applicant for a building mover's license shall file with the application a bond running to the city in the penal sum of $10,000.00 with sufficient sureties and conditioned that the license will comply with all city requirements to the satisfaction of the city engineering department and shall encompass repairs due to any damage to any sidewalk, crosswalk, hydrant, street, alley, or other property done or caused by himself, his servants, or employees in connection with moving any building. The bond will guarantee payment for damages to property and payment to the city for services provided by the city. The license will indemnify and save harmless the city against any and all liability for damages, costs, or expenses arising out of any negligence on his part or on the part of his servants or employees in connection with the moving of any building, or the use of any public street or ground for that purpose.
3407.6 Revocation. A building mover's license may be revoked at any time if the mover violates the provisions of this chapter or rules established by the agency or conducts his business in a careless or reckless manner, or refuses to make prompt payment of any sums due the city from him under any of the provisions of this chapter or whose bond or insurance as required herein has been cancelled or otherwise terminated.
3407.7 Transferability. No license or permit issued pursuant to this chapter shall be transferable.
3407.8 Permits required. No person shall engage in building moving, unless and until he has obtained a building moving permit, which will not be issued to anyone except a person licensed as the building mover. Such permit shall be obtained not less than 48 hours prior to the move.
3407.9 Prerequisites to a permit. No permit to move a building shall be issued as hereunder provided until the following conditions have been satisfied.
A. A permit for capping the sanitary sewer service and/or water service shall be obtained pursuant to Section 41-20 and 41-21 of the Revised Ordinances of Sioux Falls.
B. A building permit is required to place a one- or-two-family dwelling in a residential zoning district on the property described on the application if located in the city. Before a city building permit can be issued for a one- or two-family dwelling to be moved in a residential zoning district, the applicant shall request a hearing before the board of appeals and examiners to consider the building permit.
Before any action can be taken by the board, the applicant shall:
1. Post the property where the dwelling is to be moved for a continuous period of not less than five working days immediately prior to the hearing with signs furnished by the building official.

At least two signs shall be posted. The applicant shall submit a written oath that the signs were properly posted.

2. Submit one certified copy of the restrictions and covenants of the property where the dwelling is proposed to be moved. Those portions applicable to the dwelling shall be highlighted. If the property contains no restriction or covenants, a statement to that fact shall be submitted.

3. Submit a proposed site plan containing the legal description where the dwelling is proposed to be moved.

4. Submit the inspection report from the building inspector.

5. Submit original clear photographs of the front, rear, and side elevations of the dwelling to be moved.

C. Any person filing an application for a moving permit shall file with the city engineer a liability insurance policy issued by the insurance company authorized to do business in this state and approved as to form by the city attorney in the following amounts: $250,000.00 per person, $500,000.00 per accident, $500,000.00 property damage.

D. When required by the building official, satisfactory evidence from a licensed pest control company that all nuisance pests have been exterminated from the structure.

E. Approval of the route and time of move by the city traffic engineer and city forester.

F. Approval from the planning and building services department concerning the moving of any building or structure in the historic district.

3407.10 Permit application. The application shall contain the date or dates of the moving of the building, house, or structure, a detailed statement setting forth the proposed route to be followed, the name of the person in charge of the move, the location of the premises to which the structure or building is to be moved, and an agreement that the applicant will immediately report any damage done by the moving operation to any public property and will indemnify and hold the city harmless from any claims or damages for injuries to persons or property resulting from the moving of the building or structure.

3407.10 Fees.

A. The fee for a permit for a house shall be $75.00.

B. The fee for a permit for all other structures shall be $50.00.

C. The following fees shall be paid for services provided by city departments:

1. Street department/traffic device service worker or vehicle

a. $20.00 per hour for each traffic service worker

b. $15.00 per hour for each pickup

c. $15.00 per hour one-half-ton utility pickup

d. $25.00 per hour for each aerial

2. Police department/police officer and vehicle

a. $25.00 per hour for each police officer

b. $15.00 per hour for each patrol vehicle

3. Light department/line worker and vehicle

a. $30.00 per hour for each line worker

a. $25.00 per hour for truck and tool

Expenses shall be calculated from the date and hour the move will commence until the move is actually completed. Overtime expense will be computed at one and one-half times the hourly rate.

3407.11 Denial. If the applicant fails to agree or comply with the conditions as set forth herein or, in the judgment of the building official, the building or structure is in such a state of disrepair that it would not be safe to move the building or, if in the judgment of the traffic engineer or the city forester, the proposed move would result in an undue hazard to public traffic or undue damage to streets, sidewalks, trees, or other public property, the permit will be denied and reasons therefor endorsed upon the application.
3407.12 Restrictions on moving through streets. All moving of the building once started shall continue until completed, and no building shall be parked along the route unless deemed an emergency and approved by the traffic engineer. The traffic engineer may require police escorts, temporary removal of traffic devices, or may restrict or specify the day and hours during which the moving operation must be accomplished.
3407.13 Posting. Two moving placards must be posted on a visible location of opposite ends of the building being moved during the entire move, and a signed duplicate of the permit must be carried by the person moving the building.
3407.14 Escorts. Movers shall provide a front and rear escort for all movements.
3407.15. Flags. Red and orange flags, 12 inches by 12 inches, must be fastened to the rear corners of the moving structure.

3407.16. Notice to public service companies, cable TV operations, and the city of Sioux Falls. Before moving any building, the building mover shall notify the Metro Communications (911) immediately prior to entering public property. The mover shall make arrangements with the police department and traffic engineers 48 hours prior to the move if a police escort is required. The mover shall also give 48 hours notice to all city departments, public service operations, and cable TV operators whose wires, traffic control devices, or other appliances which affect the moving of such building of the time when the move is to take place and request and arrange for the passage of such building. Such building mover shall pay to the city and said corporation and operators the reasonable cost and expense of the work required to be done.

3407.17 Tampering with private property. The mover during all moves shall obey all laws pertaining to tampering with private property and vehicles on the street. Tampering with any wires or facilities belonging to private or public service companies is prohibited.
3407.18 Reporting damage. The building mover shall immediately report any damage done by the moving operation to any street, sidewalk, curb, utility equipment, tree sign, or other public or private property to the city engineer.
Section 4. That nothing in this ordinance or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. That the finance officer shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and be in force from and after it approval as required by law.

_____
Mayor

ATTEST:

_____

Finance Officer

First Reading:
Second Reading:
Passed:
Published:
Effective:

CITY OF TEA, SOUTH DAKTOA
ORDINANCE 144
SUPPLEMENTAL APPROPRIATIONS

AN ORDINANCE PROVIDING SUPPLEMENTAL APPROPRIATIONS IN THE AMOUNT OF $845,000.00 FOR THE YEAR 2001 FROM UNOBLIGATED MONIES.

BE IT ORDAINED BY THE CITY OF TEA, SOUTH DAKOTA, that the finance officer is herby authorized and directed to appropriate as shown below:

BE IT ORDAINED by the City of Tea that the following sum is supplementally appropriated to meet the obligations of the municipality.

General Fund 101		
	414 Finance	$ 5,000
	419 Other	$ 5,000
	421 Public Safety	40,000
	431 Street	11,000
	Total General Fund	$ 61,000
2nd Penney Sales Tax Fund 212		
	431 Street	$ 70,000
	419 Other	$ 5,000
	470 Debt Service	$ 4,000
Maintenance Building Capital Project Fund 506		
	419 Other	$ 286,000
Main Avenue Project Fund 507		
	431 Street	$ 18,000.00
Brian Street Fund 508		
	431 Street	$315,000.00
Aquatice Complex Fund 509		
	422 Professional fees	$ 86,000.00

This Ordinance shall take effect upon its passage and publication in accordance with the law.

Earl Jacobson, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading:	December 3, 2001
Second Reading	December 17, 2001
Passed:	December 17, 2001
Published:	December 19, 2001
Effective:	January 9, 2002

ORDINANCE NO. 144

ORDINANCE ADOPTING THE ENGINEERING DESIGN STANDARDS FOR THE CITY OF TEA, SOUTH DAKTOA

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA;

SECTION 1. ADOTING ENGINEERING DESIGN STANDARDS. The City of Tea does hereby adopt the engineering design standards, a full copy on file with the Finance Officer and open to public inspection.

SECTION 2. PUBLICATION OF NOTICE OF COMPREHENSIVE REGULATIONS. The Finance Officer shall not publish the Engineering Design Standards but is directed to publish a notice of the fact of adoption of this ordinance once a week for two successive weeks in the official newspaper.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading: May 20, 2002

Second Reading: June 3, 2002

Publication Date: June 12 & 19, 2002

Effective Date: July 9, 2002
(20 days after last publication):

CITY OF TEA, SOUTH DAKTOA
ORDINANCE 146
SUPPLEMENTAL APPROPRIATIONS

BE IT ORDAINED BY THE CITY OF TEA, SOUTH DAKOTA, that the following sum is supplementally appropriated to meet the obligations of the municipality.

		GENERAL FUND
419 Other		
	4192 General Government Buildings	$ 190,000
	4196 Engineer	$ 20,000
470	Debt Service	$ 25,000
Total Appropriations		$ 235,000
Source of Funding		
	Undesignated Fund Balance	$ 235,000

		SPECIAL REVENUE
419 Other		
	4192 General Government Buildings	$ 35,000
Source of Funding		
	Undesignated Fund Balance	$ 35,000

		CAPITAL PROJECT AQUATICS COMPLEX
450 Culture & Recreation		
	451 Recreation	$ 1,030,000
Source of Funding		
	Undesignated Fund Balance	$ 1,030,000

This Ordinance shall take effect upon its passage and publication in accordance with the law.

John Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading:	December 2, 2002
Second Reading	December 16, 2002
Passed:	December 16, 2002
Published:	December 18, 2002
Effective:	January 7, 2003

ORDINANCE NO. 148

ORDINANCE AMENDING SECTION 4.01 (B), OF THE REVISED ORDINANCES FOR THE CITY OF TEA, SOUTH DAKOTA, PERTAINING TO COLLECTION OF GARBAGE

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA THAT ORDINANCE 4.01 (b) be amended to read as follows:

(b) License Required.

(i) There shall be no more than five (5) private contractors or operators involved with the collection and disposition of garbage or refuse in the City, each of whom shall be required to apply in writing for an annual license to the City Council. Any license approved and issued may be revoked by City Council for violations of laws, regulations or stipulations concerning such operations. Any transfers of the annual license shall be subject to approval by the City Council. The annual license fee shall be set by resolution of the City Council.

(ii) Every initial application and application for renewal shall include the following:

a. A general statement of their use rate structures and billing systems;
b. Proof of liability insurance for the following minimum amounts:
   i. $1,000,000.00 per person bodily injury; and
   ii. $3,000,000.00 per occurrence; and
   iii. $300,000 property damage;
c. Proof of license from County, if applicable; and
d. A general statement of collection dates and times.

John M Lawler
Mayor

ATTEST:

Dawn R Murphy
Finance Officer

First Reading: January 6, 2003
Second Reading: February 3, 2003
Publication Date February 19, 2003
Effective Date(20 days after last publication):

ORDINANCE NO. 149

AN ORDINANCE TO REDUCE TAXATION FOR NEW INDUSTRIAL STRUCTURES AND NEW ADDITIONS THERETO WITHIN THE CITY OR WITHIN THREE MILES OF THE CORPORATE LIMITS OF THE CITY OF TEA

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA:

SECTION 1.

This Ordinance is adopted pursuant to the authority granted to the city pursuant to SDCL 10-6-35.4.

SECTION 2.

(a) The term industrial structures or additions thereto as used in this article shall include, but not be limited to, the following uses:

(1) Apparel and textile manufacturing.
(2) Wood, furniture and manufacturing.
(3) Lumber wholesaling.
(4) Printing and publishing plants.
(5) Warehousing and distribution (no retail uses).
(6) Electronics assembly and manufacturing.
(7) Scientific research and development.
(8) Other light pollution-free manufacturing facilities.
(9) Food, agricultural processing, stockyards, rendering, and milk processing plants.
(10) Paper, pulp and wood processing and manufacturing.
(11) Chemical, petroleum and rubber manufacturing and distribution.
(12) Stone, glass, clay, brick and cement manufacturing.
(13) Primary metal and smelting.
(14) Metal fabricating and manufacturing.
(15) Distillation and purification plants.
(16) Manufacture and storage of electrical transformers.

(b) This ordinance shall apply to those new industrial structures or additions that are commenced after the effective date of this ordinance.

(c) This ordinance shall apply to those new industrial structures or addition that are located, or within three miles of the corporate limits of the City of Tea.

SECTION 3.

(a) All new industrial structures or additions to existing industrial structures, which new structures or additions have a full and true value of $30,000.00 or more, added to real property shall be taxed pursuant to the following formula during the five tax years subsequent to the completion of their construction:

(1) The full and true value of such structures or additions shall be determined in the usual manner by the director of equalization.

(2) For the first tax year following construction, 20 percent of the taxable value shall be used for taxation purposes.

(3) For the second tax year following construction, 40 percent of the taxable value shall be used for taxation purposes.

(4) For the third tax year following construction, 60 percent of the taxable value shall be used for taxation purposes.

(5) For the fourth tax year following construction, 80 percent of the taxable value shall be used for taxation purposes.

(6) Thereafter, such property shall be taxed at the same percentage, as is all other property for tax purposes. (SDCL 10-6-35.2 and Ord. 253 1-23-76)

(b) The taxable value of such structures or additions during any of the five tax years subsequent to the completion of their construction may not be less than their taxable value in the year preceding the first year of the tax years following construction.

(c) For the sixth and all subsequent tax years following construction, such structures or additions shall be taxed in the same manner as all other similar industrial property within the city.

(d) Any such structures or additions, the construction of which is only partially completed on any assessment date, shall be assessed for taxation purposes in the usual manner.

John M Lawler

Mayor

ATTEST:

Dawn R. Murphy

Finance Officer

First Reading: June 2, 2003

Second Reading: June 16, 2003

Publication Date: July 2, 2003

Effective Date July 22, 2003
(20 days after last publication):

CITY OF TEA
ORDINANCE 150

ORDINANCE AMENDING THE AMENDING THE MUNICIPAL GROSS RECEIPTS TAX FOR THE MUNICIPALITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

Section 1. **That Section 13.04 (b) Special Tax rates is amended to read as follows:**

Notwithstanding the rate of tax established by Ordinance 50 and 67, from and after January 1, 1997, the rate of tax upon sales of leases or rentals of hotel, motel, campsites, or other lodging accommodations within the City for period of less than 28 consecutive days; sales of alcoholic beverages as defined in SDCL 35-1-1; sales of establishments where the public is invited to eat, dine, or purchase and carry out prepared food for immediate consumption; ticket sales or admissions to places of amusement, athletic, or cultural events is three percent (3%). This tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Tea, Lincoln County, South Dakota who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto. Any revenues received under this Section in excess of two percent (2%) may be used only for the purposes of land acquisition, architectural fees, construction costs, and payment for parks and park facilities, including maintenance, staffing, and operations of such facilities and the promotion and advertising of the City, its facilities, attractions and activities.

Section 2. **That Section 13.04 (c) Collection is amended to read as follows:**

Such tax imposed in the Section is levied pursuant to authorization granted by SDCL Ch. 10-52A and acts amendatory thereof and shall be collected by the State Department of Revenue in accordance with the same rules and regulations applicable to the state sales tax and under such additional rules and regulations as the State Commissioner of Revenue shall lawfully prescribe.

Section 3. **ADMINISTRATIVE ACT.** This ordinance is adopted to amend the existing sales tax ordinances in order to comply with House Bill 1002 and Senate Bill 76 passed during the 2003 South Dakota Legislative Session. Any changes to the existing sales tax ordinance are administrative and therefore not subject to referendum.

Section 4. **REPEAL.** Any ordinance inconsistent with or in conflict with this ordinance is hereby repealed.

Dated this 18th day of August 2003.

John Lawler, Mayor

First Reading: August 4, 2003
Second Reading: August 18, 2003
Published: August 27, 2003
Effective Date: January 1, 2004

ATTEST:

Dawn Murphy
Municipal Finance Officer

(SEAL)

CITY OF TEA
ORDINANCE 151

AN ORDINANCE AMENDING THE MUNICIPAL SALES AND SERVICE TAX AND A USE TAX FOR THE MUNICIPALITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA as follows:

Section 1. **PURPOSE.** The purpose of this article is to provide additional needed revenue for the Municipality of Tea by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by SDCL 10-52-1 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereunto.

Section 2. **EFFECTIVE DATE AND ENACTMENT OF TAX.** From and after the first day of January, 2004, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by 2% on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Tea, LINCOLN County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto. Tax will not be applied to items specifically exempt under SDCL 10-52-2.6, 10-52-11 and 10-52-12. Items exempted from municipal tax include: Farm Machinery and Irrigation Equipment, Parts or Repairs for Farm machinery, Agricultural Animal Health Products and Medicine, Transportation Service, Collection and Disposal of Solid Waste, Veterinarian and Animal Specialty Services, and Air Transportation.

Section 3. **USE TAX.** In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal or services purchased from and after the first of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

Section 4. **COLLECTION.** Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rule and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

Section 5. **INTERPRETATION.** It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the south Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax exempt for the same rate thereof to that tax.

Section 6. **PENALTY.** Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than $200.00 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

Section 7. **SEPARABILITY.** If any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

Section 8. **ADMINISTRATIVE ACT.** This ordinance is adopted to amend the existing sales tax ordinances in order to comply with House Bill 1002 and Senate Bill 76 passed during the 2003 South Dakota Legislative Session. Any changes to the existing sales tax ordinance are administrative and therefore not subject to referendum.

Section 9. **REPEAL.** Any ordinance inconsistent with or in conflict with this ordinance is hereby repealed including Section 13.01and Section 13.03 of the Tea Revised Ordinances.

Dated this 18th day of August 2003.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy
Municipal Finance Officer

(SEAL)

First Reading: August 4, 2003
Second Reading: August 18, 2003
Published: August 27, 2003
Effective Date: January 1, 2004

CITY OF TEA
ORDINANCE NO. 153

AN ORDINANCE TO REGULATE CERTAIN VENDORS WITHIN CORPORATE LIMITS OF THE CITY OF TEA.
NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA:

Section 1. Definitions.

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

a. Central business district means any area zoned Central Business District under the Zoning Ordinance for the City of Tea.

b. Stand means any table, showcase, bench, rack, pushcart, wagon or any other movable vehicle or device, which may be moved with or without the assistance of a motor and used for the displaying, storing or transporting of articles offered for sale by a vendor.

c. Vendor means any person engaged in the selling or offering for sale of food, beverages, merchandise or service on the public streets or sidewalks, from a stand or motor vehicle or from their person.

Section 2. License required.

It shall be unlawful to sell or offer for sale any food, beverage, merchandise or service on any public street, sidewalk or in any parking lot in the central business district within the city without first obtaining a vendor's license.

Section 3. Applications for licenses.

The application for a vendor's license shall include, in addition to the information as may be required by the Finance Officer:

(1) The name, home and business address of the applicant and the name and address of the owner, if other than the applicant of the vending business, stand or motor vehicle to be used in the operation of vending business.
(2) A description of the type of food, beverage, merchandise or service to be sold.
(3) A description and photograph or schematic drawing of any stand or motor vehicle to be used in the operation of the business, including a license and registration number of any motor vehicle used in the operation of the business.
(4) Before commencement of operations, proof of an insurance policy, issued by an insurance company and licensed to do business in the state, protecting the licensee and city from all claims or damages to property and bodily injury, including death and attorneys' fees, which may arise from operations under or in connection with the license. Such insurance shall name the city as an additional

insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advance written notice to the city.
(5) Before commencement of operations, proof all required state licenses must be presented to the city.
(6) Non-refundable license fee of $100 per license application.

Section 4. Issuance of licenses.
All businesses fronting designated vending locations shall have a first right of refusal to obtain a vending license for the designated location in front of their businesses. If more applications are received than there are designated vending locations as determined by the planning and building services department, the applications, if approved, shall be awarded the locations in the order of their application. If a license is denied, the applicant shall be provided with a statement of the reasons for denial, which reasons shall be entered in writing on the application. An applicant may request a hearing upon denial of the license request. A license to vend shall specify the location from which vending is permitted and shall only be valid for vending at that location, and is nontransferable.

Section 5. Vending outside central business district.
Vending outside the Central Business district is permitted upon receipt of a peddler's license.

Section 6. Prohibited conduct.
No vendor shall:
(1) Store, park or leave any stand overnight on any street, parking lot, sidewalk or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations.
(2) Sell food or beverages for immediate consumption unless he has available for public use his own or a public litter receptacle which is available for his patrons' use.
(3) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by him.
(4) Use any device that is designed to amplify sound for the purpose of making verbal solicitations.
(5) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the stand or motor vehicle.
(6) Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his stand or motor vehicle where such items have not been described in his application.
(7) Solicit or conduct business with persons in motor vehicles.
(8) Sell anything other than that which he is licensed to vend.
(9) Vend without the insurance coverage specified in section 3 (4).
(10) No vendor selling from a stand on the sidewalk in the Central Business district shall vend at any location which is not approved by the city planning department or allow the stand or any other item relating to the operation of the

vending business to lean against or hang from any building or other structure lawfully placed on public property without the owner's permission.

Section 7. Special events.
Any vendor's license granted for the Central Business district shall be preempted during the operation of recognized special events being conducted in the Central Business district. A person in charge of a special event shall obtain a vendor's license prior to holding any special event. Such special event-vending license shall be granted subject to compliance with any conditions or requirements placed on it by the finance officer. Recognized special events are as follows:

(1) Tea Pot Days;

(2) Those special events that are conducted in the Central Business district by a bona fide nationally chartered veterans, religious, charitable, educational or fraternal organization, local civic or service club, political party or volunteer fire department or political committee on behalf of a candidate for a political office, which exists under the laws of the state.

Section 8. Health and sanitation requirements for food and beverage vending.
Vendors of food and beverages shall comply with all inspection, health and sanitation provisions and standards for food service establishments under applicable local, state and federal law, and the following:
(1) The equipment used in vending food and beverages shall be inspected upon application for a license and shall be required to obtain a valid food service license and operating permit.
(2) Each food and beverage vending business shall be inspected at least twice a year.

Section 9. Display of license.
All licenses required under this article shall be displayed at all times during the operation of the vending business.

Section 10. Advertising.
No advertising, except the posting of prices, shall be permitted on any stand or motor vehicle, except to identify the name of the product or the name of the sidewalk vendor.

Section 11 Renewal of license.
All licenses required in this article are valid for the entire licensing period, excluding special events, unless revoked or suspended prior to expiration. The licensing period shall run from January 1 to December 31 of any given year. No partial year licenses are permitted. An application to renew a license shall be made no later than 30 days before the expiration of the current license.

Section 12. Denial, suspension and revocation of license.
Any license required in this article may be denied, suspended or revoked for any of the following causes:

(1) Fraud or misrepresentation contained in the application for the license.

(2) Fraud or misrepresentation made in the course of carrying on the business of vending.
(3) Conduct of the licensed business in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals.
(4) Conduct of the business in violation of any city or state tax and licensing laws.
(5) Conduct which is contrary to the provisions of this article.

Mayor

ATTEST:

Finance Officer

First Reading: October 20, 2003

Second Reading: December 15, 2003

Publication Date: January 7, 2004

Effective Date January 27, 2004
(20 days after last publication):

CITY OF TEA

ORDINANCE 155

AN ORDINANCE TO REGULATE THE MOVING OF HOUSES WITHIN THE COORPORATE LIMITS OF THE CITY OF TEA

Section 1: DEFINITIONS:

As used in this Ordinance, the following definitions shall apply:

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy which, when loaded on any carrier of any kind, has a loaded height exceeding thirteen feet (13') and a loaded width exceeding twelve feet (12').

BUILDING OFFICIAL: The official designated by the City Council to enforce this Chapter.

Section 2: BUILDING MOVER'S LICENSE:

Before engaging in the operation of moving buildings, every person shall obtain a license therefore. Such persons shall pay a license fee as set by resolution of the City Council. Upon payment of a license fee, the Building Official shall issue such license as is covered by the fee.

Section 3: PERMIT REQUIREMENTS:

A. Permit Required: No licensee under this Ordinance shall move or prepare for moving any building over, along or across any public highway, street, alley or other public place in the City without first obtaining a permit from the Building Official.

B. Application for Permit:

1. A person seeking issuance of a permit shall file an application for such permit with the Building Official upon forms provided by the Building Official.

2. The application shall set forth:

a. A description of the building proposed to be moved, giving street address, construction materials and dimensions.

b. The public highways, streets, alleys or other public places over, along or across which the building is proposed to be moved.

c. A description of the location and destination, including street address, to which the building is proposed to be moved.

d. The moving date and hours.

e. Any additional information that the City shall find necessary to a fair determination of whether a permit should be issued.

C. Fee: The application for a permit shall be accompanied by a fee as set by resolution of the City Council.

D. Building Permit Prerequisite to Issuance; Time Limit on Permanent Installation:

1. No permit for moving a building to a lot in the City shall be granted by the Building Official if a building permit has not been issued for such building on such lot.

2. No building shall be moved to a lot in the City for the purpose of storing such building on the lot. A building moved to a lot shall be permanently installed on its new foundation within sixty (60) calendar days of the date moved onto the lot.

E. Standards for Issuance of Permit: The City shall refuse to issue a permit required by this Ordinance if:

1. Any application requirements or any fee or deposit requirement has not been complied with.

2. The building is in such a state of deterioration or disrepair or otherwise so structurally unsafe that it could not be moved without endangering persons and property in the City.

3. The building in its new location would not comply with the Building Code, Electrical Code, Plumbing Code, Zoning Ordinance, or other ordinances in effect at the time of the application in the governmental jurisdiction where the building is to be located, all as amended. This subsection shall not be construed to prohibit the moving of a building for which an applicant has obtained a building permit which provides for construction or alterations to the building which will bring it to Code standards.

4. For any other reasons, persons or property in the City would be endangered by the moving of the building.

F. Issuance of Permit: No permit shall be issued until forty eight (48) hours after the time of filing of the completed application, and all fees, deposits and certificates or certificates of insurance are completed. This time period shall not commence running until filing of all information, fees, deposits and certificates of insurance set forth in this Ordinance are on file with the City.

G. Expiration Of Permit: Any permit granted under this Ordinance shall expire if the move is not commenced on the moving date set forth in the application.

Section 4: LIMITATIONS ON BUILDINGS TO BE MOVED:

A. No building shall be prepared for a move or shall be moved upon or through the streets of the City if the building exceeds thirty four feet (34'), loaded width, including overhang, or which exceeds thirty feet (30') loaded height. Said size limitations may be waived by the Building

Official, if in the opinion of the Building Official, the oversized building may be safely moved on the proposed route without danger to property or public improvements.

B. No building shall be moved upon or through the streets of the City to a lot in the City if the value of such building before moving is less than sixty percent (60%) of the value of a new building of the same type.

C. No building shall be moved in or through the streets of the City to a lot in the City if such building is in such deteriorated condition that, in the opinion of the Building Official, it is unsafe and constitutes a safety hazard.

Section 5: BUILDING PERMIT PREREQUISITE TO MOVING BUILDING:

No person shall prepare any building for a move nor move any building to any lot within the City unless said person shall have first obtained a building permit for such building on such lot.

Section 6: DEPOSIT AND INSURANCE REQUIREMENTS:

A. Deposit: Upon receipt of an application for a permit under Section 3 of this Ordinance, it shall be the duty of the applicant to procure from all appropriate City departments or other governmental bodies, and the utility companies involved, an estimate of the expense that will be incurred in removing, trimming, cutting or replacing any property on the route of the move, including trees on public property above the height of thirteen feet (13'), by reason of the moving of the building through the City, together with the cost of materials necessary to be used in making such removals and replacements and expenses of City personnel and the utility companies occasioned by the moving. Prior to the issuance of the permit, the applicant shall deposit with the City Finance Officer a sum of money equal to twice the amount of these estimated City-related expenses. Such deposit shall be in cash or by certified check, cashier's check or such other form as the City Finance Officer may require.

B. Insurance: Any person filing an application for a permit under Section 3 of this Ordinance shall file with the Building Official a liability certificate of insurance issued by an insurance company authorized to do business in South Dakota, protecting the applicant and the City and its officials, providing for coverage as established by the Finance Department. The insurance coverage may be a blanket insurance policy covering any building moving by the applicant. Such insurance shall inure to the benefit of the City, and the City shall be named insured herein for the use and benefit of any person intended to be protected thereby and shall be conditioned on the payment of any damage to public or private property and the payment for any damages or losses resulting from any malfeasance, misfeasance, nonfeasance or negligence on the part of the mover in connection with any of the activities or conditions of the permit.

Section 7: DISPOSITION OF FEES AND DEPOSITS:

A. Receipt Of Deposits And Fees: The City Finance Officer shall receive all fees and deposits required by this Ordinance.

B. Return Upon Non-issuances: Upon refusal to issue or non-issuance of a permit, the Building Official shall inform the City Finance Officer who, after being so informed, shall return all deposits to the applicant. Permit fees filed with the application shall not be returned.

C. Return Upon Allowance For Expense: After the building has been moved, the Building Official shall prepare a written statement of all expenses incurred in removing, trimming, cutting or replacing all public property and of all material used in the making of the removal and the replacement together with a statement of all damages and costs caused to or inflicted upon the City. Upon receipt of the Building Official's statement, the City Finance Officer shall return to the applicant all deposits after deducting a sum sufficient to pay for all of the costs, damages and expenses incurred by the City by reason of the removal of the building. Permit fees filed with the application shall not be returned.

Section 8: BUILDING MOVING OPERATIONS:

A. Designation Of Route: In conjunction with the application for a permit under Section 3 of this Ordinance, the applicant shall develop and submit a list of designated streets over which a building is proposed to be moved, which list must be approved, in writing, by the Building Official, or designee and Chief of Police. In making their determinations, said officials shall act to assure reasonable safety to persons and property in the City, including trees on public property, and to minimize congestion and traffic hazards on public streets.

B. Time Of Moves: The time of all moves must be approved in advance by the Building Official and recorded on the permit. Generally, all building moves may not commence from private property and enter public property before nine o'clock (9:00) A.M. and must be completed and placed on the designated site off of public property or streets by four o'clock (4:00) P.M. of the same day; or may not commence before seven o'clock (7:00) P.M. and must be completed by six o'clock (6:00) A.M. the following day. The Building Official may make exceptions, for good cause, as to the time of move.

C. Nighttime Moving; Lighting Requirements: Building moves during the nighttime, including one hour or sooner before sunrise and one hour or later before sunset, must be floodlighted such that the structure being moved is illuminated sufficiently to permit ready visibility of the top and side clearance of the structure and any obstruction that may be in the path of travel. The Building Official shall approve all lighting in advance of any move.

D. Parking Prohibited on Streets: Parking shall be prohibited on streets included in the routing for the moving of a building. At least forty eight (48) hours in advance of the time of the moving, the permittee shall post signs provided by the City, designating the area as a no-parking area. The Building Official shall ensure that such signs are posted by the permittee in a timely manner. Such signs shall be removed by the City after the move is completed. If any vehicle is parked illegally in violation of the provisions of this subsection, the permittee shall be responsible for the expenses of towing the vehicle away but may recover said expenses from the violator. The permittee shall assume all risk of damage to any vehicle either towed away or parked in such route.

E. Storage on Public Property Restricted: No building being moved pursuant to this Ordinance shall be stored on any public street, highway, place, alley, park, square, plaza, any City-owned right of way or any other public property owned or controlled by the City.

Section 9: DUTIES OF PERMITTEE:

Every permittee under Section 3 of this Ordinance shall:

A. Move a building only over streets designated for such use in the approved, written permit.

B. Conduct the move on the date and time stated on the approved permit. Failure to move on the date and time shall require the applicant to reapply for a moving permit and receive new signatures of approval as required in subsection 8A of this Ordinance.

C. Notify the Building Official, in writing, of any and all damage done to public or private property within twenty four (24) hours after the damage or injury has occurred.

D. Comply with the Building Code, the Electrical Code, the Plumbing Code, the Zoning Ordinance all other applicable codes and ordinances, as amended.

E. Pay the cost and expenses of the City occasioned by the movement of the building.

F. Remove all debris and materials and fill all excavations to existing grade at the original site so that the premises are left in a safe and sanitary condition within ten (10) calendar days of the moving date. The old basement or any excavation on the original site shall be fenced in immediately upon removal of the building and shall remain fenced until the excavation can be filled.

G. Plug the sanitary sewer line with a concrete stopper unless otherwise directed by the City. The plugged sanitary sewer line shall be inspected by the City before backfilling. The permittee shall arrange to have the water shut off at the property line and the meter returned to the City. The permittee shall notify all utilities, including the City, to disconnect all services at least forty eight (48) hours in advance of said moving.

H. Notify telephone, electric and gas company, railroad companies, cable television and any other utility at least forty eight (48) hours in advance of the moving of any building that will interfere with the pole, wires, conduit, cables or other property of the utility, specifying in such notice the highest part of the building above the surface of the street and the proposed route and time of moving. The utility shall furnish, at the expense of the permittee, a competent person to superintend the removal and replacement of such wires, poles, conduit, cables and other property. The permittee shall, at its own expense, furnish all the labor, materials and equipment necessary and shall remove and replace the property as directed by the appropriate utility company. Only authorized personnel of the utility company shall remove or replace any wires, poles, conduit, cables and other property.

Section 10: ENFORCEMENT:

A. Enforcing Officers:

1. The Building Official and the Police Department and any other appropriate City officers or employees shall enforce and carry out the requirements of this Ordinance. Once the structure to be moved has reached public property, the Police Department and, specifically, the officer assigned to provide escort to the move shall be the enforcement officer of the building move.

2. The Building Official shall assume enforcement responsibilities when the building is being prepared for the move, while the move is in progress on the original site and at such time when the structure being moved leaves public property and is being placed upon a lot within Tea as set forth in the moving permit.

B. Liability of Permittee for Expenses: The permittee shall be liable for any expense, damages or costs in excess of deposited amount or securities, and the City Attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such amounts, if appropriate.

C. Original Premises Left Unsafe: The City shall proceed to do any work necessary to leave the original premises in a safe and sanitary condition where the permittee does not comply with the requirements of this Chapter, and the costs thereof shall be charged against the permittee's deposit.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading: February 2, 2004
Second Reading: March 1, 2004
Publication Date: March 17, 2004
Effective Date (20 days after last publication): April 6, 2004

CITY OF TEA
ORDINANCE 156

AN ORDINANCE TO REGULATE SPEED ON THE STREET AND PUBLIC RIGHT-OF-WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF TEA.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA:

1. That Section 8.03 of the Tea City Ordinances be amend to read as follows:

(a) General Restrictions.

It shall be unlawful for any person to drive a vehicle on a street or highway at a speed great than is reasonable and prudent under the conditions then existing or at a speed in excess of those fixed by this Title.

(b) Speed Zones:

(i) Unless otherwise posted, no person shall drive a motor vehicle at a speed in excess of twenty (20) miles per hour within the corporate limits of the City of Tea. The City shall cause signs to be posted informing drivers of the speed limit as set forth in this section.

(ii) No person shall drive a motor vehicle at a speed in excess of fifteen (15) miles per hour while passing through a school zone, or while traveling upon any street on or across which children are passing going to and from school during school days when such children are present.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading: February 17, 2004
Second Reading: March 1, 2004
Publication Date: March 17, 2004
Effective Date(20 days after last publication): April 6, 2004

ORDINANCE NO. 158

AN ORDINANCE TO REGULATE PARKING ON MAIN AVENUE

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA:

1. The City hereby authorizes parking in the center of Main Avenue, between 2nd Street and 3rd Street, Tea, South Dakota

2. The City shall cause the parking spaces to be clearly marked upon the street

3. It shall be a violation of this ordinance for a vehicle, portion of vehicle or any item attached to or contain in, within or on to be outside the parking space on Main Avenue.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading: July 19, 2004

Second Reading: August 2, 2004

Publication Date: August 18, 2004

Effective Date: September 7, 2004

CITY OF TEA
ORDINANCE NO. 159

AN ORDINANCE TO AMEND SECTION 11.04 OF THE ZONING ORDINANCE OF THE CITY OF TEA.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA:

1. THAT SECTION 11.O4 A. GENERAL CONDITIONS OF THE ZONING ORDINANCE OF THE CITY OF TEA BE AMENDED TO READ AS FOLLOWS:

11.04 OFF-STREET PARKING

1. Parking shall be accessory to the permitted primary use of the property; therefore, the resident or an authorized visitor of the property on which the vehicles are parked must own the vehicles.

2. A person may not park a motor vehicle in the front yard or side yard of a residential property, except in:

   A. the front yard necessary for hard surface driveways; or

   B. a paved or non-organic dustless parking side yard space depicted on a approved site plan; or

   C. a parking space adjacent to a driveway that when measured with the driveway is not wider than 50 percent of the minimum lot width established by the zoning district.

3. All front yard driveway parking spaces shall be hard surfaced with asphalt, concrete or equivalent and conform to the prescribed standards with the City's Engineering and Design Standards.

4. Parking spaces in rear yards shall be allowed only by conditional use permit in the R-1 and R-3 districts. Parking spaces in rear yards shall be allowed in a R-2 district with an approved site plan.

5. The paved surface and vehicle shall be a minimum of two feet from the property line.

6. Except in conjunction with a legal nonconforming business it is unlawful for any person to park, store, leave, or permit the parking, storing or leaving of any commercial vehicle in a NRC, R-1, R-2, or R-3 Zoning District, unless the vehicle is parked in connection with the performance of a service. The transferring of refuse from a smaller satellite vehicle to a larger packer garbage truck is prohibited.

7. All parking, loading, and maneuvering and drive areas thereto shall be hard surfaced with asphalt or concrete in GB and CB Zoning Districts. Unless otherwise provided in this ordinance, this section (7) shall not apply to the R-1 District.

2. THAT SECTION 19.02 DEFINITIONS OF THE ZONING ORDINANCE OF THE CITY OF TEA BE AMENDED TO INCLUDE THE FOLLOWING DEFINTIONS:

1. DRIVEWAY. A continuous area adjacent to a curb cut providing vehicular access between a street and an off-street parking area, including a circular driveway.

2. NON-ORGANIC DUSTLESS MATERIAL. Defined as Crushed asphalt and Concrete, Landscape River Rock or equivalent. Sand and gravel are prohibited.

Dated this 1st day of November, 2004

John M. Lawler, Mayor

Attest:

Dawn R. Murphy, Finance Officer

First Reading: October 18, 2004
Second Reading: November 1, 2004
Publication: November 17, 2004
Effective: December 7, 2004

CITY OF TEA, SOUTH DAKOTA

Cable Services
Franchise Ordinance #160

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CABLE SERVICES FRANCHISE ORDINANCE

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ORDINANCE NO. 160

AN ORDINANCE GRANTING A CABLE SERVICES FRANCHISE.

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

I.

SHORT TITLE

This ordinance shall be known and may be cited as the Tea Cable Services Ordinance ("Ordinance").

II.

DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Basic Cable Service" has the same meaning as in the Cable Act.

2. "Cable Act" means Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 521 et. seq., as amended.

3. "Cable Service"has the same meaning as in the Cable Act.

4. "Cable System" has the same meaning as in the Cable Act.

5. "Channel" has the same meaning as in the Cable Act.

6. "City" means the City of Tea, South Dakota.

7. "City Council" means the Mayor and the Councilmembers of Tea, South Dakota.

8. "County" Means Lincoln County, South Dakota.

9. "Demarcation" means a point that is 12 inches on the subscriber's side of the protector, or the equivalent thereof in cases where a protector is not employed.

10.. "Drop" means the cable that connects the subscriber ground block or other point of demarcation to the nearest feeder cable of the system.

11.. "FCC" means Federal Communications Commission, its designee, or any successor thereto.

12. "Franchise" means the initial authorization, or renewal thereof, issued by the franchising authority, whether such authorization is designated as a franchise, permit, license resolution, contract, certificate, or otherwise, which authorizes construction and operation of a Cable System for the purpose of offering cable service or other service to subscribers.

13. "Franchise fee" means any tax, fee, or assessment of any kind imposed by the City on the Grantee or Grantee's subscriber, or both, solely because of their status as a cable operator, cable subscriber, or cable user.

14. "Grantee" means the Person agreeing to be bound by the terms of this Franchise ordinance, its contractors/subcontractors, agents, assigns or its successor in accordance with the provisions of this Franchise.

15. "Gross revenues" shall include monthly Basic Cable Service charges but shall not include monies received as installation charges and charges and fees for reconnection, inspections, and all State and Federal taxes relating thereto. This amount payable by Grantee to the City shall be the sole amount payable for all of its rights under this Franchise, including but not limited to, the use of the streets in the operation of the Cable System and for City supervision thereof. The term "gross revenues" shall not include the amount of any franchise fees or copyright fees passed on to subscribers or any taxes, fees, or assessment of any kind imposed by the State of South Dakota, the City, or any other governmental unit, or third party on subscribers on or for services furnished over the cable system and collected by the Grantee on behalf of such entity.

16. "Person" means any person, firm, partnership, association, corporation or organization of any kind, and any other legally recognized entity.

17. "Public Way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the Service Area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public way shall also mean any easement now or hereafter held by the City within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to the use thereof for the purposes of installing or transmitting the Grantee's cable service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

18. "School District means the Tea School District 41-5.

19. "Service Area" means the present municipal boundaries of the City, and shall include any additions thereto by annexation or other legal means.

20. "Subscriber" means any member of the general public who receives Cable Service distributed by a Cable System and does not further distribute it.

21. "Video Programming"has the same meaning as in the Cable Act.

III.

QUALIFICATIONS OF GRANTEE AND GRANT OF NON-EXCLUSIVE AUTHORITY

1. The City hereby grants to the Grantee a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above and over and under all Public ways and all future extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable System for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public, provided that all operable permits are applied for and granted, all fees paid and all other City codes and ordinances are otherwise complied with in a manner acceptable to the city. The right so granted includes the right to use and occupy said Public Ways and public places and all matter of easements for the purposes herein set forth.

2. The City specifically reserves the right to grant, at any time, additional franchises for a system in accordance with City, state and federal law.

IV.

DURATION AND ACCEPTANCE OF FRANCHISE

This Franchise shall commence on the effective date of the signed acceptance of this Ordinance by the Grantee and shall expire six years thereafter unless renewed, revoked, or terminated sooner as herein provided.

V.

COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS, ORDINANCES AND CODES

1. Except in those areas which have been preempted by the Cable Act, or any other applicable federal or state law, the Grantee shall be subject to the police powers of the City to adapt and enforce ordinances necessary to the health, safety, and welfare of the public.

2. All facilities and equipment of the Grantee shall be constructed and maintained to the premise demarcation point in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards. All facilities and equipment of the Grantee from the demarcation point to customer premise equipment shall be constructed and maintained in accordance with the provisions of the National Electrical Code of the National Board of Fire Underwriters, and other national, state or City electrical or construction codes which may be in effect.

VI.

TERRITORIAL AREA INVOLVED

This Franchise relates to the present territorial limits of the City and to any area added to it during the term of this Franchise.

VII.

LIABILITY AND INDEMNIFICATION

1. Grantee shall maintain the following types of insurance with a company, authorized to do business in the State of South Dakota with a rating by Best of not less than "A."

    a. Worker's compensation upon its employees with statutory limits of the worker's compensation laws of the State of South Dakota and Coverage B employer's liability covering operations of the individual/group/business and its consultants/subcontractors. This shall include "Other States Insurance" so as to include all states not named on the "declarations" page of the insurance policy, but excepting monopolistic state funds states. The available limits for Coverage B, employer's liability shall be not less than $1,000,000 each accident, $1,000,000 disease policy limits.

    b. Commercial general liability (CGL) insurance providing coverage not less than that of the standard commercial general liability insurance policy ("occurrence form") for operations of the individual/group/business or its consultants/subcontractors. If the "occurrence form" is not available, "claims made" coverage shall be maintained for three years after final completion and acceptance of the project by the City. The policy shall include contractual personal injury, bodily injury, and property damage liability coverages with total available limits not less than $1,000,000 per occurrence, not less than $2,000,000 general aggregate, $2,000,000 aggregate products and completed operations. The CGL insurance policy shall name the City and its duly authorized representatives as an additional insured. The City shall be provided with a copy of the certificate and policy endorsement prior to the effective date of this ordinance. This insurance coverage shall be increased/decreased annually to reflect changes in the Consumer Price Index.

c. Automobile liability insurance covering all owned, non-owned, and hired automobiles, trucks, and trailers. Such insurance shall provide coverage at least as broad as that found in the standard comprehensive automobile liability policy with limits of not less than $1,000,000 combined single limit each occurrence.

2. Grantee shall indemnify, defend, and hold harmless the City from and against losses and physical damage to property and bodily injury or death to persons, including payments made under the Worker's Compensation law which may be caused by the erection, maintenance, use or removal of any of Grantee's attachments, poles, or other undertakings, within the City, or by any action of Grantee, its agents or employees.

3. Grantee shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, suites, judgements, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The City shall give the Grantee prompt written notice of any such claims, demands, actions, suits, judgments, costs, expenses or liabilities.

4. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder. Said policy or policies of insurance, or a certificate of insurance thereof, shall be provided to the City prior to the effective date of this ordinance, and then deposited with and kept on file by the City. The City shall be notified at least 30 days prior to expiration or cancellation of any such insurance.

5. All subcontractors of Grantee working in the City's right-of-way shall be bonded.

6. In addition, Grantee shall indemnify, defend, and hold harmless the City for all damages and penalties at all times during the term of this Franchise, as a result of the legal process followed and conducted by the City for granting this Franchise, or Grantee's conduct or performance under this Franchise. These damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, anti-trust, errors and omissions, theft, fire, and all other damages arising out of Grantee's exercise of this Franchise, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise; such indemnification shall include, but not be limited to, reasonable attorneys' fees and costs.

7. If, in the opinion of the City, the interests of the City cannot reasonably be represented in good faith by the Grantee, the Grantee shall pay all expenses incurred by the City in defending itself, including all reasonable out-of-pocket expenses, including attorneys' fees and costs.

VIII

SYSTEM DESIGN

Grantee shall construct a cable system as follows:

1. The system shall be of the type generally referred to as "single trunk, single feeder" wherein the trunk cable shall carry signals in the minimum frequency range of 5-750 MHz. The system shall provide the capability of distribution of multiple television channels.

2. The system shall have the capability of providing video, voice, and data services.

3. Grantee shall provide status monitoring of all power supplies at the node sites. This will be completed by the end of the first year of franchise agreement.

4. Within 18 months of the effective date of this franchise, Grantee's cable system shall be fully capable of two-way addressable operation at the subscriber's receivers and from Grantee's customer service and head end facilities on at least one channel.

5. Any system improvements shall be designed, constructed, and operated to meet the technical standards promulgated by the FCC.

6. The system shall be capable of interconnecting with other cable systems within and adjacent to the City.

IX.

OPERATION AND MAINTENANCE OF SYSTEM

1. The Grantee shall render safe and efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest possible time. Such interruptions, insofar as possible; shall be preceded by notice and shall occur during periods of minimum use of the system.

2. The Grantee shall maintain a force of sufficient employees to provide safe, adequate and prompt service for its facilities.

3. Service shall be provided in compliance with all consumer protection and customer service regulations governed by the Cable Act, as amended from time to time.

X.

CONTINUITY OF SERVICE MANDATORY

1. All subscribers shall have the right to continue to receive service, insofar as their financial and other obligations to Grantee are honored. If Grantee elects to overbuild, rebuild, modify, or sell the system, or the City gives notice of intent to terminate or fails to renew this Franchise, Grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service. If Grantee fails to provide such service, the City may do so.

2. If the Franchisee is changed, or if a new operator acquires the system, Grantee shall cooperate with the City, new Franchisee, or operator in maintaining service to all subscribers. During such period Grantee shall be entitled to the revenues for any period during which it operates the system, and shall be entitled to reasonable costs for its services when it no longer operates the system.

3. If the Grantee fails, for reasons not beyond its control, to operate the system for ten consecutive days without prior approval of the City, the City may, at its option, operate the system or designate an operator until such time as Grantee restores service under conditions acceptable to the City or a permanent operator is selected. If the City is required to fulfill this obligation for Grantee, the City shall receive the revenue from the system's operation, and the Grantee shall reimburse the City for all reasonable costs or damages in excess of revenues from the system received by the City during its period of operation that is the result of Grantee's failure to perform.

4. Nothing in this ordinance shall be construed to be a waiver by Grantee of its constitutional or statutory rights under federal or state law.

XI.

SUBSCRIBER PRIVACY

The Grantee shall comply with all federal subscriber privacy laws, including information relating to signals from any cable communications channel to a subscriber terminal for purposes of monitoring individual viewing patterns, data or information gathered by monitoring transmission of a signal from a subscriber terminal, and electronic sweeps of the system. The Grantee will comply with Section 631 of the Cable Act.

XII.

EMERGENCY USE OF FACILITIES

In the case of any emergency or disaster, including weather emergencies, the Grantee shall, upon request of the governing body of the City or an appropriate law enforcement or civil defense authority, make available its facilities to the City, local law enforcement official, or civil defense authorities during any emergency or disaster.

XIII

SAFETY REQUIREMENTS

The Grantee shall at all times employ ordinary care and shall install and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

XIV.

CONDITIONS

1. All transmission and distribution structures, lines, and equipment erected by the Grantee within the City shall be installed in accordance with the provisions of the National Electrical Safety Code (NESC) prepared by the Bureau of Standards and so located as to cause minimum interference with the proper use of Public Ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any Public Ways and places, and poles, towers, and any other structures, lines, or equipment shall be removed by Grantee whenever in the opinion of the City Engineer, they restrict or obstruct the operation or location of any facility.

2. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be located, erected and maintained so as not to endanger or interfere with the lives of persons or to interfere with any installations of the City or of a public utility serving the City, or to interfere with new improvements the City may deem proper to make.

3. In the maintenance and operation of their transmission and distribution system in the Public Way, and in the course of any new construction or addition to their facilities, Grantee shall proceed so as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets or other public places made by Grantee in the course of their operations shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

4. No excavations of any type shall be done or caused to be done unless permission in writing is first obtained from the City Engineer. The City may require all or any part of the installation to be underground where all other public utilities are required to be located underground.

5. All work in any way necessitated by the business of Grantee which may involve the opening, breaking up or tearing up of a portion of a Public way or other part of any City-owned or City-controlled property shall at the option of the City be done by the City at the expense of Grantee. In such instances, Grantee shall save the City harmless against all loss or damage to any person or property in accordance with the provisions of Section VII of this ordinance if the City does not exercise it's option, in case of disturbance of any Public Way, the Grantee shall, at its own cost and expense and a manner approved by the City Engineer, replace

and restore such Public Way in as good a condition as before the work involving such disturbance was done.

6. If at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade of any Public Way, the Grantee, upon at least 30 days notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

7. All installations of equipment shall be of permanent nature, durable, and installed in accordance with good engineering practices, and of sufficient height to comply with all existing City regulations, ordinances, and state laws so as not to interfere in any manner with the right of the public or individual property owner, and any equipment installed in a Public Way or place shall not interfere with the usual travel on such Public Way or usual use of such public place by the public and during the construction, repair, or removal thereof, shall not obstruct or impede traffic.

8. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting it, and the Grantee may require such payment in advance. The Grantee shall be given not less than forty-eight hours advance notice to arrange for such temporary wire changes.

9. The Grantee may trim trees upon the overhanging Public Ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.

10. In all sections of the City where the cables, wires or other like facilities of public utilities are placed underground, the Grantee shall place its wires, cables or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so. Underground line shall be placed at depths consistent with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards. The Grantee shall be responsible for all costs associated with damage to any line which has been installed at a depth less or more than that required. If the ground is frozen, saturated or otherwise unable to facilitate an underground installation and underground installation is required, the installation shall be performed on a temporary basis in compliance with state and federal rules. As soon as conditions change to permit proper underground installation of the cable, the Grantee shall install the cable no later than 30 days after such conditions have changed to allow the installation.

11. The Grantee shall not allow its cable or other operations to interfere with television and radio reception of persons not served by the Grantee.

12. Grantee shall, at its expense, protect, support, temporarily disconnect, relocate on the same Public way or public place, or remove from the Public Way or public place, any property of Grantee when required by the City by reason of traffic conditions, public safety, street vacation, freeway and street-construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement, provided, however, that Grantee may abandon any property of Grantee in place as hereinafter provided.

13. If the use of any part of the system is discontinued for any reason for a continuous period of twelve months, or if the system or property has been installed in any Public Way or public place without complying with the requirements of this ordinance, or the rights granted hereunder have been terminated, cancelled or have expired, Grantee shall promptly remove from the Public Way, or public places all such property and poles of such system other than any which the City, may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the Public Way or other area from which such property has been removed to a condition the City.

14. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City may prescribe. Upon permanent abandonment of the property of Grantee in place, it

shall submit to the City an instrument to be approved by the City, transferring to the City the ownership of such property.

XV.

REMOVAL OF FACILITIES

1. Upon termination of service to any subscriber, the Grantee shall promptly remove all its aerial drops and equipment from the premises of such subscriber upon request. Underground drops shall remain buried.

2. Upon revocation or expiration of this Franchise, the City may request the removal of the Grantee's aerial equipment and facilities. Such removal shall be at the expense of the Grantee. Any disturbance to City property during such removal process shall be restored to its original condition as far as is practicable. The City reserves the right to inspect and approve the condition of its property after such removal. Underground facilities shall remain buried.

XVI.

TRANSFER OR SALE OF FRANCHISE

1. This Franchise and the rights granted under this Ordinance may not be sold, assigned, or transferred by the Grantee either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable, or any rights, interest, or property therein, pass to or vest in any person without the consent of the City.

2. The provisions of this section shall apply to the sale or transfer of all or a majority of Grantee's assets or shares of stock, merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation of the parent company, or sale or transfer of stock in Grantee so as to create a new controlling interest. The term "controlling interest" as used herein is not, limited to majority stock owners but includes actual working control in whatever manner exercised, including the creation or transfer of decision-making authority to a new or different Board of Directors. The transfer of 5 percent of the shares of stock shall be a presumptive transfer of controlling interest and require compliance with the provisions of this section.

3. The Grantee shall provide written notice to the City of any proposed sale, assignment, or transfer. Within 120 days of receipt of such notice, and following a public hearing, within ten days after the public hearing, the City shall approve or deny the sale, assignment, or transfer.

4. The City reserves the right of first refusal of any offer to purchase the system in favor of the City purchasing the system under substantially the same terms and conditions as the offer.

5. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the City either lawfully acquires ownership of the Cable System or by its actions lawfully affects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be on the terms set forth in 47 U.S.C.§ 547.

6. If the Franchise is revoked, the Grantee may request and the City shall give Grantee in its sole discretion, a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. During such period, the Grantee may continue to operate pursuant to the terms of its prior Franchise. However, in no event shall such authorization exceed a period greater than 120 days from the effective date of such revocation. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is acceptable to the City, the Grantee and the City may avail themselves of any rights they may have pursuant to federal or state law. The Grantee's continued operation of its Cable System during the 120 day period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the City or the Grantee.

XVII.

PAYMENT TO THE CITY

1. During the term of this Franchise and so long as Grantee or its successors or assigns operate the Cable System, commencing from the effective date of this ordinance, Grantee shall pay to the City the sum of three (3) percent of the total annual Gross Revenue until January 1, 2005 when the percentage fee shall be increased to five (5) percent. The Franchise Fee shall be payable monthly within thirty (30) days of the expiration of the preceding month. A brief report shall accompany the payment showing the basis for the computation of the amount paid in a manner described in Appendix A.

2. Such payments by Grantee to City shall be in lieu of any occupation tax, license tax, or similar levy, and shall be paid annually. Nothing herein contained, however, shall in any way relieve Grantee or its assigns or successors from the obligation of paying property taxes to the City, or any other governmental subdivision of the State of South Dakota or any other taxes lawfully levied by the State of South Dakota on the operation of the Grantee. Such payment also does not affect the responsibility of Grantee to collect state and local sales tax on the service provided.

3. The City may, at its request, audit or inspect the books and records of Grantee related to gross revenue, as defined herein, up to seven years prior to the date of the request. In the event any such audit or inspection by the City determines that the Grantee's obligations to the City were under-reported by more than five percent, the cost of such audit or inspection shall be paid by Grantee.

4. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall any such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Franchise. All amounts paid shall be subject to audit and recomputation by the City.

5. If a payment is not made by the due date, interest on the amount due shall accrue from such date at an annual rate of 12 percent.

XVIII.

ERECTION, REMOVAL AND COMMON USE OF POLES

1. No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the City Engineer with regard to locations, height, type or any other pertinent aspect. However, no locations of any pole or wire holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the Council determines that the public convenience would be enhanced thereby.

2. There is hereby granted to the extent that the City is authorized to so do; the right and authority to Grantee to lease, rent, or in any other manner obtain the use of towers, poles, lines, cables, and other equipment and facilities from the City any and all holders of public licenses and franchises within the corporate limits of the City of Tea, including Qwest Communications, Inc. (and any affiliates thereto), Xcel Energy and Southeastern Electric, to use such towers, poles, lines, cables and other equipment and facilities, with the exception of city street light poles, subject to all existing and future ordinances and regulations of the City. It is the stated intention of the City that all other holders of public licenses and franchises within the corporate limits of the City shall cooperate with Grantee to allow Grantee's joint usage of their poles and pole-line facilities whenever possible or wherever such usage does not interfere with the normal operation of said poles and pole-lines so that a number of new or additional poles constructed by Grantee within the City may be minimized.

3. Grantee hereby grants to the City, free of expense, joint use of any and all poles owned by them for any proper municipal purpose acceptable to Grantee, insofar as it may be done without interfering with the free use and enjoyment of Grantee's own wires and fixtures, and the City shall hold Grantee

harmless from any and all actions, causes of action, or damages caused by the placing of the City's wires or appurtenances upon the poles of Grantee. Proper regard shall be given to all existing safety rules covering construction and maintenance in effect at the time of construction. If, in accommodating the City's joint use of their poles, Grantee is required to change or replace poles or install new poles, the City shall compensate Grantee for such additional expense.

4. Where a public utility serving the City desires to make use of poles or other wire-holding structures of the Grantee but agreements therefore with the Grantee cannot be reached, the Council may require the Grantee to permit such use for such consideration and upon such terms as the Council determines the use would enhance the public convenience and would not unduly interfere with the Grantee's operation.

5. To the extent the State of South Dakota does not regulate the rates, terms, and conditions of pole attachments pursuant to federal law, the City shall follow the FCC's rate-setting formula and pole attachment regulations and decisions to resolve any dispute concerning the use of Grantee's poles or underground conduit by a public utility. Notwithstanding the foregoing, nothing in this ordinance shall be construed to be a waiver by Grantee of its constitutional or statutory rights under federal or state law.

XIX.

RATES

1. Grantee shall at all times maintain on file with the City Finance Director a schedule setting forth all rates and changes to be made to Subscribers for Basic Cable Service, including installation charges.

2. Grantee shall not discriminate in rates between customers of the same category except to the extent permitted by federal or state law.

3. Grantee's rates for Basic Cable Service shall be subject to regulation by the FCC and/or the City as provided for in the Cable Act and implementing regulations.

XX.

PERFORMANCE EVALUATION

1. Within 60 days of the second, fourth, sixth, and eighth anniversaries of the effective date of this franchise, the governing body of the City, as part of a regularly scheduled meeting, and upon notice to the public, may hold a hearing to evaluate the performance of the Grantee. Topics may include, but are not limited to, applications of new technology, system performance, services provided, complaints, privacy issues, and franchise modification.

2. Grantee shall fully cooperate with the City regarding this evaluation. Grantee will at its expense provide such information, data, and documents as the City may reasonably request in connection with the evaluation.

3. If the City reasonably determines that evidence exists of inadequate cable system performance, it may require Grantee to perform tests and analyses as necessary, directed toward the identified or suspected inadequacies. The costs of such tests and analyses shall be borne by the Grantee if said tests and analyses determine that the inadequate cable system performance alleged by the City, in fact, exists. The Grantee shall fully cooperate with the City in the performance of any tests. Results of the tests may include, but are not limited to the following:

   a. Identification and qualifications of the person performing the tests.

   b. The nature of the identified or suspected inadequacy which precipitated the test.

   c. What system components were tested.

d. The equipment used and procedures employed in testing.

e. The results, and our analyses and interpretation of the results of the tests.

f. The method, if any, by which any identified system inadequacy has been, or will be rectified.

g. Recommendations, if any, for additional action.

h. Any other information pertinent to the tests and analyses which may, be required or is useful.

XXI

COMPLAINT PROCEDURES

1. The Grantee shall maintain a customer service facility which Subscribers may telephone during regular business hours to report complaints. Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to this service facility. Should Grantee fail to satisfy a complaint, it may then be directed to the City Finance Officer for investigation. In response to a complaint, Grantee shall be afforded a reasonable opportunity to present written statements of its position. The City Finance Officer shall attempt to resolve the complaints but, if this cannot be achieved, he shall submit a recommendation to the City Council, recommending that: (I) the complaint be dismissed, or (2) corrective action be taken by Grantee. Appeal from the Commission's action may be made to the appropriate judicial or administrative forum.

2. As notice of the complaint procedure described in subsection 1, the following information will be distributed in printed form to all new Subscribers at the time of installation:

   Pursuant to Section 76.607 FCC Rules, all subscribers are hereby notified that Service Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's Customer Service facility. If the Service Complaint is not resolved in a reasonable length of time it shall then be directed to the office of the City Finance Officer at the City, and shall be processed in accordance with Section XXI of the above-referenced ordinance.

3: Notwithstanding the foregoing, Grantee shall comply with all applicable rules of the FCC with regard to complaint procedures and customer service standards including any required modifications of the complaint procedures or notice to subscribers, as may from time to time be needed to conform such notice and procedures to the FCC rules.

XXII.

CITY POLICE POWERS

Grantee's rights under this Franchise are subject to the police powers of the City to, adopt and enforce ordinances necessary for the health, safety, and welfare of the public subject to federal and state law.

XXIII.

SEPARABILITY

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

2. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

XXIV.

NOTICE REQUIREMENTS

All notices, reports, or demands required by this Franchise shall be given in writing. All notices to the City shall be to the City Finance Officer. All notices to the Grantee shall be to its general manager.

XXV.

COSTS TO CITY

1. Grantee shall reimburse the City for all incidental expenses incurred by it in connection with the publications required for adoption of this ordinance and the rights granted to Grantee hereunder. Such payment shall be made by Grantee to City within thirty days after City shall furnish Grantee with a written statement of such expense.

2. The Grantee shall assume the cost of publication of this Franchise as such publication is required by law and such is payable upon the Grantee's filing of acceptance of this Franchise.

XXVI

ORDINANCES REPEALED

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

XXVII.

COST DEFINED

It is understood that only the franchise fee shall constitute the franchise fee. Any payments made or costs incurred in the provision of other services required by this Franchise shall not be considered part of the franchise fee.

XXVIII.

REOPENERS

It being recognized that the cable television industry is undergoing significant changes in the law, communications technology, services, and competition; because these changes over the term of Grantee's franchise are not entirely predictable at the present time, Grantee and the City agree to negotiate in good faith modifications to Grantee's franchise to the extent necessary to allow the City and the Grantee to benefit from such changes.

XIX.

REQUIRED SERVICES

1. The Grantee shall provide the following services to public institutions:

   a. The Grantee shall provide Basic Cable Service to all public elementary, secondary, post high, and support locations within the City one junction terminal at each building for educational purposes upon request by the City or the school system and at no extra cost to it or to the City or the school system. This shall mean only an energized cable to such buildings. The cost of any internal wiring shall be borne by the institution.

b. Grantee shall also provide the City, for Basic Cable Service to all City owned buildings in the City, without charge, one junction terminal to each building at a location therein to be selected by the City.

c. Grantee shall, also provide the County, for Basic Cable Service to all county-owned buildings in the City, without charge, one junction terminal to each building at a location therein to be selected by the County.

d. The buildings to which service shall be provided are listed in Appendix B to this ordinance, which may from time to time be amended by the City.

2. Grantee shall provide the following additional services to the City of Tea, Lincoln County, the School District, and the subscribers of Grantee's cable television system:

a. Emergency Alert Services consistent with FCC regulations.

b. Provide one dedicated channel carrying one signal of acceptable quality, meeting all applicable FCC standards, for use by the City of Tea, its departments and agencies, such channel to be used at the discretion of the City.

c. Grantee shall at all times maintain a system with the technical capability of providing not less than 60 channels of information and entertainment.

XXX.

EQUAL PROTECTION

If the City eaters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the Grantee to enter into the City's Public Ways for the purpose of constructing or operating a Cable System or providing cable service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

XXXI.

ENFORCEMENT AND TERMINATION OF FRANCHISE

1. This Franchise may be terminated by the City upon violation of its terms by the Grantee.

2. If the City becomes aware of violations of the terms of the Franchise, it shall notify the Grantee in writing of the exact nature of the alleged violation.

3. The Grantee shall have thirty days from receipt of the notice (a) to respond to the City contesting the allegation, or (b) to cure it, or (c) if, by the nature of the violation, such violation cannot be cured within the thirty day period, initiate reasonable steps to remedy it and notify the City of the steps being taken and the projected date that they will he completed.

4. If the Grantee fails to respond to the notice, or if the alleged violation is not remedied within sixty days after the Grantee is notified of the alleged violation, or such other period as is agreed to between the Grantee and the City, the City shall schedule a public hearing to investigate the violation. Such public hearing shall be held at the next regularly scheduled meeting of the governing body of the City which is scheduled at a time which is no less than five business days therefrom. The City shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with an opportunity to be heard, to present and cross-examine witnesses. At such time, the City may terminate the Franchise.

5. Enforcement of the terms of this Franchise shall be under the laws of South Dakota and the United States.

6. The Grantee shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

XXXII.

EQUAL ACCESS

1. Provision of access. A cable operator, as that term is defined in Section 602(6) of the Communications Act of 1934, may not enter into any agreement with a property owner or other person controlling access to any facility having multiple occupants in four or more distinct dwelling or office units that does not provide all cable operators or video programming providers equal access to that facility.

2. Resident's rights. The intent of this section is to give occupants of such multiple dwelling or business unit facility the freedom to choose among competing cable operators or video programming providers and nothing in this section shall be interpreted to require occupants to hook up or subscribe to any services offered by any cable operator or alternative provider of cable or video service.

XXXIII.

PENALTY

Violation of this ordinance shall be punished under the general penalty provisions of the Revised ordinances of the City.

Dated this 20th Day of September, 2004

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer
Municipal Finance Officer

(SEAL)

First Reading: August 2, 2004
Second Reading: September 20, 2004
Published: October 6 & 13, 2004
Effective Date: November 3, 2004

APPENDIX A

DATE:

TO: CITY OF TEA

FROM: _____

RE: Franchise FEE Mo/Yr

Franchise fees payable for the current month were calculated using prior month revenue numbers as follows:

REVENUE TYPE	SUBSCRIBERS	REVENUE	BASE RATE	FRANCHISE FEE
BASIC			3%	
PREMIUM			3%	
OTHER			3%	
TOTAL				

Payment is attached. If you have questions or concerns, please contact Accounts Payable at (605) XXX-XXXX.

Thank you,

Appendix B

Tea School District Buildings

Tea Middle School
131 N. Poplar Ave.

Tea Primary School
500 W. Charish St.

Lincoln County Buildings

N/A

City of Tea Buildings

Community Building
(currently Tea Area School District Business Office)
200 W. Maple Ave.

City Hall
115 W. 2nd St.

Lagoon Blower Building
46901 272nd St.

Tea Maintenance Shop
510 S. Main Ave.

Tea Aquatics Complex
225 E. Brian St.

CITY OF TEA, SOUTH DAKOTA
ORDINANCE 161
2005 APPROPRIATION ORDINANCE

PART I (SDCL 9-21-2)
Be it ordained by the City of Tea that the following sums are appropriated to meet the obligations of the municipality.

	GENERAL FUND 101	3RD PENNY FUND 211	2ND PENNY FUND 212	STORM DRINAGE II FUND 220	ST. MAINT ASSESSMENT FUND 221	STORM DRAIN DEBT FUND 303	SPECIAL ASSESSMENT FUND 304	AQUATICS COMPLEX FUND 305	TOTAL
410 GENERAL GOVERNMENT									
411 Legislative	32,227								32,227
412 Executive	5,799								5,799
413 Elections	650								650
414 Financial Administration	101,884								101,884
419 Other	119,100	-	-						119,100
TOTAL GENERAL GOVERNMENT	**259,660**	-	-	-	-	-	-		**259,660**
420 PUBLIC SAFETY									
421 Police	237,190								237,190
422 Fire Department	14,780								14,780
TOTAL PUBLIC SAFETY	**251,970**	-	-	-	-	-	-		**251,970**
430 PUBLIC WORKS									
431 Highway and Streets	116,056		-		43,660				159,716
432 Sanitation	8,000								8,000
TOTAL PUBLIC WORKS	**124,056**	-	-	-	**43,660**	-	-		**167,716**
4413 WEST NILE EXPENSES	**6,000**								6,000
450 CULTURE AND RECREATION									
450 Recreation	50,830	83,119	-						133,949
TOTAL CULTURE AND RECREATION	**50,830**	**83,119**	-	-	-	-	-		**133,949**
455 LIBRARY	**10,000**								10,000
465 PLANNING & ZONING ADMIN.	**64,878**								
440 DEBT SERVICE			-						
441 Principal			7,677.61	42,418		43,538	115,000	25,000	233,634
442 Interest			8,999.87	15,945		15,187	7,130	53,448	100,709
449 Other	18,385		-						18,385
TOTAL DEBT SERVICE	**18,385**	-	**16,677.48**	**58,363**	-	**58,725**	**122,130**	**78,448**	**352,728**
510 OTHER FINANCING USES									
511 Operating Transfer - Out to 3rd Penny	20,119								20,119
511 Operating Transfer - Out to Tea Pot Day	5,000								5,000
TOTAL OTHER FINANCING USES	**25,119**	-	-	-	-	-	-		**25,119**
TOTAL 2004 APPROPRIATIONS	**810,898**	**83,119**	**16,677**	**58,363**	**43,660**	**58,725**	**122,130**	**78,448**	**1,207,142**

CITY OF TEA, SOUTH DAKTOA
ORDINANCE 161
2004 SUPPLEMENTAL APPROPRIATIONS

AN ORDINANCE PROVIDING SUPPLEMENTAL APPROPRIATIONS IN THE AMOUNT OF $312,601.06 FOR THE YEAR 2004 FROM UNOBLIGATED MONIES.

BE IT ORDAINED BY THE CITY OF TEA, SOUTH DAKOTA, that the finance officer is herby authorized and directed to appropriate as shown below:

General Fund 101		
	419 Engineering	$ 63,000.00
	419 Government Buildings	$132,000.00
	421 Public Safety	$ 21,100.00
	431 Street	$ 21,501.06
	Total General Fund	$237,601.06
3rd Penney Sales Tax Fund 211		
	450 Recreation	$ 24,000
2nd Penney Sales Tax Fund 212		
	422 Fire Department	$ 51,000

This Ordinance shall take effect upon its passage and publication in accordance with the law.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading:	December 6, 2004
Second Reading	December 20, 2004
Published:	January 5, 2004
Effective:	January 25, 2004

CITY OF TEA, SOUTH DAKOTA
ORDINANCE 165
2006 APPROPRIATION ORDINANCE

PART I (SDCL 9-21-2)
Be it ordained by the City of Tea that the following sums are appropriated to meet the obligations of the municipality.

	GENERAL FUND 101	3RD PENNY FUND 211	2ND PENNY FUND 212	STORM DRINAGE II FUND 220	ST. MAINT ASSESSMENT FUND 221	STORM DRAIN DEBT FUND 303	AQUATICS COMPLEX FUND 305	TOTAL
410 GENERAL GOVERNMENT								
411 Legislative	58,630							58,630
412 Executive	8,396							8,396
413 Elections	700							700
414 Financial Administration	122,400							122,400
419 Other	111,500	-	350,000					461,500
TOTAL GENERAL GOVERNMENT	**301,626**	**-**	**350,000**	**-**	**-**	**-**		**651,626**
420 PUBLIC SAFETY								
421 Police	265,686							265,686
422 Fire Department	20,517							20,517
TOTAL PUBLIC SAFETY	**286,203**	**-**	**-**	**-**	**-**	**-**		**286,203**
430 PUBLIC WORKS								
431 Highway and Streets	254,491		110,000.00		46,000			410,491
432 Sanitation	8,000							8,000
TOTAL PUBLIC WORKS	**262,491**	**-**	**110,000.00**	**-**	**46,000**	**-**		**418,491**
4413 WEST NILE EXPENSES	**4,000**							4,000
450 CULTURE AND RECREATION								
450 Recreation	31,182	81,000	-					112,182
TOTAL CULTURE AND RECREATION	**31,182**	**81,000**	**-**	**-**	**-**	**-**		**112,182**
455 LIBRARY	**32,500**							32,500
465 PLANNING & ZONING ADMIN.	**70,004**							
440 DEBT SERVICE			-					
441 Principal			7,677.61	42,418		43,538	30,000	123,634
442 Interest			8,999.87	15,946		15,187	52,623	92,756
449 Other	-		-					-
TOTAL DEBT SERVICE	**-**	**-**	**16,677.48**	**58,364**	**-**	**58,725**	**82,623**	**216,389**
510 OTHER FINANCING USES								
511 Operating Transfer - Out to Sewer Fund	50,000							50,000
511 Operating Transfer - Out to Tea Pot Day	13,500							13,500
TOTAL OTHER FINANCING USES	**63,500**	**-**	**-**	**-**	**-**	**-**		**63,500**
TOTAL 2004 APPROPRIATIONS	**1,051,506**	**81,000**	**476,677**	**58,364**	**46,000**	**58,725**	**82,623**	**1,784,891**

CITY OF TEA
ORDINANCE 167

AN ORDINANCE AMENDING THE MUNICIPAL SALES AND SERVICE TAX AND A USE TAX FOR THE MUNICIPALITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA as follows:

Section 1. **PURPOSE.** The purpose of this article is to provide additional needed revenue for the Municipality of Tea by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by SDCL 10-52-1 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereunto.

Section 2. **EFFECTIVE DATE AND ENACTMENT OF TAX.** From and after the first day of January, 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by 2% on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Tea, LINCOLN County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

Section 3. **USE TAX.** In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal or services purchased from and after the first of January, 2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

Section 4. **COLLECTION.** Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rule and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

Section 5. **INTERPRETATION.** It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the south Dakota Use Tax, SDCL 10-46 and acts amendatory hereto, and that this shall be considered a similar tax exempt for the same rate thereof to that tax.

Section 6. **PENALTY.** Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than $200.00 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

Section 7. **SEPARABILITY.** If any provision of this ordinance is declared unconstitutional or the

application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

Section 8. **ADMINISTRATIVE ACT.** This ordinance is adopted to amend the existing sales tax ordinances in order to comply legislation passed during the 2005 South Dakota Legislative Session. Any changes to the existing sales tax ordinance are administrative and therefore not subject to referendum.

Section 9. **REPEAL.** Any ordinance inconsistent with or in conflict with this ordinance is hereby repealed.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy
Municipal Finance Officer

(SEAL)

First Reading: September 19, 2005
Second Reading: October 17, 2005
Published: November 2, 2005
Effective Date: January 1, 2006

ORDINANCE NO. 168

AN ORDINANCE TO REGULATE VIDEO LOTTERY ESTABLISHMENTS WITHIN THE CORPORATE LIMITS OF THE CITY OF TEA.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA:

Section 1. No authorization for a video lottery machine placement will be granted to an establishment within 1,000 feet of:

1. Any city park;
2. Other video lottery machine placement; or
3. An elementary or secondary school within the city

The distance will be measured from the closest point of the outside wall of either of such buildings or tenant space or the boundary of any park.

Section 2. In addition to the above, the City may deny authorization of video lottery placement pursuant to SDCL 42-7A-64 and any amendments thereto.

Section 3. The provisions of this section shall not apply to any video lottery machine placement authorized prior to October 1, 2005.

Mayor

ATTEST:

Finance Officer

First Reading: October 3, 2005

Second Reading: October 17, 2005

Publication Date: November 2, 2005

Effective Date: November 22, 2005
(20 days after last publication):

CITY OF TEA, SOUTH DAKTOA
ORDINANCE 169
2005 SUPPLEMENTAL APPROPRIATIONS

AN ORDINANCE PROVIDING SUPPLEMENTAL APPROPRIATIONS IN THE AMOUNT OF $483,000 FOR THE YEAR 2005 FROM UNOBLIGATED MONIES.

BE IT ORDAINED BY THE CITY OF TEA, SOUTH DAKOTA, that the finance officer is herby authorized and directed to appropriate as shown below:

3rd Penney Sales Tax Fund 211		
	450 Recreation	$ 10,000
2nd Penney Sales Tax Fund 212		
	431 Highway/Streets	$ 57,000
Street Maintenance Fune 221		
	431 Highway/Streets	$ 31,000.00
Capital Project Fund 502 Public Safety Building		
	419 Government Buildings	$200,000.00
Capital Project Fund 504 W. Brian St. Extension Project		
	431 Highway/Streets	$185,000.00

This Ordinance shall take effect upon its passage and publication in accordance with the law.

John M Lawler
John M. Lawler, Mayor

ATTEST:
Dawn R Murphy
Dawn R. Murphy, Finance Officer

First Reading: December 5, 2005
Second Reading December 19, 2005
Published: January 4, 2006
Effective: January 24, 2006

CITY OF TEA

ORDINANCE 170

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION. The Legislature of the State of South Dakota has in (statutes) SDCL 9-36 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the common council of Tea, South Dakota, does ordain as follows:

SECTION B. FINDINGS OF FACT

1) The flood hazard areas of Tea 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 loses 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.

SECTION C. 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.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

1) In order to accomplish its purposes, this ordinance uses the following methods:
2) 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;
3) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
4) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
5) Control filling, grading, dredging and other development which may increase flood damage;
6) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE II
DEFINITIONS

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.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three 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.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD -means the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT -means any man-made change in improved and 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.

ELEVATED BUILDING -means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

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."

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.

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 manufactured 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).

FLOOD OR FLOODING -means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1) The overflow of inland or tidal waters.
2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction. **FLOOD PROTECTION SYSTEM** -means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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.

FLOODWAY (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.

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.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

1) 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;
2) 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;
3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
    a) by an approved state program as determined by the Secretary of the Interior or;
    b) directly by the Secretary of the Interior in states without approved programs.

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.

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.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 requirement of Section 60.3 of the National Flood insurance Program regulations.

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 connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

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.

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.

NEW CONSTRUCTION - means, for the purpose 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.

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.

RECREATIONAL VEHICLE - means a vehicle which is:

1) built on a single chassis;
2) 400 square feet or less when measured at the largest horizontal projections;
3) designed to be self-propelled or permanently towable by a light duty truck; and
4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

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 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.

STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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.

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 "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1) 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 conditions or
2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 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.

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 floodplains of coastal or riverine areas.

ARTICLE III

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Tea.

SECTION B. 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 Tea," dated 10-1-86, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT. A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. 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.

SECTION E. 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.

SECTION F. 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.

SECTION G. 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 there under.

ARTICLE IV ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Planning and Zoning Director 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.

SECTION B. 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 permit application to determine whether proposed building site, 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.
6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

SECTION C. PERMIT PROCEDURES 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:

1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2) Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
3) A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Article 5, Section B(2);
4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5) Maintain a record of all such information in accordance with Article 4, Section (B)(1).

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:

1) The danger to life and property due to flooding or erosion damage;
2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3) The danger that materials may be swept onto other lands to the injury of others;
4) The compatibility of the proposed use with existing and anticipated development;
5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
6) 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;
7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8) The necessity to the facility of a waterfront location, where applicable;
9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10) The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. 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 the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

6) 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(2) 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.

7) 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 (Article 1, Section C).

8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

9) 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.

10) 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:

      1) showing a good and sufficient cause;

      2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

      3) 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.

11. 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:

    a) the criteria outlined in Article 4, Section D(1)-(9) are met, and

    b) 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.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. 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.

SECTION B. SPECIFIC STANDARDS. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B(8), or (iii) Article 5, Section C(3), the following provisions are required:

1) **Residential Construction** -new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C(1)a., is satisfied.
2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.

3) **Enclosures -** new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

   a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

   b) The bottom of all openings shall be no higher than one foot above grade.

   c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. **Manufactured Homes**

   a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

   b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

   c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

      1) the lowest floor of the manufactured home is at or above the base flood elevation, or

      2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

   a) be on the site for fewer than 180 consecutive days,

   b) be fully licensed and ready for highway use, or

   c) meet the permit requirements of Article 4, Section C(1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of 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 Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.

3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.

4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5) 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.

SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES) Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

2) All new construction and substantial improvements of **non-residential** structures;

   a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;

b) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C (1)a., are satisfied.

Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

ARTICLE VI
PENALTY

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 $ 200 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 Tea from taking such other lawful action as is necessary to prevent or remedy any violation.

CERTIFICATION

It is hereby found and declared by Tea that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

APPROVED: John M Lawler
(community official)

PASSED: MAY 1, 2006
(date)

I, the undersigned, DAWN R MURPHY, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City of TEA (community), at a regular meeting duly convened on MAY 1, 2007 (date).

Dawn R Murphy
(Secretary or responsible person)

(SEAL)

CITY OF TEA, SOUTH DAKTOA
ORDINANCE 173
2006 SUPPLEMENTAL APPROPRIATIONS

AN ORDINANCE PROVIDING SUPPLEMENTAL APPROPRIATIONS IN THE AMOUNT OF $2,750,000 FOR THE YEAR 2006 FROM UNOBLIGATED MONIES.

BE IT ORDAINED BY THE CITY OF TEA, SOUTH DAKOTA, that the finance officer is herby authorized and directed to appropriate as shown below:

General Fund 101		
	419 Engineering Fees	15,000
	5111 Operating Transfer Out	175,000
3rd Penney Sales Tax Fund 211		
	450 Recreation	6,000
2nd Penney Sales Tax Fund 212		
	4400 Debt Service	100,000
	5110 Operating Transfer Out	695,000
Capital Project Fund 502 Public Safety Building		
	419 Government Buildings	1,400,000
Capital Project Fund 503 Apply St Water/5th St/Brian St.		
	419 Engineering Fees	30,000
	431 Highway Streets	123,000
	433 Water Distribution	177,000
Capital Project Fund 504 W. Brian St. Extension Project		
	431 Highway/Streets	14,000
Capital Project Fund 506 SIDEWALK PROJECT		15,000

This Ordinance shall take effect upon its passage and publication in accordance with the law.

John M. Lawler, Mayor

ATTEST:

Dawn R. Murphy, Finance Officer

First Reading:	December 4, 2006
Second Reading	December 18, 2006
Published:	January 4, 2007
Effective:	January 24, 2007

ORDINANCE # 174

ORDINANCE NO. 174 AMENDING SECTION 1102 AND ADDING SECTION 1103 OF THE SUBDIVISION REGULATIONS FOR THE CITY OF TEA, SOUTH DAKOTA, REGARDING ARTERIAL AND COLLECTOR STREET DEVELOPMENT AND HALF-STREETS.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMON COUNCIL OF THE CITY OF TEA, SOUTH DAKOTA:

That Section 1102 is amended and Section 1103 is added to the SUBDIVISION REGULATION FOR THE CITY OF TEA to read as follows:

Section 1102 Arterial and Collector Street development.

In order to maintain the traffic carrying capacity of the arterial streets by limiting access to it from individual lots, and in order to protect the residents of property adjacent to arterial streets for the high traffic volumes associated with the street, property along such streets shall be subdivided in the manner set forth below:

1. *Double frontage lots.* Where double frontage lots are used, an extra lot depth or width shall be required to provide for an extra setback to offset the impact of high traffic volume. When double frontage lots are proposed, the developer shall be required to pay a sufficient amount of money for the assessments on the arterial or collector street or shall finance and complete construction of the arterial or collector street to city specifications prior to plat approval. City specifications include the construction of sidewalks and bike paths.

2. Whenever an arterial or collector street, including sidewalks, has been constructed for which the cost has not been apportioned against the property located outside the city limits, but which abuts an arterial or collector street constructed with City funds or by special assessments and which benefits the property located outside the city limits, the property shall pay its proportionate share of the cost of such construction, without interest, according to the benefits to accrue to such property before may be served by the street. Costs shall be apportioned and administered pursuant to the following:

   a. If the owner dedicates for public use all right-of-way and easements required by the city for construction of the arterial or collector, and receives no direct access to the street, no costs will be due.

   b. Recovery costs required by this subsection shall be paid prior to platting or replatting for development.

   c. The recovered costs shall be deposited in a city street fund and shall be used only for new street construction.

   d. The arterial and collector cost recovery shall be reviewed annually an adjusted as necessary to reflect the actual costs of arterial street construction.

3. Corner lots, the developer shall be required to pay a sufficient amount of money for the assessments on the undeveloped portion.

4. The City Engineer, based on current rates shall determine the amount to be paid.

Section 1103 Half-Street

If, in the discretion of the City of Tea, half-streets shall be permitted;

a. Whenever an existing half-street is adjacent to a tract being subdivided, the other half of the street may be platted within said subdivision.

b. A preliminary plan of a subdivision may show half a street along adjoining property which has not been subdivided. No lot abutting such half street shall have a building permit issued for it until such time as the half street is dedicated and curb and gutter is installed.

Dated this 16th day of April, 2007.

Mayor

ATTEST:

Finance Officer

First Reading: February 20, 2007

Second Reading: April 16, 2007

Publication Date: May 2, 2007

Effective Date: May 22, 2007
(20 days after last publication):

ORDINANCE # 175

CITY OF TEA

AN ORDINANCE ESTABLISHING A RECREATION BOARD, WITHIN THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA, PURSUANT TO SDCL, CHAPTER 9-38.

WHEREAS, the City Council of Tea, South Dakota, deems it necessary for the purpose of promoting the health, safety, morals or the general welfare of the City of Tea, that a Recreation Board be established, NOW THEREFORE;

BE IT ORDAINED BY THE CITY OF TEA, LINCLON COUNTY, SOUTH DAKOTA:

Section 1: PURPOSE. The purpose of this Ordinance is to establish a Recreation Board pursuant to and as authorized by SDCL Chapter 9-38 of the South Dakota Codified Laws within the City of Tea, South Dakota, for purposed of improving and the betterment of the community.

Section 2: AUTHORITY. The Recreation Board as hereinafter created shall control and supervise the public park of the municipality, including all ball grounds, subject rules, regulation and responsibilities as may be prescribed by the City Council.

Section 3: QUALIFICATIONS. The Recreation Board shall be comprised of seven (7) individuals of majority age.

Section 4: TERMS. The members shall serve on the Recreation Board for a three (3) year term to serve without pay and at the pleasure of the City Council. Board members should have established terms of 1-3 years, with only one-third of the terms expiring at the same time.

Section 5: APPOINTMENT. The members shall be selected and appointed during the month of September of the year that the three (3) year terms are scheduled to expire, except as further provided in Section II.

Section 6: MEETINGS. Board meetings shall be held at such times as the Recreation Board may determine to be necessary but shall be no less than one time annually. At least 4 of the 7 members shall be necessary to conduct a meeting. In such event that only four members are present, any decisions that are made shall require unanimous vote.

Section 7: OFFICERS. The Recreation Board shall consist of a President who shall control all meetings of the Recreation Board. The Recreation Board shall also contain a Secretary to take the minutes of the meetings and receive mail correspondences and a Treasurer, who shall be responsible for keeping of the books of the Recreation Board.

Section 8: RULES AND REGULATIONS. The Recreation Board shall adopt rules necessary to the conduct of its affairs and in the keeping with the provisions of this Ordinance, subject to the review and approval of the City Council.

Section 9: MONTHLY ACCOUNTING. The Recreation Board shall show annual monthly activities and financial reports to the City Council of its acts and all its expenditures, showing the condition of all affairs under its control. The City Council may require a report from such board at any time, and the records, books, papers and accounts of the board shall at all times be subject to inspection by the City Council.

Section 10: FISCAL YEAR. The fiscal year of the Recreation Board shall run from January 1st through December 31st.

Section 11: REMOVAL. The City Council reserves the right to remove a member of the Recreation Board. Prior to the expiration of the three (3) year term. And appoint a new member who shall serve out the remaining term of the member that was removed. In addition, the City Council shall fill any vacancies that may be created who shall serve out the term in a similar manner.

Section 12: EFFECTIVE DATE AND ENACTMENT. This Ordinance shall become effective twenty (20) days after the last date of publication of said Ordinance.

Section 13: SEPARABILITY. If any provision of this Ordinance is declared unconstitutional of the application thereto to any person or circumstances held invalid the constitution of the remainder of the Ordinance and applicability thereto to other person or circumstances shall not be affected thereby.

Dated this 20th day of February, 2007.

Mayor

ATTEST:

Finance Officer

First Reading: February 5th, 2007

Second Reading: February 20th, 2007

Publication Date: March 7, 2007

Effective Date: March 27th, 2007
(20 days after last publication):

ORDINANCE NO. 176

AN ORDINANCE AMENDING CHAPTER 4, R-1: SINGLE FAMILY RESIDENTIAL DISTRICT, OF THE ZONING REGULATIONS OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA:

Section 1. That Chapter 4, R-1: Single Family Residential District, of the Tea Zoning Regulations is hereby amended in its entirety to read as follows:

R-1: RESIDENTIAL DISTRICT

This district is intended to provide for areas of low residential density. This district provides for single-family dwellings, two-family dwellings and such supportive community facilities as parks, playgrounds, schools, libraries and churches. It is intended that this district provide protection for those areas existing as or planned for single-family neighborhoods.

4.01 Permitted Uses

Permitted Use	Applicable Standards
Single-family detached dwellings	11.02, 11.04, 11.06, 11.06A, 11.06B, 11.10, 11.11
Churches	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 11.02, 11.04, 11.11 One freestanding sign as allowed within 11.06
Libraries	All parking lots being 8 feet from all residential properties 11.02, 11.04, 11.11 One freestanding sign as allowed within 11.06
Schools	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 11.02, 11.04, 11.11 One freestanding sign as allowed within 11.06
Public Park Areas	11.02, 11.06, 11.06A, 11.06B One freestanding sign as allowed within 11.06
Accessory structure (i.e. garage, shed)	11.03, 11.02 *(see definition)*
Neighborhood Utilities	11.02

Permitted Use	Applicable Standards
Fences	11.08
Electrical Substation	An opaque screen, six feet in height located at all setback lines 11.11, 11.02
Conditional Uses	
Single-family attached dwellings (up to 2 dwellings)	11.02, 11.04, 11.06, 11.06A, 11.06B, 11.10, 11.11, 18.01 (includes twin homes)
Group Day Care	A safe pickup and drop off area must be provided for the children All single family standards apply 18.01
Bed and Breakfast	11.14, 18.01 & all single-family detached dwelling standards One freestanding sign as allowed within 11.06
Group Home (see definition)	18.01 Structure must be a single housekeeping unit Applicant must provide copy of state agency license All single-family detached dwelling standards apply
Public Service Facilities	11.02, 11.04, 11.06, 11.06A, 11.06B, 11.11,18.01 One of the principal frontages of the premises shall abut an arterial or collector street One freestanding sign not to exceed 20 square feet in area
Home occupations	11.12, 18.01 and all applicable dwelling standards

4.02 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04). Lot coverage shall not exceed 50% in R-1 Districts.

	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Single Family Detached	7,500 sq ft (per lot)	75 feet see #1, #3	25 feet see #6	7 feet see #1, #4	25 feet	35 feet
Single Family Attached (2) 2 lots	7,500 sq ft	75 feet	25 feet see #6	7 feet see #2, #4	25 feet	35 feet
Single Family Attached (2) 1 lot	7,500 sq ft	90 feet	25 feet see #6	7 feet see #4	25 feet	35 feet
All other uses	7,500 sq ft	75 feet	25 feet see #6	15 feet see #4	25 feet	35 feet

Exceptions

#1 A residence may be constructed on a lot-of-record which has a lot width of less than 75 feet.

#2 The sideyard is 0 feet on the party wall side of the structure.

#3 A lot located on a cul-de-sac bulb shall have a lot width of not less than 50 feet.

#4 There shall be a required front yard on each street side of a double frontage lot.

#5 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

#6 The front yard along the side street of a corner lot may be reduced to 20 feet.

Adopted this _____ day of _____, 2007.

_____
Signed: John Lawler
Mayor, City of Tea

ATTEST:

_____
Dawn Murphy
Finance Officer, City of Tea

Seal

First Reading: _____
Second Reading & Adoption: _____
Publication: _____
Effective Date: _____

ORDINANCE NO. 177

AN ORDINANCE AMENDING CHAPTER 5, R-2: MULTI-FAMILY RESIDENTIAL DISTRICT, OF THE ZONING REGULATIONS OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA:

Section 1. That Chapter 5, R-2: Multi-Family Residential District, of the Tea Zoning Regulations is hereby amended in its entirety to read as follows:

R-2: RESIDENTIAL DISTRICT

This district is intended to provide for areas of moderate to high residential density. This district provides for single-family, two-family, townhouse and multiple-family residential uses plus support facilities such as schools, parks, community buildings and churches.

5.01 Permitted Uses

Permitted Use	Applicable Standards
Multiple Dwellings (3 or more dwellings)	11.02, 11.04, 11.10, 11.11 one freestanding sign allowed as allowed within 11.06
Single-family detached dwellings	11.02, 11.04, 11.06, 11.06A, 11.06B, 11.10, 11.11
Single-family attached dwellings (2-8)	11.02, 11.04, 11.06, 11.06A, 11.06B, 11.10, 11.11 (this includes town homes, twin homes and duplexes)
Churches	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street 11.02, 11.04, 11.11 One freestanding sign as allowed within 11.06
Public Park Areas	11.02, 11.06, 11.06A, 11.06B One freestanding sign as allowed within 11.06
Libraries	All parking lots being 8 feet from all residential properties 11.02, 11.04, 11.06, 11.06A, 11.06B, 11.11 One freestanding sign as allowed within 11.06
Schools	All parking lots being 8 feet from all residential properties One of the principle frontages shall abut upon an arterial or collector street See 11.02, 11.04, 11.08, 11.09 One freestanding sign as allowed within 11.06

Permitted Use	Applicable Standards
Fences	11.08
Accessory structure (i.e. garage, shed)	11.03, 12.02 *see definition*
Neighborhood Utilities	See 11.02
Electrical Substation	An opaque screen, six feet in height located at all setback lines See 11.02, 11.11
Conditional Uses	
Group Day Care	A safe pickup and drop off area must be provided for the children All applicable dwelling standards apply 18.01
Group Home (see definition)	Structure must be a single housekeeping unit Applicant must provide copy of state agency license All single-family detached dwelling standards apply 11.04, 18.01
Assisted Living Facility	Applicant must provide copy of Department of Health license All multiple dwelling standards apply One freestanding sign as allowed within 11.06 11.04, 11.11, 18.01
Nursing Home	Applicant must provide copy of Department of Health license 11.02, 11.04, 11.11, 18.01 One freestanding sign as allowed within 11.06
Home occupations	11.12, 18.01 and all applicable dwelling standards
Public Service Facilities	11.02, 11.04, 11.06, 11.06A, 11.06B, 11.11,18.01 One of the principal frontages of the premises shall abut an arterial or collector street One freestanding sign not to exceed 20 square feet in area
Bed and Breakfast	11.14 & all single-family detached dwelling standards One freestanding sign as allowed within 11.06 18.01
Convent/Monastery	11.02, 11.04, 11.06, 11.06A, 11.06B, 11.11, 18.01 one freestanding sign as allowed within 11.06

5.02 Lot and Yard Regulations

All measurements shall be taken from the lot line to the building line (see definitions). A parking lot is not included as a portion of a side yard or rear yard (see 11.04).

	Density	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
3 to 8 multiple dwellings	2,500 sq ft	7,500 sq ft	50 feet	25 feet see #6	5 feet see #1, #4	10 feet see #4	45 feet
9 to 12 multiple dwellings	2,500 sq ft	22,500 sq ft	75 feet	25 feet see #6	15 feet see #1, #4	10 feet see #4	45 feet
over 12 multiple dwellings	2,500 sq ft	30,000 sq ft	100 feet	25 feet see #6	15 feet see #1, #4	10 feet see #4	45 feet
Single Family Detached	6,500 sq ft	6,500 sq ft	65 feet see #2	25 feet see #6	5 feet see #4	25 feet	45 feet
Single Family Attached (2-8 units)	3,000 sq ft	6,500 sq ft	65 feet	25 feet see #6	5 feet see #3 & #4	25 feet	45 feet
All other uses		7,500 sq ft	75 feet	25 feet see #6	15 feet see #1, #4	25 feet	35 feet

Exceptions

#1 The sideyard will be required to be increased to 10 feet when the building is three stories in height or more.

#2 A residence may be constructed on a lot-of-record which has a lot width of less than 65 feet.

#3 The sideyard is zero (0) feet on the party wall side of the structure.

#4 There shall be a required front yard on each street side of a double frontage lot.

#5 See also Adjustment to Yard Regulations (Chapter 12) for other specific exceptions.

#6 The front yard along the side street of a corner lot may be reduced to 20 feet.

Adopted this _____ day of _____, 2007.

_____
Signed: John Lawler
Mayor, City of Tea

ATTEST:

_____
Dawn Murphy
Finance Officer, City of Tea

Seal

First Reading: _____
Second Reading & Adoption: _____
Publication: _____
Effective Date: _____

ORDINANCE NO. 179

AN ORDINANCE ADDING SECTION 11.06C, ILLUMINATION, AND SECTION 11.06D, TEMPORARY PORTABLE SIGNS, TO CHAPTER 11, ADDITIONAL USE REGUATIONS, OF THE ZONING REGULATIONS OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA:

Section 1. That Chapter 11, Additional Use Regulations, of the Tea Zoning Regulations is hereby amended by adding a new section, 11.06C, thereto as follows:

11.06C Illumination

Regulations regarding the illumination of signs shall be as follows:

A. Shading. The light from any illuminated sign or billboard shall be so shielded, shaded, or directed so that the light intensity shall not adversely affect surrounding or facing premises or safe vision of operator's of vehicles on public or private roads.

B. Blinking and Flashing. Blinking, flashing, pulsating, or fluttering lights, or other illuminated devices, which have a changing light, shall be permitted only on flat wall signs, roof signs and marquee signs on places of entertainment and shall not be located closer than 300 feet from any residential district. This restriction shall not apply to signs displaying the date, time, and temperature exclusively.

C. Electronic message signs. Any permitted signs may be, or may include as an individual component of the total allowable sign area, electronic message signs, except that such signs displaying a flashing or traveling message are prohibited. Electronic messages or graphic displays may be changed at periodic intervals by various entry and exit display modes, provided that the maximum message time for a multiframe message shall be ten seconds with up to five display changes per sequence.

Section 2. That Chapter 11, Additional Use Regulations, of the Tea Zoning Regulations is hereby amended by adding a new section, 11.06D, thereto as follows:

11.06D Temporary and Portable Signs

Temporary and portable signs shall not exceed 32 square feet and may be displayed for grand openings or promotions for 60 days per calendar year in the CB, GB, LI and HI. It shall be the duty of the user of the sign to:

A. Notify and obtain approval from the City Planning and Zoning Administrator prior to placement of said sign.

B. Notify the City Planning and Zoning Administrator upon removal of said sign. The City Planning and Zoning Administrator shall continue to deduct one day from the 60 days allowed per calendar year until notice of removal is received or a total of 60 days has elapsed.

C. Place the signs in locations so that the provisions of this article and all other applicable codes and ordinances are complied with.

Temporary and portable signs, when used in conjunction with roadside stands, shall be authorized as part of the conditional use permit granted to such uses.

Adopted this _____ day of _____, 2007.

_____
Signed: John Lawler
Mayor, City of Tea

ATTEST:

_____
Dawn Murphy
Finance Officer, City of Tea

Seal

First Reading: _____
Second Reading & Adoption: _____
Publication: _____
Effective Date: _____

ORDINANCE NO. 180

AN ORDINANCE AMENDING CHAPTER 11, SECTION 11.08, FENCES, OF THE ZONING REGULATIONS OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA:

Section 1. That Section 11.08, Fences, of the Tea Zoning Regulations is hereby amended in its entirety to read as follows:

11.08 Fences

Fences may be erected in required yards, provided they meet or exceed the following requirements:

A. No barbed wire fence shall be erected or maintained.

B. No fence shall be erected or maintained in such manner as to unreasonably obstruct the view of others or their access to light or air.

C. For R-1, R-2, or MH District - Fences up to four (4) feet in height may be located on any part of the lot except that such a fence may not be more than 30 percent solid if located within 30 feet of a street intersection, measuring along the property line. Fences up to six (6) feet in height may be erected on those parts of a lot that are as far back or farther back from the street than the main building.

Exceptions:

1. Fences up to six (6) feet in height may be placed in the side-street-side front yard where:

   a. The side-street-side front yard abuts an arterial or collector street shown on the major street plan.

   b. The side-street-side front yard is not adjacent to a side yard.

   c. The fence is located no closer to the front yard than the rear wall of the main building.

   d. No driveways exit on to the arterial street.

D. For CB, GB, LI, or HI District - Fences not more than eight (8) feet in height may be located on any part of a lot other than in the required front yard setback except when such lot is adjacent to a residential use.

E. No fence shall be erected which violates *11.02 - Visibility at Intersections.*

F. To preserve the neighborhood character of the Residential district, fences along the perimeter of a front yard shall be of a traditional design and shall not be more than 30 percent solid.

G. The maximum fence height for golf courses, public swimming pools, school track and field areas, parks and ball parks shall be eight (8) feet and for public tennis courts twelve (12) feet on any portion of the lot. Fences associated with these uses shall not be more than 30 percent

solid.

Adopted this _____ day of _____, 2007.

_____
Signed: John Lawler
Mayor, City of Tea

ATTEST:

_____
Dawn Murphy
Finance Officer, City of Tea

Seal

First Reading: _____
Second Reading & Adoption: _____
Publication: _____
Effective Date: _____

ORDINANCE NO. 181

AN ORDINANCE AMENDING CHAPTER 11, SECTION 11.11, LANDSCAPING STANDARDS, OF THE ZONING REGULATIONS OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA:

Section 1. That Section 11.11, Landscaping Standards, of the Tea Zoning Regulations is hereby amended in its entirety to read as follows:

11.11 Landscaping Standards

It is the desire of the City of Tea to encourage development which is environmentally sensitive, socially responsive, as well as aesthetically pleasing. To assist in these objectives, a minimum standard for a landscaped setback is prescribed, and landscape features are implemented to minimize the adverse effects commonly incidental to higher density residential, commercial and industrial property improvements. Under no circumstances is the use of artificial plantings acceptable to meet the requirements of this ordinance.

A. Required landscaping of front yard setbacks: At least 90 percent of the required front yard setback in any zoning district shall be landscaped and maintained with living ground cover. The required setback may include necessary hard surfacing of driveways to reach allowable parking, loading or stacking areas. Poured or laid asphalt, concrete or similar hard surfacing shall not be used as allowable landscape material. Landscape areas must be capable of providing a substantially full expanse of foliage within three years after planting.

B. Trees: Valuing the benefits provided from the use of trees in reducing heat, pollution, and the loss of habitat resulting from the use of expansive areas of hard surfacing for parking purposes, the following standards regarding trees shall be met and maintained:

1. Total number of trees required: Trees shall be required at the rate of one tree per 50 feet of frontage or one tree per six parking, loading and stacking spaces provided on the site, whichever is greater. Where fractional trees result, the number of required trees shall be rounded to the nearest whole number.

   Exception: If parking facilities or building can utilize zero setbacks, one tree per 50 feet of frontage shall be provided within the right-of-way subject to approval by the city engineer.

2. Placement according to type and percentage allowed:

   Deciduous shade tree--May be utilized for 100 percent of the total tree requirement. Only deciduous shade trees may be utilized for required interior trees or optional right-of-way planting, and no more than 20 percent of the total tree requirement may be planted in the right-of-way area.

   Deciduous ornamental and evergreen or coniferous trees --Up to 25 percent of the required trees may be deciduous ornamental, evergreen or coniferous trees; however, they shall not be planted in a driveway or intersection safety zone nor utilized for parking lot interior trees or right-of-way plantings.

3. Interior tree requirements: When unenclosed interior parking spaces are provided on the site, one tree shall be required for every 18 interior parking spaces. Every interior tree shall be located in a planting island entirely within the hard-surfaced area utilized for parking and maneuvering purposes. Said islands shall have dimensions of at least five feet wide and contain a minimum of 36 square feet per tree. Planting islands shall utilize raised curbs or wheelstops necessary to prevent damage from vehicles.

4. Existing tree bonus: The city encourages preservation of any existing trees on a site which are in good condition and at least one- and three-quarter-inch caliper in size. Such trees may be counted as part of the required number of trees on a site. A credit of two trees toward the number of required trees shall be given for each existing tree on a site that is of an acceptable species which is over ten-inch caliper in size. This credit, however, may not be applied in reducing the number of required interior trees.

5. Unlawful cutting of trees or shrubs: No person may top, severely trim, destroy, or remove any trees, shrubs, or other vegetation in any area where such trees or shrubs are required to be placed under this code. Target pruning of trees shall not exceed 25 percent of the canopy height.

6. Tree and shrubbery replacement: Any required trees or shrubs that are removed shall be replaced with similar plant material size and type in accordance with the standards of this code or permits issued under this code. Any required mature deciduous tree which has been removed shall be replaced with a similar plant type with a two and one-half inch minimum caliper size. Any required mature evergreen or coniferous tree shall be replaced with a similar type tree with a minimum height of six feet. Any required mature shrubbery which is removed shall be replaced with a similar plant type that has a three gallon minimum pot size.

C. Parking lot buffer areas: A setback area of at least five feet shall be provided between the parking surface and property line where a parking lot abuts neighboring residentially used property.

Exception: Where a screen fence or wall is provided, the required setback may be reduced to two feet.

D. Parking lot screening: A fence, wall, berm, or shrubbery four feet in height and of a character necessary for adequate screening of a parking lot from adjacent residentially used property shall be provided. Where the residentially used property is across the right-of-way from a parking area, screening shall be provided in all cases except when the right-of-way is an arterial street.

Berms or other landscaping techniques may be used for all or part of the screening requirement and may be incorporated into a required landscape setback area. Berms shall have a maximum grade of three feet horizontal to one foot vertical and shall be sodded or planted with other acceptable living ground cover.

E. Screening dumpsters: All outside dumpsters or other garbage receptacles on the site shall be screened by an opaque fence or wall a minimum of six feet in height.

F. Installation requirements: A minimum of one tree per 50 feet of street frontage shall be planted in the required front yard setback. Trees shall be located no closer than two feet to any curb or hard-surfaced area, and all landscape materials required by this section shall be installed in accordance with accepted industry standards. Minimum planting sizes of landscape materials to meet the requirements of this ordinance are as follows:

1. Hedges: If hedges are utilized for the required screening of a parking lot, plantings shall be a minimum of 18 inches above ground level and of a species that is normally capable of reaching a height of four feet within three years. Spacing shall be 18 to 36 inches apart, depending upon species.

2. Ground covers and shrubs: If ground covers or shrubs are utilized in areas required to be landscaped, plantings shall be a minimum two to five gallon pot size and be spaced no more than four feet on center depending upon species.

3. Deciduous shade tree: A minimum of one and three-quarters inch caliper measured at a point six inches above immediate ground level and normally capable of reaching a height of 30 feet or more at maturity.

4. Deciduous ornamental tree: A minimum of one and one-fourth inch caliper measured at a point six inches above immediate ground level normally growing to a height of less than 30 feet at maturity.

5. Evergreen or coniferous tree: A minimum height of five feet measured above immediate ground.

G. Maintenance: The use of in-ground sprinkler systems is encouraged, and at a minimum, water services shall be conveniently located to provide a permanent and easily accessible means of watering. Property owners shall be ultimately responsible for the proper maintenance of all required landscape materials, and any dead or substantially damaged landscape materials shall be replaced.

H. Lighting Standards: When property is adjacent to or within 150 feet of residentially used or zoned property, the following lighting standards apply:

1. The maximum light level shall be no greater than three (3) foot candles field measured at the property line (ground level).

2. The maximum height of light luminaries shall be 25 feet above the ground.

3. Canopy luminaries and other on-site lighting with luminaries greater than 2000 lumens shall include a 90-degree cut-off type, deflector, refractor, or forward throw light fixture.

4. The maximum number of canopy luminaries shall be determined by the following industry standard:

$$\frac{\text{Canopy length (in feet) x canopy width (in feet) x 3}}{\text{Luminaries Lamp wattage}} = \text{Maximum No. of}$$

All other light luminaries shall have a maximum height of 38 feet above the ground. Submittal of photometric plans shall be required with all site plan checks for building projects on property with lighted parking lots or lighted canopies.

The following structures or uses are exempt from these lighting standards: public recreation facilities, parks, pedestrian walkways, illuminated flags or statues, airport runways, telecommunication towers, broadcast towers, and historic period lighting.

Adopted this _____ day of _____, 2007.

_____
Signed: John Lawler
Mayor, City of Tea

ATTEST:

_____
Dawn Murphy
Finance Officer, City of Tea

Seal

First Reading: _____
Second Reading & Adoption: _____
Publication: _____
Effective Date: _____

ORDINANCE NO. 182

AN ORDINANCE ADDING CHAPTER _____, PD PLANNED DEVELOPMENT DISTRICT, TO THE ZONING REGULATIONS OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA:

Section 1. That Chapter ___, PD Planned Development District, is hereby added to the Tea Zoning Regulations to read as follows:

Chapter _____
PD Planned Development District

I. Intent. It is the intent of this district to provide flexibility from conventional zoning regulations with increased public review for planned development district projects in order to:

A. Encourage well-planned, efficient urban development.

B. Allow a planned and coordinated mix of land uses which are compatible and are harmonious, but previously discouraged by conventional zoning procedures.

C. Encourage more creative, higher quality and more ecologically sensitive urban design with special consideration given to projects which incorporate desirable design features, including but not limited to underground parking, orientation or design to take advantage of solar energy, environmental preservation, historic preservation, handicapped accessible structures, unique use of open spaces or other desirable design features.

D. Improve communication and cooperation among the City of Tea, land developers, and interested residents in the urbanization of new lands and the renewal of existing deteriorated areas.

II. Scope of regulations.

The regulations set forth in this chapter or set forth elsewhere in this title when referred to in this chapter are the district regulations in the planned development district.

III. Compliance with comprehensive plan.

The developments within the planned development district shall comply with the policies and design standards of the Tea Comprehensive Plan. Said development shall be mutually compatible with adjacent projected developments.

IV. Procedure.

A. Initial development plan: When a petitioner wants to request a rezoning to the planned development district, it shall be submitted to the planning department, showing the information specified in Section V below, a minimum of 30 days prior to the planning commission meeting at which consideration is desired. After the planned development request has been reviewed, the planning commission shall

make a recommendation to the city council on the requested rezoning. The city council shall then act to approve or deny said request.

This request for rezoning is subject to the requirements for amendment of the zoning regulations specified in Chapter 17. No building permit shall be issued within the development until the final development plan is approved and the plat is filed.

B. Final development plan: Prior to construction on any lots in the planned development, the petitioner shall present a final development plan showing the information specified in Section VI below, to the planning commission, who shall have the sole authority to approve, deny, or amend said plan.

The final development plan may be submitted in conjunction with the initial development plan for concurrent approval on any subareas the developer is ready to commit to a final plan. All the information required for both an initial and final development plan must be shown for the area submitted for concurrent approval, except that the developer may reference the requirements of one of the traditional zoning districts as the development standard for a particular subarea.

Signs shall be posted on the property for a continuous period of seven days immediately prior to any public hearing held by the planning commission or city council to consider any final development plan. Said signs shall be furnished by the planning department and posted by the applicant in the numbers and locations prescribed by the planning and zoning administrator.

Before any action shall be taken by the planning commission, the applicant shall first file with the planning department a certificate verifying that said signs have been posted at the proper location before the time specified by this section.

C. Amendments:

1. Major Amendments. Major amendments to the initial and/or final development plan shall be required to be approved in the same manner as a conditional use permit as provided for in Section VII.

2. Minor amendments. Minor amendments to the initial and/or final development plan shall be required to be approved by the planning commission through a conditional use process [Section VII]. Notice of such hearing shall be given by the posting of not less than four signs provided by the planning department. Before any action shall be taken by the planning commission, the applicant shall first file with the planning department a certificate verifying that said signs have been posted at the proper location and for the time specified.

   Minor amendments to the initial development plan may also be made by the submission and approval of a final development plan which is changed from the approved initial development plan. Any such amendments shall be shown as a change from the initial development plan on the final development plan, and further these changes shall be made on the initial development plan on file with the county register of deeds.

3. Minimal amendments: Minimal amendments to the final development plan shall be submitted to the planning and zoning administrator on a reproducible development plan showing the requested changes. The planning and zoning administrator may then approve such change in writing if he/she deems it appropriate.

V. Initial development plan. Upon application for rezoning to planned development district, the petitioner shall present an initial development plan to the planning commission for review, and to the city council, for their approval showing the following information:

A. Project name and legal description.

B. A preliminary subdivision plan in compliance with Article 3, Subdivision Ordinance, Section 301.

C. The proposed development scheme showing the following information:

1. The proposed land uses, including the number and type of proposed residential buildings, the proposed number of dwelling units per building, the number and type of any proposed nonresidential buildings and their square footage.

2. The proposed maximum density of the development, which shall not exceed the density allowed in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such densities undesirable.

3. The proposed minimum setbacks which shall be no less than those required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such setbacks undesirable.

4. The proposed maximum height which shall be no greater than that required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such heights undesirable.

5. Proposed design features illustrating compatibility to the surrounding environment and neighborhood.

6. Anticipated subarea development sequence.

In addition the developer shall provide an 8 1/2 x 11 scaled rendering on mylar of the approved initial development plan showing each of the subareas.

VI. Final development plan.

Prior to construction on any lots in the planned development zoning district, the petitioner shall present a final development plan to the planning commission for their approval.

Exception: When a subarea is proposed by the developer for only single-family detached homes or two-family attached units, a final development plan will not be required.

Final development plan approval shall expire one year from the date upon which it becomes effective if no work has commenced. Upon written request to the planning and zoning administrator and prior to the final development plan approval expiration date, a time extension for the final development plan approval may be granted.

The final development plan shall show the following information:

A. The subdivision name, the legal description and the individual project name (if any).

B. Boundaries of the subarea or subareas submitted for approval superimposed on the map of the initial development plan.

C. A subdivision plat of the subarea or subareas submitted for approval in compliance with Article 4, Subdivision Ordinance, Section 402.

D. A scale drawing showing the following information will be required:

1. Size and location of proposed structures including height and number of units.

2. Calculated floor area for each structure and a generic listing of the uses within said structure.

3. Off-street parking lot arrangement designating all parking spaces, off-street loading spaces and any outdoor trash container.

4. Any sidewalks, bikeways or other paths.

5. Any outdoor lighting, type and location, except for standard street lights provided by the city.

6. Landscaping plans showing the type and location of any walls or fences, the placement, size and species of any trees or shrubs and berms in areas that will be sod or seeded.

7. All existing and proposed utilities, drainage ways, water courses and location of above ground existing utilities on adjacent property.

8. Proposed final ground contours.

9. Curb cuts and all private drives.

10. Adjacent, existing and proposed uses.

11. First floor elevation for any structure located in a flood hazard area.

12. Accurate building elevation of all proposed structures.

13. Documentation of the ownership and maintenance responsibility of any common open spaces, structures or facilities, including private streets.

14. Any subareas proposed for multiple residential development will be required to provide an open area for recreation. Said open spaces shall not be included in any required yard, but shall be located in the same subarea it is intended to serve.

15. Proposed parking and loading spaces which shall be in conformance with Chapters 11.04 and 11.05, except where unique physical, environmental or design characteristics make such requirements undesirable.

16. Unless otherwise specified on the final development plan, all development standards shall be the same as those set forth in the traditional zoning districts, which shall be referenced for each subarea as a part of the final development plan. For example: townhouses on block X shall be developed in conformance with the requirements of the R2, residential district.

VII. Amendments.

A. Major amendments: The following changes in an initial and/or final development plan are considered major amendments:

1. Any change in the proposed land uses.

   a. Should follow a rezoning process [Chapter 17].

2. An increase in density above that provided for in Section VII(B)(5) below.

   a. Should follow a rezoning process [Chapter 17].

B. Minor amendments: The following changes in an initial and/or final development plan are considered minor amendments:

1. Any adjustment in the size or shape of the building envelope (increasing the height or reducing the building setback).

2. Any change in the number or location of curb cuts.

3. Any decrease in the size of required open areas.

4. A minor change in the street pattern.

5. Any increase in density of a subarea:

   a. Less than 25 percent for a subarea with less than eight units.

   b. Less than 15 percent for a subarea with between nine and 20 units.

   c. Less than eight percent for a subarea with 21 units or more.

6. Any change in the number of parking spaces.

7. Any minor change to on-premise signage.

8. Any major change in the street pattern.

9. Any adult use, on-sale alcoholic beverage establishment, or off-sale alcoholic beverage establishment located within 1,000 feet of an elementary or secondary school measured from the closest point of the outside wall of the building or tenant space to the closest point of the school property line, not included in the approved subarea regulations.

10. Any regulated medical waste transfer or treatment facility not specifically included in the approved subarea regulations.

C. Minimal amendments: The following changes in an initial and/or final development plan are considered minimal amendments:

1. Any adjustment of a building within a previously established building envelope.

2. A reduction in density and scale.

3. Any minimal change in the street pattern.

4. Any minimal change in the parking and loading requirements.

5. Any minimal change to on-premise signage.

VII. Planned Development Districts. Those approved development areas within the PD Planned Development District shall be assigned a sequential section number following this Section VII, in accordance with the date of approval.

Adopted this _____ day of _____, 2007.

_____
Signed: John Lawler
Mayor, City of Tea

ATTEST:

_____
Dawn Murphy
Finance Officer, City of Tea

Seal

First Reading: _____
Second Reading & Adoption: _____
Publication: _____
Effective Date: _____

ORDINANCE 183

AN ORDINANCE AMENDING TITLE 11.02 OF THE MUNICIPAL ORDINANCES, TO ADOPT REQUIREMENTS FOR RAIN SENSORS FOR THE CITY OF TEA.

BE IT ORDAINED BY THE CITY COUNCIL OF TEA, SOUTH DAKOTA:

That Section 11.02 Water Provisions be amended to include the following:

11.02 (m). Rain Sensors Required. Rain sensors shall be installed on an automatic irrigation systems installed after the effective date of the ordinance that received water supplied by the city.

11.02 (n). Rain Sensor Installation and Setting. All rain sensors shall automatically shut off the irrigation system after one-fourth inch rainfall has occurred. All rain sensors shall be installed according to the manufacturer's instructions in a location providing full exposure to rainfall to assure accurate operation. The sensors shall be maintained in good working condition. No person shall, with the intent of circumventing the purpose of this section, adjust either the rain sensor or irrigation system so that the sensor cannot override and turn off the irrigation system after one-fourth inch of rain has fallen.

11.02(o). Penalty. Any person, firm or corporation violating Section 11.02(m) of this Ordinance will be fined not less than One Hundred Fifty Dollars ($150) for each offense. Sprinkler systems running during a rain event with over one-fourth inch rainfall within a twenty-four (24) hour period shall be subject to additional fines.

Conflicting Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Separability. Should any part of this ordinance be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, the remainder shall not be affected thereby.

Publication and Effect. This ordinance shall take effect upon its adoption and publication according to SDCL.

_____
Mayor

ATTEST:

_____
Finance Officer

First Reading: September 10th, 2007
Second Reading: September 24th, 2007
Publication Date:_____
Effective Date: _____
(20 days after last publication):

CITY OF TEA

ORDINANCE NO 187

AN ORDINANCE AMENDING ORDINANCE NO. 144, CITY OF TEA ENGINEERING DESIGN STANDARDS FOR PUBLIC IMPROVEMENTS, OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, LINCOLN COUNTY, SOUTH DAKOTA:

Section 1. That Section 11.7, Detention Storage, of the Tea Engineering Design Standards for Public Improvements is hereby amended in its entirety to read as follows:

11.7 Detention Storage

11.7.1 General

Detention ponds shall be designed and constructed at those locations identified or approved by the City Engineer. The use of on-site detention is required at those locations where the on-site drainage system cannot be tied into an existing drainage system.

On site detention is required in order to maintain pre-development rates for a 5-year and 100-year return storm. All preliminary and final development plans shall identify the locations, pre-development and post development design flows and calculated release rates. The stage-storage table shall be included with this submittal.
Parking lots which serve as detention storage ponds must not have a storage depth of more than 1 foot. It is recommended that notification signs be installed in parking lots which serve as detention ponds.

11.7.2 Design Storm

Detention ponds shall be designed for a 100-year design flow. The City of Tea Drainage Master Plan identifies potential locations for detention ponds.

11.7.3 Release Methods

Intermittent ponds shall drain completely.

Careful consideration must be given to the discharge of the surface release as to the elimination of erosion potential, and the capacity of the downstream surface water course. The release structure shall be designed to withstand the forces caused by the structure being overtopped during a larger than design storm.

A stage (foot) versus release rate (CFS) curve must be provided for the release structure.

11.7.4. Maximum Release Rate

The detention pond volumes and release rate shall be designed to accommodate runoff generated by the development.

The release rate from the detention pond cannot exceed predevelopment rates for the 5-year and 100-year return storm.

11.7.5. Maintenance Requirements

All detention areas shall have a 30-foot wide access to a public right-of-way if they are not located adjacent to a public right-of-way. All detention ponds shall be privately maintained.

11.7.6. Adjacent Property Elevations

The property corner elevation of properties abutting a detention pond shall be 1-foot above the 100-year design storm.

Recommended minimum ground elevations for homes abutting or affected by the detention pond shall be 2 feet above the overflow elevation. Recommended minimum ground elevation for homes abutting or affected by detention ponds will be a minimum of 4 feet above the 100-year pond high water elevation if an overflow system is not available or at an elevation that provides an additional 50 percent storage.

Section 2. That Table 8.6, Minimum Pavement Thickness Requirements, of the Tea Engineering Design Standards for Public Improvements is hereby amended in its entirety to read as follows:

Table 8.6
Minimum Pavement Thickness Requirements

	Local Residential Streets	Commercial, Industrial & Collector Streets	Arterial Streets
Portland Cement Concrete (Requires Aggregate Cushion)	6"	8"	8"
Asphalt Concrete with Aggregate Base	4" AC 6" Aggregate	5" AC 9" Aggregate	6" AC 10"Aggregate

Section 3. That Table 8.7, Traffic Volumes, of the Tea Engineering Design Standards for Public Improvements is hereby amended in its entirety to read as follows:

Table 8.7
Traffic Volumes

Street Classification	ADT (2 way)	No. of Lots	18-kip ESAL Traffic	AASHTO Traffic Level
Cul-de-sacs and Local Residential	200	20-30	10,000-50,000	Low
Local, Local Multi-Family,or Commercial	300-700	60-140	50,000-300,000	Low
Local Industrial	200-700		400,000-600,000	Medium
Collector	7,000		400,000-1,000,000	High
Arterial	To be determined by the City Engineer			

Section 4. That Section 8.13, Rural Subdivision Road Standards, of the Tea Engineering Design Standards for Public Improvements is hereby amended in its entirety to read as follows:

8.13 Rural Subdivision Road Standards

8.13.1. Subdivisions outside of the City limits and within the extraterritorial platting jurisdiction shall comply with these requirements.

8.13.2. As section line roadways are considered arterial streets, access of individual lots within a subdivision onto section line roads shall be prohibited. Frontage roads are not encouraged but may be considered as alternative access.

8.13.3. Any single lot development fronting on a section line roadway shall be such that the access may be relocated to an alternative future roadway.

8.13.4. Minimum width of the driving surface shall be 24 feet with two foot shoulders. Ditches and driveways shall have a maximum side slope of 4:1.

8.13.5. If access to the subdivision is not on a paved road, the subdivision roads may have a gravel driving surface. If access to the subdivision is paved surface or planned for paved surfacing by the governing entity within 5 years or if the size of development creates a significant traffic impact, the subdivision roads shall be paved.

8.13.6. Gravel roads shall have an initial 3 inch lift of gravel covering the road bed, and a second lift of 3 inches of gravel within one year following the completion of construction. Asphalt roads shall be constructed in accordance with Table 8.6.

8.13.7. Culverts in the street right-of-way shall comply with county requirements or be designed for a 10-year return storm at minimum. Flared end sections or slope concrete headwalls are required on all culverts within the road right-of-way.

8.13.8. The size of culverts shall be determined by a drainage study for the entire subdivision.

8.13.9. The City Engineer's Office will be responsible for accepting final street and drainage plans and coordination of road access and approach permits with County, Township, and SDDOT officials.

8.13.10. The City Engineering and Planning Staff may specify to install city utilities (water mains and sewer mains) when the proposed subdivision is within 1 mineof the city limits or if information is available to city staff that indicates that city utilities could be brought to this subdivision within 5 years.

_____
John M. Lawler, Mayor

_____
Dawn R. Murphy, Finance Officer

(SEAL)

First Reading: January 21, 2008
Second Reading & Adoption::February 4, 2008
Publication: _____
Effective Date: _____

ORDINANCE # 188
CITY OF TEA

AN ORDINANCE AMENDING ORDINANCE 170, FLOOD DAMAGE PREVENTION ORDINANCE FOR THE CITY OF TEA, SOUTH DAKOTA

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TEA, SOUTH DAKOTA, THAT ORDINANCE # 170, FLOOD DAMAGE PREVENTION ORDINANCE FOR THE CITY OF TEA IS HEREBY AMENDED IN ITS ENTIRETY TO READ AS FOLLOWS:

Section 1: Purpose. The purpose of this Ordinance is to amend Ordinance 170 to include the following:

ARTICLE III

SECTION B. 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 Tea, Lincoln County" dated April 2, 2008, with accompanying Flood Insurance Rate Maps (FIRM), is hereby adopted by reference and declared to be a part of this ordinance. The FIRM panel numbers are 4601430129B and 4602770129B. The Flood Insurance and FIRM are on file at City of Tea, 600 E. 1st Street Tea, SD 57064.

ARTICLE V

SECTION B(6) FLOODWAYS – Located within areas of special flood hazard established in Article III, Section B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
b) If Article V, Section B (6a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V, PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION B(7) Information to be Obtained and Maintained

a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
b) For all new or substantially improved floodproofed structures:
    1. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

2. Maintain the floodproofing certificates required in Article 5, Section B(2).

c) Maintain for public inspection all records pertaining to the provisions of this ordinance.

Article V, Section B(1) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to **one foot above the base flood elevation.** Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must still have their lowest floor elevated to one foot above the base flood elevation. A

Article V, Section B(2) Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated or floodproofed to one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a) be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Article 4, Section C(1) a.

d) Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must still have their lowest floor elevated or floodproofed to one foot above the base flood elevation.

_____

Mayor

ATTEST:

_____

Finance Officer