

Town of Ethan

South Dakota



# Ethan Municipal Ordinances

*Adopted July 21, 2008*

Compiled By:  
Planning & Development District III  
PO Box 687  
1808 Summit Street  
Yankton, South Dakota 57078  
(605) 665-4408  
[www.districtiii.org](http://www.districtiii.org)

# TABLE OF CONTENTS

Town Officials ..... Page x  
Notice of Adoption ..... Page xi  
Checklist of Updates ..... Page xii

## **CHAPTER I: ADMINISTRATION.....Page 1**

Article 1: Definitions – Letters “A through G” ..... Page 1  
Article 2: Definitions – Letters “H through M” ..... Page 5  
Article 3: Definitions – Letters “N through S” ..... Page 7  
Article 4: Definitions – Letters “T through Z” ..... Page 13

## **CHAPTER II: ADMINISTRATION .....Page 15**

Article 1: Ordinance ..... Page 15  
    Section 2.1.1 Effective Date  
    Section 2.1.2 Separability  
    Section 2.1.3 Purpose of Subtitles  
    Section 2.1.4 Repeal of Conflicting Ordinances  
    Section 2.1.5 Penalties  
  
Article 2: Corporate Limits and Seal..... Page 17  
    Section 2.2.1 Corporate Limits Defined  
    Section 2.2.2 Official Town Map  
    Section 2.2.3 Corporate Seal  
    Section 2.2.4 Legal Newspaper  
    Section 2.2.5 Depository  
  
Article 3: Elected Officials ..... Page 19  
    Section 2.3.1 Election  
    Section 2.3.2 Trustees  
    Section 2.3.3 Oath of Office  
    Section 2.3.4 Organization  
    Section 2.3.5 Qualifications  
    Section 2.3.6 Regular Meetings  
    Section 2.3.7 Special Meetings  
    Section 2.3.8 Special Meeting Notice  
    Section 2.3.9 Meeting Rules and Format  
    Section 2.3.10 Parliamentary Procedure  
  
Article 4: Appointed Officials ..... Page 21  
    Section 2.4.1 Attorney  
    Section 2.4.2 Engineer

Article 5: Municipal Employees..... Page 23  
    Section 2.5.1 Municipal Finance Officer  
    Section 2.5.2 Maintenance/Public Works  
    Section 2.5.3 Law Enforcement  
    Section 2.5.4 Fire Department

Article 6: Park Board..... Page 25  
    Section 2.6.1 Purpose  
    Section 2.6.2 Authority  
    Section 2.6.3 Qualifications  
    Section 2.6.4 Terms  
    Section 2.6.5 Appointments  
    Section 2.6.6 Meetings  
    Section 2.6.7 Officers  
    Section 2.6.8 Rules and Regulations  
    Section 2.6.9 Accounting  
    Section 2.6.10 Fiscal Year  
    Section 2.6.11 Removal

Article 7: Sales and Use Taxes..... Page 27  
    Section 2.7.1 Purpose  
    Section 2.7.2 Sales Tax Date  
    Section 2.7.3 Use Tax  
    Section 2.7.4 Collection  
    Section 2.7.5 Interpretation

**CHAPTER III: Municipal Utilities and Services.....Page 29**

Article 1: Water Service ..... Page 29  
    Section 3.1.1 Application for Service  
    Section 3.1.2 Meter Pits  
    Section 3.1.3 Service and Meter Deposit  
    Section 3.1.4 Tapping Fee  
    Section 3.1.5 Payment  
    Section 3.1.6 Payment Delinquency  
    Section 3.1.7 Termination Notice  
    Section 3.1.8 Termination  
    Section 3.1.9 Delinquent Accounts  
    Section 3.1.10 Seasonal Accounts

Article 2: Sewer Service..... Page 31  
    Section 3.2.1 Application for Service  
    Section 3.2.2 Service Size and Maintenance  
    Section 3.2.3 Tapping Fee  
    Section 3.2.4 Payment  
    Section 3.2.5 Payment Delinquency  
    Section 3.2.6 Termination Notice  
    Section 3.2.7 Termination  
    Section 3.2.8 Delinquent Accounts

Article 3: Solid Waste ..... Page 33  
    Section 3.3.1 Service and Fees  
    Section 3.3.2 Service Required  
    Section 3.3.3 Disposal  
    Section 3.3.4 Payment  
    Section 3.3.5 Payment Delinquency  
    Section 3.3.6 Notice and Termination  
    Section 3.3.7 Waste Reduction Target Schedule

Article 4: Restricted Use Site ..... Page 35  
    Section 3.4.1 Intent  
    Section 3.4.2 Location  
    Section 3.4.3 Acceptable Materials  
    Section 3.4.4 Modification

**CHAPTER IV: Streets, Sidewalks, and Public Property.....Page 37**

Article 1: Street Specifications..... Page 37  
    Section 4.1.1 Street Grades  
    Section 4.1.2 Street Cross Slopes  
    Section 4.1.3 Street Widths  
    Section 4.1.4 Improvements  
    Section 4.1.5 Curb and Gutter  
    Section 4.1.6 Street Names  
    Section 4.1.7 Modifications  
    Section 4.1.8 General Specifications

Article 2: Street and Road Obstructions..... Page 39  
    Section 4.2.1 Objects in Street  
    Section 4.2.2 Buildings  
    Section 4.2.3 Eave Pipes  
    Section 4.2.4 Removal  
    Section 4.2.5 Clearing  
    Section 4.2.6 Exceptions

Article 3: Excavation in Public Right-of-Ways..... Page 41  
    Section 4.3.1 Excavation Within Right of Way  
    Section 4.3.2 Sewers, Vaults, Cellars  
    Section 4.3.3 Installation of Pipe  
    Section 4.3.4 Excavation Near Streets  
    Section 4.3.5 Modifications  
    Section 4.3.6 Approval

Article 4: Signs and Stands..... Page 43  
    Section 4.4.1 Signs & Streets  
    Section 4.4.2 Selling Stands

Article 5: Snow Removal ..... Page 45  
    Section 4.5.1 Implementation  
    Section 4.5.2 Plow Routes

Section 4.5.3	Parking	
Section 4.5.4	Public Roadways	
Article 6:	Alleys, Driveways & Easements.....	Page 47
Section 4.6.1	Alleys	
Section 4.6.2	Easements	
Section 4.6.3	Driveways	
Section 4.6.4	Culverts	
Section 4.6.5	Modifications	
Article 7:	Public Gatherings, Harassment & Interference.....	Page 49
Section 4.1.1	Performances	
Section 4.7.2	Crowds	
Section 4.7.3	Harassment	
Section 4.7.4	Hindering	
Article 8:	Vegetation.....	Page 51
Section 4.8.1	Injuring	
Section 4.8.2	Trimming	
Section 4.8.3	Removal	
Article 9:	Streets, Water, and Sewer Expansion .....	Page 53
Section 4.9.1	Developer’s Responsibilities	
Section 4.9.2	Town’s Responsibilities	
Article 10:	Sidewalks.....	Page 55
Section 4.10.1	Sidewalk Permits	
Section 4.10.2	Sidewalk Specifications	
Section 4.10.3	Sidewalk Construction	
Section 4.10.4	Procedure for Enhancement	
Section 4.10.5	Further Proceedings	
Section 4.10.6	Payment	
Section 4.10.7	Obstruction	
Section 4.10.8	Snow Removal	
<b>CHAPTER V:</b>	<b>License, Permits, and Plats.....</b>	<b>Page 57</b>
Article 1:	Temporary Scales.....	Page 57
Section 5.1.1	Peddlers & Hawkers	
Section 5.1.2	Other Licenses and Permits	
Article 2:	Liquor .....	Page 59
Section 5.2.1	Required License	
Section 5.2.2	Number of Licenses	
Section 5.2.3	Classifications and Fees	
Section 5.2.4	License Approval	
Section 5.2.5	License Removal	
Section. 5.2.6	Possession in a Public Place	
Section 5.2.7	Selling Hours	
Section 5.2.8	Selling Liquor on Sundays	

Section 5.2.9 Serving Liquor Outside of Establishment  
Section 5.2.10 Beer Garden  
Section 5.2.11 Entertainment  
Section 5.2.12 Age to Enter onto Premises  
Section 5.2.13 Intoxicated Person Entering Premises  
Section 5.2.14 Original Packages  
Section 5.2.15 Off-Sale Sales  
Section 5.2.16 Sunday Off-Sale  
Section 5.2.17 On-Sale Sales  
Section 5.2.18 Central Standard Time and Central Standard Daylight Savings  
Section 5.2.19 Unsealed Container  
Section 5.2.20 Possession of Open Bottle or Can  
Section 5.2.21 Consumption of Alcohol at Street Dances  
Section 5.2.22 City Park  
Section 5.2.23 Penalty

Article 3: Platting ..... Page 65  
Section 5.3.1 Vacation  
Section 5.3.2 Procedure  
Section 5.3.3 Owner’s Rights  
Section 5.3.4 Recording

**CHAPTER VI: Traffic Regulations and Violations .....Page 67**

Article 1: General Regulations ..... Page 67  
Section 6.1.1 Traffic Direction  
Section 6.1.2 Turning at Intersections  
Section 6.1.3 Exhibition Driving  
Section 6.1.4 Official Traffic Signs & Signals  
Section 6.1.5 Obedience of Traffic Signals  
Section 6.1.6 Directing Traffic  
Section 6.1.7 Emergency Vehicles  
Section 6.1.8 Speed  
Section 6.1.9 Stalled Vehicles  
Section 6.1.10 Abandoned Vehicles  
Section 6.1.11 Fire Hoses  
Section 6.1.12 Truck Route

Article 2: Pedestrians ..... Page 69  
Section 6.2.1 Crosswalks  
Section 6.2.2 Right of Way

Article 3 Parking Page 71  
Section 6.3.1 General Regulations  
Section 6.3.2 Prohibitions  
Section 6.3.3 Commercial Vehicles  
Section 6.3.4 Exceptions  
Section 6.3.5 Off Street Parking

Article 4: Recreation Vehicles ..... Page 73  
Section 6.4.1 Private Property  
Section 6.4.2 Public Right-of-Ways  
Section 6.4.3 Registration

Article 5: Bicycles..... Page 75  
Section 6.5.1 Night riding  
Section 6.5.2 Fast riding  
Section 6.5.3 Riding on Sidewalks

**CHAPTER VII: Offenses and Misdemeanors .....Page 77**

Article 1: General Violations..... Page 77  
Section 7.1.1 Disturbances  
Section 7.1.2 Inappropriate Language  
Section 7.1.3 Indecent Exposure  
Section 7.1.4 Gambling  
Section 7.1.5 Fireworks  
Section 7.1.6 Fire Alarms

Article 2: Nuisances ..... Page 79  
Section 7.2.1 Defined  
Section 7.2.2 Prohibited  
Section 7.2.3 Abatement  
Section 7.2.4 Remedies and Sanctions Not Exclusive

Article 3: Abandoned Vehicles ..... Page 81  
Section 7.3.1 Public Nuisance  
Section 7.3.2 Storing on Public Property  
Section 7.3.3 Removal of Vehicles  
Section 7.3.4 Notice to Owner  
Section 7.3.5 Sale of Unclaimed Motor Vehicle  
Section 7.3.6 Notice of Sale  
Section 7.3.7 Lien for Costs  
Section 7.3.8 Disposal of Unclaimed Vehicle

Article 4: Abandoned Vehicles – Private Property ..... Page 83  
Section 7.4.1 Junk Cars on Private Property  
Section 7.4.2 Private Property Owners  
Section 7.4.3 Notice to Remove Vehicles  
Section 7.4.4 Responsibility for Removal of Vehicles  
Section 7.4.5 Notice Procedure  
Section 7.4.6 Removal  
Section 7.4.7 Notice to Owner  
Section 7.4.8 Sale of Unclaimed Motor Vehicle  
Section 7.4.9 Notice of Sale  
Section 7.4.10 Lien for Costs  
Section 7.4.11 Disposal of Unclaimed Vehicle

Article 5: Weapons and Firearms..... Page 85  
    Section 7.5.1 Carrying Concealed Weapons  
    Section 7.5.2 Drawing Deadly Weapons  
    Section 7.5.3 Discharge of Firearms

**CHAPTER VIII: Building Regulations and Property Maintenance .....Page 87**

Article 1: General Permits ..... Page 87  
    Section 8.1.1 Building Permits  
    Section 8.1.2 Permit to Move Buildings  
    Section 8.1.3 Fees and Applications

Article 2: Structural Regulation..... Page 89  
    Section 8.2.1 Buildings, Moving, and New Construction  
    Section 8.2.2 Drainage tile  
    Section 8.2.3 Stairs, Railings, and Grates

Article 3: Property Maintenance ..... Page 91  
    Section 8.3.1 Defined  
    Section 8.3.2 Responsibility  
    Section 8.3.3 Notification  
    Section 8.3.4 Assessment of Costs  
    Section 8.3.5 Payment  
    Section 8.3.6 Collections

**CHAPTER IX: Fire Safety .....Page 93**

Article 1: Recreational Fires..... Page 93  
    Section 9.1.1 Open Fire Location  
    Section 9.1.2 Portable Fire Pit Location  
    Section 9.1.3 Approved Cooking Device Locations  
    Section 9.1.4 Size  
    Section 9.1.5 Suppression  
    Section 9.1.6 Prohibited Materials  
    Section 9.1.7 Permission  
    Section 9.1.8 Supervision

Article 2: Bon Fires..... Page 95  
    Section 9.2.1 Location  
    Section 9.2.2 Permit  
    Section 9.2.3 Size  
    Section 9.2.4 Supervision  
    Section 9.2.5 Monitor  
    Section 9.2.6 Permission  
    Section 9.2.7 Suppression  
    Section 9.2.8 Prohibited Materials



Article 3: Controlled Burns.....	Page 97
Section 9.3.1 Permission	
Section 9.3.2 Permits	
Section 9.3.3 Decision	
Section 9.3.4 Fee	
Section 9.3.5 Notification	
Section 9.3.6 Size & Quantity	
Section 9.3.7 Post Burn Requirements	
Section 9.3.8 Safety	
Section 9.3.9 Prohibited Materials	
Article 4: Flammable and Explosive Materials.....	Page 99
Section 9.4.1 Explosive Material Storage	
Section 9.4.2 Original Packaging	
Section 9.4.3 Handling	
Section 9.4.4 Motor Fuel Storage	
Section 9.4.5 Kerosene and Similar Oil Storage	
Article 5: Building .....	Page 101
Section 9.5.1 Materials	
Section 9.5.2 Fire Safety Zone	
Section 9.5.3 Fire Safety Zone Requirements	
Section 9.5.4 Fire Safety Zone Building Code	
Section 9.5.5 Damaged Buildings	
Section 9.5.6 Exemptions	
Article 6: General Regulations.....	Page 103
Section 9.6.1 Authority	
Section 9.6.2 Complaints	
Section 9.6.3 Prohibited	
<b>CHAPTER X: Animals.....</b>	<b>Page 105</b>
Article 1: General Regulations .....	Page 105
Section 10.1.1 Purpose	
Section 10.1.2 Permitted Animals	
Section 10.1.3 Prohibited Animals	
Section 10.1.4 License	
Section 10.1.5 License Application	
Section 10.1.6 Fee Schedule	
Section 10.1.7 Agent Fees	
Section 10.1.8 Immunizations	
Section 10.1.9 Immunization Tag	
Section 10.1.10 Grazing Permit	
Section 10.1.11 Number of Animals	
Section 10.1.12 Nuisances	
Section 10.1.13 Care	

Article 2: Hunting, Trapping, and Poison ..... Page 109  
Section 10.2.1 Hunting Prohibited  
Section 10.2.2 Poison  
Section 10.2.3 Trapping of Animals

Article 3: Rabies ..... Page 111  
Section 10.3.1 Rabid Animals  
Section 10.3.2 Reporting  
Section 10.3.3 Impoundment  
Section 10.3.4 Destruction

Article 4: Vicious Animals ..... Page 113  
Section 10.4.1 Defined  
Section 10.4.2 Declared  
Section 10.4.3 Exemption  
Section 10.4.4 Notification  
Section 10.4.5 Owner Responsibility  
Section 10.4.6 Enforcement

**CHAPTER XI: Flood Regulations .....Page 115**

Article 1: Flood Damage ..... Page 115  
Section 11.1.1 Authorization  
Section 11.1.2 Finding of Fact  
Section 11.1.3 Statement of Purpose  
Section 11.1.4 Methodology

Article 2: General Provisions ..... Page 117  
Section 11.2.1 Flood Hazard Areas  
Section 11.2.2 Establishment of Special Areas  
Section 11.2.3 Development Permit  
Section 11.2.4 Compliance  
Section 11.2.5 Abrogation & Restrictions  
Section 11.2.6 Interpretation  
Section 11.2.7 Disclaimer

Article 3: Administration ..... Page 119  
Section 11.3.1 Designation of Flood Plain Administrator  
Section 11.3.2 Flood Plain Administrator  
Section 11.3.3 Permit Procedures  
Section 11.3.4 Approval or Denial of Permit  
Section 11.3.5 Variance Procedures

Article 4: Provisions for Flood Hazard Reduction..... Page 123  
Section 11.4.1 General Standards  
Section 11.4.2 Standards for Subdivision Proposals  
Section 11.4.3 Penalties

# **TOWN OFFICIALS**

## **Town of Ethan Board of Trustees:**

**Gary Stadlman (Town President)**

**Robert Fitzgerald**

**Terry Mathis**

**Amy Moe**

**Nancy Schoenfelder**

## **Town of Ethan Finance Officer:**

**Amy Storm**

**(605) 227-4230**

**NOTICE OF ADOPTION  
OF AN ORDINANCE IN  
REVISION OF THE ORDINANCES OF THE  
TOWN OF ETHAN, SOUTH DAKOTA**

**Ordinance No. \_\_\_\_\_**

An ordinance enChapterd Ordinance No. \_\_\_\_\_, Ethan Town Ordinances for the Town of Ethan, South Dakota.

Whereas, since the Town of Ethan has been incorporated, the Town of Ethan has adopted \_\_\_\_\_ Town Ordinances, and

Whereas, these Town ordinances have been reorganized, updated, and cataloged into one Town Ordinance book for easy reference, and

Whereas, the Town President, Board of Trustees, City Attorney, staff and officials from Planning & Development District III, of Yankton, have spent considerable time and energy preparing one single reference document for Ethan Town Ordinances,

BE IT ORDAINED by the Town Board of Trustees of Ethan, South Dakota: That this Ordinance No. \_\_\_\_ is in Revision of the Ordinances of the Town of Ethan, South Dakota, is Hereby Read, Approved and Adopted as follows:

First Reading:

Second Reading:

Approved and Adopted:

Notice of Adoption Published:

Effective:

\_\_\_\_\_  
Town President, Gary Stadlman

Attested By:\_\_\_\_\_

SEAL

## CHECKLIST OF UPDATES

<b>New Ordinance Number</b>	<b>Amended Section</b>	<b>Brief Description</b>	<b>Adopted Date</b>	<b>Effective Date</b>

## CHAPTER I

### DEFINITIONS

#### Article 1 – Definitions- Letters “A” through “G”

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 it’s most reasonable application.

**Abandoned Property** – any junk cars, car bodies or equipment of any type, except in an authorized junk yard, or any accumulation of other unsightly trash or junk which may constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of its unsightliness. Unsightly trash or junk includes property which is deteriorated, wrecked, or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected outside of a permanent structure from the elements, and shall include without being restricted, deteriorated, wrecked, inoperative, or partially dismantled motor vehicles, trailers, boats, motors, snowmobiles, lawn mowers, motorcycles, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals, lumber, or other similar articles in such condition.

**Abandoned Motor Vehicle** – any motor vehicle which is left unattended or unused on any public street or alley, in any public parking lot, or in any other public place for more than fourteen (14) consecutive days.

**Abatement** – process by which the Town of Ethan responds to nuisances and resolves the nuisance either through a voluntary response of the offending property owner or through some form of civil or legal enforcement or other Town action or response.

**Acceptable Burnable Materials** - shall consist of dry material to include: clean (unpainted, and untreated) lumber; wood to include logs, branches, and twigs; and charcoal.

**Alluvial Flooding** – 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.

**Animal** – any live creature, both domestic and wild, except humans. “Animal” includes fowl, fish and reptiles.

**Animal At Large** –

1. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.
2. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

**Animal Shelter** – a building and facilities therein approved by the Board of Trustees for the impounding of animals.

**Anti-Escape** – any housing, fencing or device which a guard dog cannot go over, under, through or around.

**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.

**Approved Cooking Devices** – shall include but are not limited to gas, charcoal, and electric grills

**Area of Shallow Flood** – a designated AO, AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a one (1) percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** – land within the floodplain within a community subject to a one (1) 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.

**Authorized emergency vehicle** – vehicles of the fire department, police vehicles and such other emergency vehicles as are designated or authorized by the Board of Trustees

**Base Flood** – a flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Basement** – any area of the building having its floor sub-grade (below ground level) on three (3) sides.

**Bonfire** - a large open air fire kindled to mark a public event, victory celebration, or similar occurrence.

**Business District** – the territory contiguous to a street not comprising a business district when the frontage on such street for a distance of three hundred (300) feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

**Commercial vehicle** – any vehicle which has more than four (4) square feet of signage or which is adapted, designed, equipped and used to perform a specific commercial function and which does not meet the definition of personal passenger vehicle.

**Construction equipment** – any self propelled or pull/push piece of equipment which is adapted, designed, equipped and used to perform specific construction activities. This term shall include but is not limited to front end loaders, backhoes, skid loaders, and tandem axle trailers.

**Critical Feature** – an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

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

**Cruelty** – any act or omission whereby unjustifiable physical pain, suffering, or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter, or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in siphoned quantity. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, “cruelty” shall mean a failure to employ the most humane method reasonably available.

**Curb** – the extreme edge or lateral boundary of a roadway, whether marked by curbing or not so marked.

**Dangerous Vegetation** – See Noxious Vegetation.

**Development** – 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.

**Dilapidated Building/Structure** – any building or structure which has any or all of the conditions or defects that may be deemed a danger to the life, health, property, or safety of the public or its occupants or in a condition of defect that annoys, injures, or endangers the comfort, health or repose of others by existing in a state of damage, vacancy, in a condition unfit for occupancy, in a condition unsafe and likely to cause injury, cracked, warped, buckled, or settled, deteriorated, decayed, constructed in a faulty manner, lacking support or inadequacy of foundation or structural soundness or in a state of uncleanness.

**Disturbance** – the act of disturbing the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.

**Double parking** – the standing of a vehicle upon a street at the rear of another vehicle which is parked diagonally at the curb, or the standing of a vehicle upon a street alongside and parallel to another vehicle which is parked parallel to the curb.

**Elevated Building** – 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 flow 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** – 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** – 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 the minimum, the installations 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** – 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).



**Farm equipment** – any self propelled or push/pull piece of equipment which is adapted, designed, equipped, and used in the pursuit of agricultural operations. This term shall include but is not limited to tractors, combines, gravity wagons, and plows

**Flood or flooding** – a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waves.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Hazard Boundary Map (FHB)** – an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

**Flood Insurance Rate Map (FIRM)** – 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** – 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** – any land area susceptible to being inundated by water from any source (see definition of flooding).

**Floodplain Management** – 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** – 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** – 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)** – 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** – 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.

## CHAPTER I

### DEFINITIONS

#### Article 2 – Definitions – Letters “H” through “M”

**Highest Adjacent Grade** – the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure** – 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.

**Housing, Pet** – any location where the pet is kept.

**Impound** – taking into custody of an animal by any law enforcement officer, animal control officer, or any authorized representative thereof.

**Intersection** – that part of a street where a street joins another at an angle, whether or not it crosses the other street, and shall include the full width of the street, between the curb lines, extended, of the intersecting streets.

**Junk Motor Vehicles** – any motor vehicle which does not have lawfully affixed thereto unexpired license plates or which is wrecked, dismantled, partially dismantled, inoperable, or discarded.

**Law Enforcement Officer** – any employee or Officer of the State or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the criminal or highway traffic laws of the State of South Dakota or the Town of Ethan.

**Leash** – a cord, strap, or chain by which an animal is controlled by the person accompanying it.

**Levee** – a man-made structure, usually 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** – 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.

**Litter, Waste, or Garbage** – any discarded, used or contaminated substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned motor vehicles, motor vehicle parts, tires, salvage materials, furniture, oil, carcasses of dead animals, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, dead trees, dead tree branches, construction materials, or anything else of any unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

**Lowest Floor** – 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** – 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** – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** – 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.

**Motor Vehicle** – any self-propelled vehicle including, but not limited to, automobiles, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, and campers.

## CHAPTER I

### DEFINITIONS

#### Article 3 – Definitions – Letters “N” through “S”

**New Construction** – 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** – 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.

**Noxious Vegetation** - all species of sunflowers, all species of rag weeds, all species of cockle burrs, all species of tumble weeds, all species of thistles, dandelions, plantains, wild morning glory, black mustard and pigweed.

**Nuisance** (SDCL 21-10-1) – a nuisance consists of unlawfully doing an act, or omitting to perform a duty, which act or omission or either: Annoys, injures, or endangers the comfort, repose, health, or safety of others; Offends decency; Unlawfully interferes with, obstructs, or renders dangerous for passage, any lake or navigable water, bay, stream, canal, or basin, or any public park, square, street, highway; in any way renders other persons insecure in life, or in the use of property.

**Nuisance Property** – Includes but is not limited to:

1. Annoys, injures or endangers the comfort, repose, health or safety of others in the community or in any way renders other persons in the community insecure in life, or in the use of their property;
2. Offends decency;
3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any public park, square, street or highway;
4. Any Abandoned Property, Abandoned Motor Vehicles, Junk Motor Vehicles, Litter, Waste or Garbage; any accumulation of junk and or litter maintained upon any premise; any abandoned, discarded or unused furniture, appliances, sinks, toilets, cabinets or other household fixtures or equipment; any abandoned, discarded, inoperable or unused junk motor vehicles, trailers, wagons and other types of machines and implements; any 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.
5. Any broken windows, doors, attic vents and under floor vents; any empty or vacant buildings including dilapidated buildings/structures that have doors, windows or other openings that allow entrance of wild animals and vermin and further create a health or safety risk to the community;

any dilapidated building/structure as defined herein that threatens the comfort health or general safety of the community.

6. Any sign or sign structure that is dismantled, partially dismantled, defective, broken, deteriorated, in disrepair, or defaced; or allowing the exterior building coverings to deteriorate as to encourage decay, dry rot, warping and cracking;
7. Any accumulation of dead animals, animal matter or waste of any kind, dead, decayed, diseased trees, and other vegetation including overgrown weeds, trees and grass and other vegetation
8. Any uncovered manure, garbage, rubbish, filth, fuel, small dead animals, wood or like material; any failure to store in a covered container or throwing or letting fall on or permit to remain on any street, alley, private or public ground any manure, trash, refuse, debris, newspapers, magazines, glass, plastic containers, styrofoam containers, garbage, rubbish, filth, fuel, small dead animals, wood or other waste material.
9. Any depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any animal or vegetable matter which attends the processing, preparation, transportation, cooking, eating, sale, or storage of meat, fish, vegetables, fruit and all other food or food products found within the Town which are likely to cause or transmit disease, or which may be a hazard to health or a disturbance to the general public.
10. Any imperfect, leaking, unclean, or filthy sink, water closet, urinal, other plumbing fixture in any building used or occupied by human beings.
11. Any accumulation of manure or livestock waste; any human or other waste material discharged into the streets, alleys, or upon any property within the Town of Ethan.
12. Any weeds or plants declared as noxious weeds by the State Weed Board and all other weeds and grass growing upon any lot or parcel of land in the Town to a greater height than ten (10) inches.
13. Any deposits on any street any material which may be harmful to the pavement thereof, or for any person to deposit, or for the owner of the adjacent property to allow, any deposit of any waste material, glass, rocks, dirt or other articles which may do injury to any person, animal or property, including any person traveling across the street or right-of-way.
14. Any wild animal(s) as defined by this statute whether domesticated or not that are within the Corporate Limits including hogs or pigs.
15. Any well or other supply of water used for any purpose which is polluted thereby affecting the health and welfare of the Town and Community.
16. Any excavation or other depression where stagnant water is permitted to collect for longer than one week.
17. Any erecting or maintaining of any unsanitary privies, cesspools or other waste disposal sites. Only sanitary waste facilities approved by the State Health Department are allowed within or outside the Town.
18. Any burning on any street, alley, private residence/lot or public ground of dirt, filth, manure, garbage, leaves, paper, rubbish or any other material.

19. Any livestock trucks or trailers parked in residential areas of the Town which give off any offensive odor or pose a risk of contaminating the Town thereby impacting the general health and well-being.
20. Any other nuisance or problem which threatens or endangers the comfort, health, and general safety of the community.
21. Any other use of property which is specifically declared by resolution of the Town Board to be a nuisance, after compliance with the notice and hearing requirements of the Town Code.

**Official traffic signals** – all signals, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing, warning, or regulating traffic.

**Official traffic signs** – all signs, markings and devices other than signals, placed or erected by authority of a public body or official having jurisdiction, for the purpose of directing, guiding, warning or regulating traffic.

**Operator** – any person who is in actual physical control of a vehicle.

**Owner, Pet** – any person keeping, maintaining, or having in their custody or control an animal. The occupant of any premises on which an animal remains or to which it customarily returns daily for a period of ten (10) days is presumed to be keeping the animal within the meaning of this Ordinance.

**Parking** – the standing of a vehicle, whether attended or unattended, upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, in obedience to traffic regulations or traffic signs or signals, or when authorized by the Town of Marshall, a law enforcement officer, or other public official.

**Pedestrian** – any person afoot.

**Personal passenger vehicle** – any car, pickup truck or van which has no more than four (4) square feet of signage and which is designed for and facilitates personal and passenger travel and has not been externally altered with features not customary to personal usage.

**Portable Fire Pits** - devices commercially designed and intended to contain and control outdoor wood fires, may be used in accordance with the manufacturer's recommendations

**Premises** – a lot or parcel of land, improved or unimproved, parking areas thereon, walkways, sidewalks.

**Private Property** – a real property within the Town which is privately owned and which is not public property.

**Private road or driveway** – every road or driveway not open to the use of the public for vehicular travel.

**Prohibited Burnable Materials** – include but are not limited to refuse, rubbish, garbage, trash, leaves, cardboard, paper products, batteries, household furniture, appliances, any material made of or coated with rubber, plastic, leather, petroleum based materials, or any flammable or combustible liquids.

**Public Nuisance** (SDCL 21-10-3) – one which affects at the same time an entire community of neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

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

**Recreational Fires** - small campfires on private property, small fires confined to pits, or outdoor cooking fires.

**Recreational Vehicle** – a vehicle which is (i) built on a single chassis; (ii) four hundred (400) square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently tow-able by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Right of way** – the privilege of the immediate use of the street.

**Roadway** – that portion of a street between the regular established curb line or that part devoted to vehicular traffic.

**Sidewalk** – that portion of the street between the curb lines and the adjacent property lines.

**Special Assessment** – a levy or tax upon owners of property abutting a public improvement to offset the costs of said improvement. An assessment may also include a levy upon property for maintenance or abatement of a nuisance or other ordinance violations.

**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 one hundred eighty (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.

**Street** – that part of the street set apart for the use of vehicles or motor vehicles and including alleys, avenues, and public highways.

**Structure** – 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** – damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**Substantial Improvement** – any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 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”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”





## CHAPTER I

### DEFINITIONS

#### Article 4 – Definitions Letters “T” through “Z”

**Through street** – that portion of any street or avenue upon which travel is not controlled by stop signs or signals and entrance upon which from intersecting streets is controlled by stop signs.

**Traffic control signals** – any device using colored lights, or words, or any combination thereof, whether manually, electrically or mechanically operated by which traffic is alternately directed to stop and proceed.

**Truck** – any motor vehicle which is used primarily for the transportation of goods, materials, merchandise, or other commodities and which is not used primarily for the transportation of passengers.

**Unhealthy Vegetation** – See **Noxious Vegetation**.

**Variance** – a grant of relief to a person from the requirement of an 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.)

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

**Vicious Animal** –

1. An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places provided that the animal has not been provoked to do so by teasing, tormenting, abusing or assaulting the animal.
2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person, or other animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

**Violation** – 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** – the height, in relation to the National Geodetic Vertical Datum (NGVD) of 192 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Wild Animal** – animals other than domestic dogs and cats, which in a wild state are carnivorous or which because of their nature or physical makeup are capable of inflicting serious physical harm or death to human beings, common domestic animals like dogs and cats which show a continuing propensity for being capable of inflicting serious physical harm or death to human beings will be considered a wild animal.

## **CHAPTER II**

### **ADMINISTRATION**

#### **Article 1 – Ordinance**

##### Section 2.1.1    Effective Date

This Ordinance shall become effective twenty (20) days after the last date of publication of said Ordinance.

##### Section 2.1.2    Separability

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

##### Section 2.1.3    Purpose of Subtitles

The subtitles appearing in connection with the foregoing sections are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court, or other tribunal in construing the terms and provisions of this Ordinance.

##### Section 2.1.4    Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

##### Section 2.1.5    Penalties

Any person found guilty of violating any section of this Ordinance shall be fined not more than Five Hundred Dollars (\$500.00), imprisonment in a local jail for not more than thirty (30) days, or both such fine and imprisonment. Each day of violation shall be considered a separate offense. In addition, such person shall pay all costs and expenses involved in the case.



## **CHAPTER II**

### **ADMINISTRATION**

#### **Article 2 - Corporate Limits and Seal**

##### Sections 2.2.1 Corporate Limits Defined

The current boundaries of the incorporated Town of Ethan are on file with the Municipal Finance Officer.

##### Section 2.2.2 Official Town Map

The map illustrating the corporate limits, filed within with the Municipal Finance Office, shall be the Official Map of the Town of Ethan.

##### Section 2.2.3 Corporate Seal

The Town of Ethan, South Dakota, shall have a corporate seal stating thereon as follows: “Incorporated Town of Ethan, South Dakota” which shall be in the custody of the Municipal Finance Officer and shall appear upon all official signatures of the Board President and Municipal Finance Officer.

##### Section 2.2.4 Legal Newspaper

The Board of Trustees shall designate each year, prior to the first day of May, a legal newspaper for the Town of Ethan.

##### Section 2.2.5 Depository

The Board of Trustees shall designate each year, prior to the first day of May, a primary depository for the Town’s finances.



## CHAPTER II

### ADMINISTRATION

#### Article 3 – Elected Officials

##### Section 2.3.1 Election

There shall be elected at each annual municipal election, Trustees, who shall hold office for three (3) years, with staggered terms, until their successors are elected or appointed and qualified.

##### Section 2.3.2 Trustees

The Board of Trustees of the Town of Ethan shall consist of five (5) board members, each of whom shall be legally qualified electors thereof, and such members shall hold office for three (3) years and until their successors are elected and qualified. Such members shall qualify for office at the regular May meeting by filing an oath or affirmation of office with the Municipal Finance Officer.

##### Section 2.3.3 Oath of Office

The oath of office shall be in the following form:

“I, \_\_\_\_\_, having been elected to the office of a Trustee of the Town of Ethan, South Dakota, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of South Dakota and that I will faithfully and impartially to the best of my knowledge and ability perform all of the duties of my said office as provided by law.”

\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

##### Section 2.3.4 Organization

The Board of Trustees shall elect each year prior to the first day of May the following officers: One (1) President and one (1) Vice President.

The Vice President shall, in the absence of the President from the town, or his temporary disability, be acting President and possess all the powers and charged with the duties of the President.

##### Section 2.3.5 Qualifications

All officials herein provided for, excepting the Trustees, shall before entering upon the discharge of their duties, take and subscribe an oath or affirmation in the form above described and furnish bond to be approved by the Board of Trustees in the sum of Five Hundred Dollars (\$500.00) conditioned for the faithful discharge of the duties of their offices, and to account, pay over and deliver all money or property coming into their hands by virtue of their office according to law; provided that the amount of the Municipal Finance Officer’s bond shall in no case be less than one-half (½) the amount of the estimated



taxes and special assessments for the current year; and in case bonds are sold he shall execute an additional undertaking in the amount thereof, such bond also to be approved by the Board of Trustees

Section 2.3.6 Regular Meetings

The regular meetings of the Board of Trustees shall be held on the first Monday of each month. All meetings in all months shall have a start time set by resolution.

Section 2.3.7 Special Meetings

Special meetings of the Town Board may be held at any time on call of the Town Board President or Municipal Finance Officer.

Section 2.3.8 Special Meeting Notice

Upon call for a special meeting, the Municipal Finance Officer shall notify those Board members present within the municipality via oral or written communication. Nothing in this Section shall prohibit the adoption of a more stringent or formal notification process.

Section 2.3.9 Meeting Rules and Format

The rules and order of business for Town Board meetings shall be determined by the Board from time to time.

Section 2.3.10 Parliamentary Procedure

Robert's Rules of Order, as periodically revised, shall be the parliamentary authority governing the conduct of Town Board meetings.

**CHAPTER II**

**ADMINISTRATION**

**Article 4 – Appointed Officials**

Section 2.4.1   Attorney

The Board of Trustees shall appoint a Town Attorney each year prior to the first day of May.

Section 2.4.2   Engineer

The Board of Trustees shall appoint a Town Engineer each year prior to the first day of May.



## **CHAPTER II**

### **ADMINISTRATION**

#### **Article 5 – Municipal Employees**

##### Section 2.5.1    Municipal Finance Officer

The Board of Trustees shall cause for the employ of a Municipal Finance Office. The duties, of which, shall be negotiated by the Board and conducted in accordance with South Dakota Codified Law. The position shall be compensated at a rate to be determined by the Board, serve at the discretion of the Board, and may be removed without cause.

##### Section 2.5.2    Maintenance/Public Works

The Board of Trustees shall cause for the employ of a Maintenance Position. The duties of which shall be negotiated by the Board and conducted in accordance with applicable labor laws. The position shall be compensated at a rate to be determined by the Board, serve at the discretion of the Board, and may be removed without cause.

##### Section 2.5.3    Law Enforcement

The Board of Trustees shall provide for law enforcement. Police protection and patrol will be contracted through the Davison County Sheriff's Office.

##### Section 2.5.4    Fire Department

The Board of Trustees shall provide for fire protection. Fire protection shall be provided by the Ethan Fire Department, their successors, or whomever the Board of Trustees shall contract with.



## CHAPTER II

### ADMINISTRATION

#### Article 6 – Park Board

##### Section 2.6.1 Purpose

The purpose of this Ordinance is to establish a Park Board within the Town of Ethan, pursuant to and as authorized by SDCL 9-38 of the South Dakota Codified Laws. The purpose of which is for the improvement and betterment of the community.

##### Section 2.6.2 Authority

The Park Board as hereinafter created shall control and supervise the public parks, open spaces, and public grounds of the municipality, including, all ball grounds, subject to rules, regulations and responsibilities as may be prescribed by the Town Board.

##### Section 2.6.3 Qualifications

The Park Board shall be comprised of seven (7) individuals, eighteen (18) years or older.

##### Section 2.6.4 Terms

At the first regular meeting in September of each year, a new member shall be appointed for a term of three (3) years to succeed the retiring member, to serve without pay and at the pleasure of the Town Board.

##### Section 2.6.5 Appointments

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 2.6.11.

##### Section 2.6.6 Meetings

Board meetings shall be held at such times as the Park Board may determine to be necessary but shall be no less than one time annually. At least four (4) of the seven (7) members shall be necessary to conduct a meeting. In such event, any decisions that are made shall require unanimous vote.

##### Section 2.6.7 Officers

The Park Board shall consist of a Chairman who shall control all meetings of the Park Board. The Park Board shall also contain a Secretary to take the minutes of the meetings and receive and mail correspondences and a Treasurer who shall be responsible for keeping of the books of the Park Board.

##### Section 2.6.8 Rules and Regulations

The Park Board shall adopt rules necessary to conduct of its affairs and in the keeping with the provisions of this Ordinance, subject to the review and approval of the Town Board. Funding for the Park Board shall be from the private sector only.

Section 2.6.9 Accounting

The Park Board shall annually give a financial report to the Board of Trustees of its acts and all its expenditures, showing the condition of all affairs under its control. The Town Board 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 Town Board.

Section 2.6.10 Fiscal Year

The fiscal year of the Park Board shall run from January 1<sup>st</sup> through December 31<sup>st</sup>.

Section 2.6.11 Removal

The Town Board reserves the right to remove a member of the Park 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 Town Board shall fill any vacancies that may be created who shall serve out the term in a similar manner.

## CHAPTER II

### ADMINISTRATION

#### Article 7 – Sales and Use Taxes

##### Section 2.7.1 Purpose

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

##### Section 2.7.2 Sales Tax Date

There is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two (2) percent on the gross receipts of all persons engaged in business within the jurisdiction of the Town of Ethan, Davison County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

##### Section 2.7.3 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 property or services purchased. The tax should be levied 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 amended thereto.

##### Section 2.7.4 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 rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

##### Section 2.7.5 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 except for the rate thereof to that tax.





## CHAPTER III

### MUNICIPAL UTILITIES AND SERVICES

#### Article 1 – Water Service

##### Section 3.1.1 Application for Service

Any party desiring to tap into the municipal water system for premises not therefore connected shall apply for a connection by contacting the Municipal Finance Officer. Such application shall contain the applicants name, address and telephone number, the address of the premises to be served and a description of the services desired.

Water shall be supplied only upon written order of the owner of the real estate to which it is piped along with a deposit in the amount set by the Board of Trustees. The Town shall have a lien upon the property to which water shall be taken from the municipal system, for all water rents due, and in no case shall water be turned on at any place or property at which water shall have been used and remained unpaid for, except by permission of the Board of Trustees.

##### Section 3.1.2 Meter Pits

Meter pits are required when service is provided to facilities without an adequate basement or similar improvement.

##### Section 3.1.3 Service and Meter Deposit

There is hereby established a water service and meter deposit in the amount set by the Board of Trustees. The deposit shall be determined by meter size and shall be set annually. If action is not taken by the Town Board the deposit amount shall remain as previously established.

##### Section 3.1.4 Tapping Fee

If an application to tap the city water main is approved by the Town Board, the applicant will pay a Tapping Fee. The Tapping Fee amount will be set by resolution and be kept on file in the office of the Municipal Finance Officer. The Town's service for such fee shall include inspection of the water lines before they are buried by a qualified municipal employee or the Town's engineer once the property has been prepared by the property owner.

##### Section 3.1.5 Payment

All fees for municipal water service are due as of the first of each month and must be paid not later than the tenth (10<sup>th</sup>) of the month for which said amount is due. If not paid by the tenth (10<sup>th</sup>) of that month said amount is delinquent.

##### Section 3.1.6 Payment, Delinquency

The Municipal Finance Officer shall collect delinquent water service fees as a condition precedent to the payment of any water and sewer charge allocated by the Town of Ethan, as provided by SDCL 34A-6-29.

Section 3.1.7 Termination Notice

Water fees are part of your water/sewer/solid waste bill. On all accounts that have not been paid in full by the 10<sup>th</sup> of that month, the customer shall be notified of the account delinquency. If the past due amount is not paid within seven (7) days from such notice, the service may be disconnected. To avoid disconnection the past due amount must be paid in full prior to the disconnection date stated on the delinquency notice.

Section 3.1.8 Termination

It shall be the duty of a municipal employee or other person familiar with the water system to shut off the water from all users so in default pursuant to this Article. Every connection turned off under the provisions of this section shall not be turned on again except upon payment of the amount in arrears. The Town will hold the amount in arrears as the sole responsibility of the owner of the real estate, regardless of whether a landlord/tenant relationship exists.

Section 3.1.9 Delinquent Accounts

A penalty of Five Dollars (\$5.00) per month will be charged on all delinquent billings. If the account remains delinquent after ninety (90) days the past due amount shall be assessed against the property.

After a delinquency of fifteen (15) days or upon disconnection of service of any tenant who is not the owner of the real property, the property owner shall be notified by certified mail of the delinquent tenant account. The property owner shall be responsible for any further delinquency following the sixty (60) day delinquency period if collection from the tenant has been unsuccessful. The property owner shall at their discretion be allowed to request the disconnection of utility service of any tenant.

Section 3.1.10 Seasonal Accounts

Upon the request of a property owner, the City may suspend service for a fee of Ten (10) Dollars. Service may then be reinstated at a later date for a fee of Ten (10) Dollars.

Property owners seeking to suspend service shall be billed a monthly charge of Ten (10) Dollars while service is suspended.

## CHAPTER III

### MUNICIPAL UTILITIES AND SERVICES

#### Article 2 – Sewer Service

##### Section 3.2.1 Application for Service

Any party desiring to tap into the municipal sewer system for premises not therefore connected with the system shall apply for a connection by contacting the Municipal Finance Officer. Such application shall contain the applicant's name, address, and telephone number, the address of the premises to be served and a description of the services desired.

Sewer Service shall be supplied only upon written order of from the owner of the real estate to which it is piped along with a deposit in the amount set by the Board of Trustees, and the Town shall have a lien upon the property to which sewer shall be taken, for all sewer rents due, and in no case shall sewer be received from any place or property at which sewer services were used and remained unpaid for, except by permission of the Board of Trustees.

##### Section 3.2.2 Service Size and Maintenance

The service line shall be a minimum of four (4) inches in diameter.

It shall be the responsibility of the property owner for maintenance and upkeep of the sewer service line up to the point it connects to the sewer main.

##### Section 3.2.3 Tapping Fee

If an application to tap the sewer is approved by the Town Board the applicant will pay a Tapping Fee. The Tapping Fee amount will be set by resolution and be kept on file in the office of the Municipal Finance Officer. The service for such fee shall include inspection of the sewer lines before they are buried by a qualified municipal employee or the Town's engineer once the property has been prepared by the property owner.

##### Section 3.2.4 Payment

All fees for municipal sewer service is due as of the first of each month and must be paid not later than the tenth (10<sup>th</sup>) of the month for which said amount is due. If not paid by the tenth (10<sup>th</sup>) of that month said amount is delinquent.

##### Section 3.2.5 Payment, Delinquency

The Municipal Finance Officer shall collect delinquent sewer service fees as a condition precedent to the payment of any water and sewer charge allocated by the Town of Ethan, as provided by SDCL 34A-6-29.

##### Section 3.2.6 Termination Notice

Sewer fees are part of your water/sewer/solid waste bill. On all accounts that have not been paid in full by the 10<sup>th</sup> of that month, the customer shall be notified of the account delinquency. If the past due amount is not paid within seven (7) days from such notice, the service may be disconnected. To avoid

disconnection the past due amount must be paid in full prior to the disconnection date stated on the delinquency notice.

Section 3.2.7 Termination

It shall be the duty of a municipal employee or other person familiar with the system to shut off water service from all users so in default pursuant to this Article. Every connection turned off under the provisions of this section shall not be turned on again except upon payment of the amount in arrears. The Town will hold the amount in arrears as the sole responsibility of the owner of the real estate, regardless of whether a landlord/tenant relationship exists.

Section 3.2.8 Delinquent Accounts

A penalty of Five Dollars (\$5.00) per month will be charged on all delinquent billings. If the account remains delinquent after ninety (90) days the past due amount shall be assessed against the property.

After a delinquency of fifteen (15) days or upon disconnection of service of any tenant who is not the owner of the real property, the property owner shall be notified by certified mail of the delinquent tenant account. The property owner shall be responsible for any further delinquency following the sixty (60) day delinquency period if collection from the tenant has been unsuccessful. The property owner shall at their discretion be allowed to request the disconnection of utility service of any tenant.

## CHAPTER III

### MUNICIPAL UTILITIES AND SERVICES

#### Article 3 – Solid Waste

##### Section 3.3.1 Service and Fees

The Town of Ethan, South Dakota, shall provide solid waste collection service to all residential households within the Town's corporate limits, and the monthly charge for said services shall be as follows:

1. All Private Residences - Shall be determined by a Resolution
2. All Commercial/Business - Negotiated with Collector

##### Section 3.3.2 Service Required

Any resident who has a water or sewer hookup within the Town limits is required to have and pay the municipal garbage collection service. All commercial users must contract their own garbage collection.

##### Section 3.3.3 Disposal

All garbage shall be secured in plastic bags or similar container and made available at their pickup area.

##### Section 3.3.4 Payment

All fees for municipal solid waste collections are due as of the first of each month and must be paid not later than the tenth (10<sup>th</sup>) of the month for which said amount is due. If not paid by the tenth (10<sup>th</sup>) of that month said amount is delinquent.

##### Section 3.3.5 Payment, Delinquency

The Municipal Finance Officer shall collect a delinquent solid waste collection as a condition precedent to the payment of any water and sewer charge allocated by the Town of Ethan, as provided by SDCL 34A-6-29.

##### Section 3.3.6 Notice and Termination

Solid waste fees are part of your water/sewer/solid waste bill. On all accounts that have not been paid in full by the 10<sup>th</sup> of that month, the customer shall be notified of the account delinquency. If the past due amount is not paid within seven (7) days from such notice, the service may be discontinued. To avoid discontinuation of service the past due amount must be paid in full prior to the discontinuation of service date stated on the delinquency notice.

##### Section 3.3.7 Waste Reduction Target Schedule

Having reviewed and documented that the cost of recycling will cost more than the true and total cost of unsubsidized landfilling, and having followed the designated opt out procedure, the Town of Ethan will be opting out of the waste reduction target scheduled to go into effect on July 1, 1996.



## **CHAPTER III**

### **MUNICIPAL UTILITIES AND SERVICES**

#### **Article 4 – Restricted Use Site**

##### Section 3.4.1   Intent

The Town shall provide for a Restricted Use Site as permitted by the South Dakota Department of Environment and Natural Resources.

##### Section 3.4.2   Location

The Restricted Use Site shall be located upon Irregular Tract 3 in the Southeast (SE) one quarter (1/4) of Section 2 Township 101 North Range 60 West all within Davison County, South Dakota

##### Section 3.4.3   Acceptable Materials

A detailed list of materials accepted at the Restricted Use Site is on file with the Town Finance Officer. Only materials specifically identified in the permit issued by the South Dakota Department of Environment and Natural Resources are permitted to be disposed of at the site.

##### Section 3.4.4   Modification

The Board of Trustees reserves the right to alter the materials accepted by Resolution and in accordance with the Permit to Operate as issued by the South Dakota Department of Environment and Natural Resources.





## CHAPTER IV

### STREETS, SIDEWALKS, AND PUBLIC PROPERTY

#### Article 1 – Street Specifications

##### Section 4.1.1 Street Grades

Maximum street grade shall be ten percent (10).

Minimum street grade shall be one percent (1) unless curb and gutter is present, then it shall be three tenths (0.3) of a percent.

##### Section 4.1.2 Street Cross Slopes

Minimum cross slopes on roads shall be one percent (1).

##### Section 4.1.3 Street Widths

The minimum street width shall accommodate a twenty six (26) foot driving surface. If the road is paved the minimum width of the pavement shall be eighteen (18) feet.

If a road is completed with curb and gutter and asphalt or concrete pavement, the road shall be a minimum of fifty-four (54) feet on Main Street between Depot Street and 2<sup>nd</sup> Street and all other streets should be forty-one (41) feet in width as measured twenty and one-half (20 ½) feet from the center line in opposite directions.

##### Section 4.1.4 Improvements

All improvements within the road right-of-way must be approved by the Town Board. The Town Board or Town Engineer or representative will determine if the construction of the improvement will have any adverse effects to the existing street surfacing, sewer system, water system, and storm water drainage pattern of the adjacent area.

##### Section 4.1.5 Curb and Gutter

Curb and gutter shall be not less than six (6) inches in height and thirty (30) inches in width and shall be Portland Cement Concrete. Backfill shall be higher than the curb and shall slope toward the curb in order to insure that surface water drains into the storm drainage system that is established.

##### Section 4.1.6 Street Names

All streets within the corporate limits of the Town of Ethan, Davison County, South Dakota, shall be named as provided herein:

- A. Depot Street on the original plat of the Town of Ethan, together with the extension of such street shall continue to be known as Depot Street; all streets running north and south, east of Depot Street, shall be named throughout their extensions within the corporate limits in successive order eastward from Depot Street as follows: First Street, Second Street, Third Street, Fourth Street, Fifth Street, Sixth Street, and Seventh Street.

- B. Main Street on the original plat of the Town of Ethan, together with the extension of such street shall continue to be known as Main Street; and the streets south of Main Street running east and west, in successive order south, shall be named throughout their extension with the corporate limits as follows: Ash Street, Elm Street, Drake Street, Clark Street, and South Dakota State Highway 42; and the streets running north of Main Street, running east and west, in successive order north shall be named throughout their extension within the corporate limits as follow: Maple Street and Poplar Street.
  
- C. All streets and their extensions, where intercepted by tracts of land not laid out into streets, shall bear the same name as though such street were continuous.

Section 4.1.7    Modifications

Changes to any of the above may be approved by the Town Board for special circumstances.

Section 4.1.8    General Specifications

The Town of Ethan shall have the ability to maintain any storm water drainage system that exists within the road right-of-way. Cross drains shall be provided to accommodate all natural water flow, and shall be sufficient in length to permit full width roadways and required slopes.

## CHAPTER IV

### STREETS, SIDEWALKS, AND PUBLIC PROPERTY

#### Article 2 – Street and Road Obstructions

##### Section 4.2.1   Objects in Street

No person shall place, leave or keep on any street, road, alley, sidewalk, or other public grounds in this town any motor vehicle, wagon, draw cart, sleigh, unlicensed vehicle, or other vehicle, except when the same shall be in actual use. Nor shall any person place, leave or keep on any street, road, alley, sidewalk or other public ground in this town any other article, substance or material which may obstruct the free use of such street, road, alley, sidewalk or other public ground except as hereinafter provided.

The President of the Board of Trustees is authorized to grant written permission for time therein limited and in no case to exceed three (3) consecutive months to any person or place and keep building materials in any street adjacent to the lot whereon such material is about to be used in the construction or repair of any building or other improvement, but such permit shall not authorize the obstruction with any such material or otherwise of more than one-third (1/3) in width of the sidewalk adjacent to such road, nor shall such material be so placed or kept as to obstruct the free flow of water in the gutters of such street.

##### Section 4.2.2   Buildings

No person shall erect or maintain any building in such a position that the same shall stand in whole or in part upon any street, alley, sidewalk or other public grounds in this town, or so constructed that any part of such building proper shall project into or cover such street, alley, sidewalk or windows, bulks, cornices and other necessary projections above the first story may extend over the adjoining street, alley or sidewalk not exceeding eighteen (18) inches, and no person shall construct any basement or cellar stairway extending into any street, alley or sidewalk more than three and one-half (3½) feet; nor shall any person erect in any street, alley or sidewalk any flight of stairs leading to the second or any higher story of any building without the written permission of the Municipal Finance Officer.

##### Section 4.2.3   Eave Pipes

No person shall in any street or alley of this town place or maintain any pipe leading from the eaves of any building in such a position that the water discharge thereby may flow onto or over any sidewalk in any street or alley in this town.

##### Section 4.2.4   Removal

Whenever any article, substance or material whatever is found lying or remaining upon any street, alley, sidewalk, or other public ground in this town, in violation of the foregoing section, it shall be the duty of the Town Board, or their designee, forthwith to notify or require, by written notice, the person who placed or left such article, substance or material upon such street, alley, sidewalk or other public ground or who may be the owner or having control of such article, substance or material upon such street, alley, sidewalk to immediately remove such things, and if such person shall neglect or fail to remove the same within twenty-four (24) hours after such written notice, it shall be the duty of the Town Board to remove the same, or cause it to be removed from such street, alley, sidewalk or other public ground to some convenient or suitable place in this town at the expense of such person or persons to be recovered in an action.

Section 4.2.5 Clearing

Any person, to whom a permit may be granted in accordance with this Article to keep any material in any street or alley, shall cause all such material and all rubbish resulting there from to be removed from such street, alley, or sidewalk before the expiration of the time limited in such permit. Provided, that such time may for good cause be extended by the President of the Board of Trustees by endorsing such extension on the original permit.

Section 4.2.6 Exceptions

It shall be lawful, notwithstanding anything hereinbefore contained to the contrary, for any person to hang, place or set out in a safe manner, wares or merchandise on or over the sidewalk in front of and not further than three (3) feet from the building occupied by himself or his employer; it shall also be lawful for any person to place and leave for a period not exceeding two (2) hours or three (3) feet of the outer edge of the sidewalk adjacent to the building occupied by him, merchandise which he shall be in the act of receiving, but that this section shall not apply to any sidewalk less than two (2) feet in width.

## **CHAPTER IV**

### **STREETS, SIDEWALKS, AND PUBLIC PROPERTY**

#### **Article 3 – Excavation in Public Right-of-Ways**

##### Section 4.3.1 Excavation Within Right of Way

No person shall injure or tear up any pavement, sidewalk or crosswalk, drain or sewer or any part thereof or dig any hole, ditch or drain in any street, alley, sidewalk, crossing or other public ground in this Town, or remove any of the gravel, sand or soil from any street or alley without written authority from the Board of Trustees.

##### Section 4.3.2 Sewers, Vaults, and Cellars

No person shall make or cause to be made any vault, cellar, cistern, or well in any of the streets, alleys, or other public grounds of this town without first obtaining express written permission from the Board of Trustees, signed by the President of the Board of Trustees and countersigned by the Municipal Finance Officer.

##### Section 4.3.3 Installation of Pipe

Whenever permission shall have been granted to any person to lay any drain, sewer, gas, or water pipe in any street or alley in this town, he shall cause the work to be done in the manner directed or authorized by the Board of Trustees and shall within the time limited in such permit restore the surface of such street or alley to its former condition.

##### Section 4.3.4 Excavation Near Streets

It shall be unlawful for any person to make or cause to be made any excavation on any lot or parcel of land adjacent to any street, alley or traveled path or roadway in this town unless the same be securely guarded by a railing at least three (3) feet high and so tight that no child can fall through it, to present injury to any person passing along such street, alley, or traveled path or roadway.

##### Section 4.3.5 Modifications

Changes to any of the above may be approved by the Town Board for special circumstances.

##### Section 4.3.6 Approval

All improvements within the road right-of-way must be approved by the Town Board. The Town Board, Town Engineer, or other authorized representative will determine if the construction of the improvement will have any adverse effects to the existing street surfacing, sewer system, water system, and storm water drainage pattern of the adjacent area.



## **CHAPTER IV**

### **STREETS, SIDEWALKS, AND PUBLIC PROPERTY**

#### **Article 4 – Signs and Stands**

##### Section 4.4.1 Signs and Streets

No owner or occupant of any store or other building shall fix, put up or erect or suffer to remain fixed, put up, hung or erected any sign, show bill, show case, canvas or any other thing projecting from any such building or store, or hang over the sidewalk more than three (3) feet; but that this section shall not be construed to forbid any person from maintaining an awning in front of his place of business which is at least seven (7) feet over the sidewalk. Nor shall any person set a post or other obstruction in any street or alley in this town for the purpose of fastening thereto any awning or sign, or for any other purpose. Nor shall any person erect, construct or maintain any wooden awning or shed in or over any street, alley or sidewalk in this town.

##### Section 4.4.2 Selling Stands

No person shall set up or keep in any street, alley or other public ground in this town any stand, wagon or other contrivance for the purpose of selling there from or exposing for sale any meat, provisions, refreshments or any wares, goods or merchandise, or to cry out or expose for sale any property whatever without having first obtained the permission of the Board of Trustees containing a particular description of the place or places where such business may be carried on.





## **CHAPTER IV**

### **STREETS, SIDEWALKS, AND PUBLIC PROPERTY**

#### **Article 5 – Snow Removal**

##### Section 4.5.1 Implementation

The Town will start the removal of snow after there is an accumulation of two or more inches (2") with the weather permitting or at other times as directed by the Board of Trustees. During blizzard periods, only emergencies that are a danger to human life will be considered for snow removal.

##### Section 4.5.2 Plow Routes

Plowing will be completed as follows:

1. Area around the school
2. Main Street
3. East-west streets
4. North-south streets

##### Section 4.5.3 Parking

Vehicles and equipment must be removed prior to plowing. Within twelve (12) hours of the snowfall, vehicles must be removed for plowing. If they are not removed, vehicles will be ticketed and towed at the owner's expense.

##### Section 4.5.4 Public Roadways

All snow removal from private property onto public roads or right of ways shall be prohibited.



## **CHAPTER IV**

### **STREETS, SIDEWALKS, AND PUBLIC PROPERTY**

#### **Article 6 – Alleys, Driveways, and Easements**

##### Section 4.6.1   Alleys

Alleys shall be a minimum of sixteen (16) feet in width.

##### Section 4.6.2   Easements

Utility easements will be a minimum of sixteen (16) feet in width.

##### Section 4.6.3   Driveways

Maximum driveway grades shall be ten (10) percent.

##### Section 4.6.4   Culverts

The City shall furnish a rigid, steel or concrete, culvert for each property to install within the driveway. In those cases where a culvert larger than those commonly utilized within the Town is required, the property owner may be required to pay the cost difference to the City who shall then provide a culvert as required.

The Town Board reserves the right to limit the diameter and/or size of culverts placed within the Town. The Board further reserves the right to vary or modify the requirements of this section by resolution.

##### Section 4.6.5   Modifications

Changes to any of the above may be approved by the Town Board for special circumstances.



## **CHAPTER IV**

### **STREETS, SIDEWALKS, AND PUBLIC PROPERTY**

#### **Article 7 – Public Gatherings, Harassment, and Interference**

##### Section 4.7.1 Performances

No person shall in any street, alley, or other public ground in this town, exhibit any show or performance of any kind whatever, or cause the gathering of any crowd of people in any street, alley, sidewalk, or other public ground, nor call or cause to be called any public meeting in any street, alley, or other public ground nor address any crowd of people in any of such places, without the written permission of the Board of Trustees.

##### Section 4.7.2 Crowds

It shall be unlawful for any persons to get together in crowds or groups in any street, alley or on any sidewalk in this town in such manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and the law enforcement officer is hereby authorized to disperse any crowd or group, or to cause the removal of any person violating any of the provisions of this section, and to summarily arrest any person in case of refusal or failure of such person to obey any reasonable direction given by such officer for the purpose of clearing the way or preventing annoyance to passersby on any such street, alley, or sidewalk.

##### Section 4.7.3 Harassment

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

##### Section 4.7.4 Hindering

No person shall hinder or obstruct a legally authorized agent or any employee of this town in lawfully making any improvement or doing any work on any street, alley or any other public ground in this town.



## CHAPTER IV

### STREETS, SIDEWALKS, AND PUBLIC PROPERTY

#### Article 8 – Vegetation

##### Section 4.8.1 Injuring

No person shall without the written permission of the Board of Trustees, signed and countersigned by the President of the Board of Trustees and the Municipal Finance Officer destroy, mutilate, cut, deface, or otherwise injure any tree, shrub, plant, building, fence, gate or any other protection or guards of such tree, shrub, plant upon any street, alley, or other public ground in this town, nor shall any person interfere with the surface of any street, alley, or other public ground in this town without the written permission of the President of the Board of Trustees, Provided, that this section shall not be construed to forbid the owner of any lot or parcel of land to remove or trim shrubbery or trees upon or protruding upon their property.

##### Section 4.8.2 Trimming

The occupant of any lot or parcel of land in this town, adjacent to any street, or alley or the owner of said lot or land, shall keep all trees standing on such premises or between the same and the center of the street adjoining the same so trimmed that no bough or branch thereof shall hang lower than **ten (10) feet** above the surface of the street, alley, or any sidewalk thereof.

##### Section 4.8.3 Removal

Upon approval of the Town Board, the removal of a dead, diseased, or dangerous tree that is located in within a public right of way will be cost-shared by fifty (50) percent homeowner and fifty (50) percent municipality. This does not apply to trees that are being removed for cosmetic reasons.





## CHAPTER IV

### STREETS, SIDEWALKS, AND PUBLIC PROPERTY

#### Article 9 – Street, Water, and Sewer Expansion

##### Section 4.9.1 Developer’s Responsibilities

Developer is responsible for:

1. Clearing the right-of-way of all trees and other objectionable material.
2. Construction of the street sub-grade by properly shaping, rolling, and uniformly compacting appropriate sub-base materials to match cross sections and grades.
3. Installation and compaction of eight (8) inches of gravel from an approved pit or one that meets South Dakota Department of Transportation Section 882 for aggregates for granular bases and surfacing using Table 1 “Aggregate Base Course” as amended.
4. Installation of the water main, a minimum of one (1) block at a time with a compacted trench and a fire hydrant. Water lines shall be laid a minimum of ten (10) feet away from the sewer line as measured on a horizontal plane.
5. Installation of the sewer main, a minimum of one (1) block at a time with a compacted trench and a manhole. Sewer shall be laid down the center of the street or alley.
6. Provide for construction of an asphalt mat once all the proposed lots have been developed, sewer and water hook-ups are completed, and the curb and gutter (if required) has been installed.
7. Preparing or cause to be prepared a drainage map. Said map shall be filed with the Municipal Finance Officer.
8. Construct the drainage prior to construction of any buildings.
9. Add curb and gutter, radius, alley approaches, and drainage swales to street as lots are developed, if deemed necessary by the Board of Trustees. If curb and gutter is not required, then culverts, drainage, and driveways shall adhere to the drainage map.

##### Section 4.9.2 Town’s Responsibilities

Town of Ethan is responsible for maintenance and snow removal of the developed street.



## CHAPTER IV

### STREETS, SIDEWALKS, AND PUBLIC PROPERTY

#### Article 10 – Sidewalks

##### Section 4.10.1 Sidewalk Permits

Before any sidewalk is constructed within the Town of Ethan by any contractor or person for the owner or owners of abutting property, said contractor or person must first secure a permit from the Municipal Finance Officer.

##### Section 4.10.2 Sidewalk Specifications

The Town Board or Municipal Finance Officer has the power to hold a permit until they have clarified any questions on any grades of sidewalks to be constructed. They may have a committee or engineer confirm and approve the construction location and proposed grading before a permit is issued.

The construction of all sidewalks and curbing, whether to be done by direct contract with the Town of Ethan or the contract with the abutting property owners, shall be done by standards set herein. The Town Board shall have the full power to condemn work and material not in accordance with the requirements of said specifications.

Anyone in the Town of Ethan making new installations of sidewalks or improving or replacing existing sidewalks shall install or construct at the crosswalk in either the business or residential areas, ramps so as to make the transition from street to sidewalk easily negotiable for persons in wheelchairs. All such ramps shall be constructed and installed in accordance with plans and specifications published by the South Dakota Department of Transportation.

##### Section 4.10.3 Sidewalk Construction

All sidewalks built hereafter shall be of Portland Cement Concrete construction to a depth of four (4) inches and a width of four (4) feet, six (6) inches, except those lying within the business district, which shall be ten (10) feet in width. All sidewalks except those in the business district on Main Street shall be placed six (6) inches to one (1) foot from the property line towards the street.

##### Section 4.10.4 Procedure for Enhancement

Whenever the Town Board shall deem it necessary to construct or repair any sidewalk, they shall require the Municipal Finance Officer to give notice in writing to all resident owners and occupants of any lot or lots or parcels of land adjoining such sidewalk, to construct or repair the same at his or their own proper expense and charge, within thirty (30) days from the service of said notice, and upon non-resident owners, by publication in the official paper for not less than two (2) weeks, or a notice to such non-resident owners, setting forth what work is to be done and the character of the same by such owners or occupants, and that the same must be constructed or repaired within thirty (30) days from the first publication of said notice, which shall also give the date of the first publication; provided, that when repairs only are necessary and the owner or owners of the lot or parcels of land adjoining said sidewalk to be repaired are non-residents, and the said lots or parcels of land are unoccupied, the Town Board, May make such needed repair, and the reasonable necessary expense for making the same shall be assessed on the lot, lots or parcels of land adjoining, and assessed and collected as provided in South Dakota State Statutes.

Section 4.10.5 Further Proceedings

If such work is not done and the sidewalks not built or repaired in the manner and within the time prescribed, the Board of Trustees may order the same to be done by the Town at the expense of the lot, lots, and parcels of land adjoining said sidewalks, and the said expense shall be assessed upon such lots and parcels of land so chargeable, by the Board and said assessment is so made and returned, if approved by the Board, shall become a lien upon said lots and parcels of land, as in the case of Town, County, and States taxes.

Section 4.10.6 Payment

If the said assessment is not paid to the Municipal Finance Officer on or before the twentieth (20<sup>th</sup>) day of August, in any year, the Town shall cause a statement of the same to be transmitted with the Town taxes levied for the year, to the Auditor of the county on or before the first day of September in each year; and the said Auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the County Treasurer for collection, and payment thereon enforced within and in like manner as town, county, and state taxes are collected and payment thereon enforced.

Section 4.10.7 Obstruction

No person shall place, push, draw, or back any motor vehicle, wagon, cart, or other vehicle upon any sidewalk in this town, or use, drive, ride, or leave the vehicle upon the sidewalk unless it is in crossing the same to go into an alley or upon a lot where no other means of access is provided.

Section 4.10.8 Snow Removal

The occupant of any premises in this town adjacent to any sidewalk in the business district on Main Street between Depot Street and 2<sup>nd</sup> Street, or the owner of such premises if the same are unoccupied, shall within fifteen (15) hours after the fall of snow remove the snow from the said sidewalk on Main Street, as adjoins the said premises.

If such work is not done, the Town Board may come and remove the snow at an expense of Seventy-Five Dollars (\$75) per hour for the work. Any costs incurred will be billed back to the property owner.

## **CHAPTER V**

### **LICENSES, PERMITS, AND PLATS**

#### **Article 1 – Temporary Sales**

##### Section 5.1.1 Peddlers and Hawkers

All licenses except those to peddlers or hawkers shall specify the particular place in this town where the acts or business therein mentioned are licensed to be done or carried on, which shall be confined to the place so designated unless otherwise permitted by the President of the Board of Trustees, in writing, endorsed on said license, and every license except to sell intoxicating liquors shall terminate on the first Tuesday in May after the granting thereof, unless otherwise therein provided in such license.

##### Section 5.1.2 Other Licenses and Permits

The Board of Trustees reserves the right to require permits and/or licenses for activities, events, or other similar item the Board deems necessary. Such permits shall be completed on forms supplied by the Municipal Finance Officer and submitted to same for consideration at an official meeting of the Board of Trustees.



**CHAPTER V**  
**LICENSES, PERMITS, AND PLATS**

**Article 2 – Liquor**

Section 5.2.1      Required License

No person shall engage in business as a distiller, wholesaler, package dealer, a club, dining car company, a transportation company, or solicitor of intoxicating liquor until he shall have procured a license covering the class of business operation to be engaged in by him within the City, except as provided by law.

Section 5.2.2      Number of Licenses

There shall be issued within the municipality not to exceed three (3) on-sale and two (2) off-sale licenses. All club licenses shall be counted as on-sale licenses for purpose of limitation of the number of licenses.

Section 5.2.3      Classifications and Fees

The following classifications and fees are established for on and off-sale dealers in distilled spirits, wines, and malt beverages:

- A. The off-sale yearly license fee for the sale of alcoholic beverages, other than malt beverages, shall be Three Hundred (300) Dollars;
- B. The on-sale yearly license fee for the sale of alcoholic beverages, other than malt beverages, shall be Five Hundred (500) Dollars;
- C. The on-off sale yearly license fee for the sale of malt beverages, shall be Two Hundred Fifty (250) Dollars;
- D. The off-sale yearly license fee for the sale of malt beverages, shall be One Hundred Fifty (150) Dollars;
- E. The on-sale yearly license fee for the sale of wine shall be Five Hundred (500) Dollars.

Section 5.2.4      License Approval

Application for licenses regulated by this Article shall be submitted in duplicate to the Municipal Finance Officer. Upon receipt of a complete license application the Municipal Finance Officer shall place said request on the next available Town Board meeting agenda.

If an applicant chooses to accelerate the application process via a special meeting of the Town Board they shall make application for a special meeting. Applications for special meetings shall be submitted with the agreement that said applicant shall be responsible for all fees associated with the application as well as a Five (5) Dollar fee.

Section 5.2.5      License Removal

No licenses under any class shall remove from one location to another within the corporate limits of the City in which the license was originally issued without permission of the President.



Section 5.2.6 Possession in a Public Place

No person shall be permitted to have an unsealed original package in his possession in a public place within the City except as described herein . Provided, however, that this shall not apply to an on sale dealer who shall have unsealed packages with proper stamps on his premises from which to serve his customers.

Section 5.2.7 Selling Hours

No licensee of any class within the City shall sell any intoxicating liquor outside of the hours in which his license permits him to sell.

Section 5.2.8 Selling Liquor on Sundays

The Board may at its discretion provide in any on-sale liquor establishment the right to sell, serve, or allow to be consumed alcoholic beverages between the hours of one o'clock P.M. and twelve Midnight on Sunday with the serving of food where said licensee has facilities for the serving of prepared meals from a fixed restaurant with the simultaneous seating capacity of at least twenty-five (25) patrons.

Section 5.2.9 Serving Liquor Outside of Establishment

No on-sale dealer shall be permitted to serve within the City any intoxicating liquor outside of the building for which his license was issued; provided that the view through the windows of the building where said business is carried on shall be completely unobstructed either by curtains, advertising, window glazing or other obstructions whatsoever and provided further that no liquor shall be served in any booth wherein all the occupants are not within full view of every other occupant in the room and observable from any and all points in said room.

Section 5.2.10 Beer Garden

- A. A beer garden is defined for purposes of this Article as an area adjacent to an establishment which has been issued an on-sale beer or liquor license where patrons of said establishment may consume alcoholic beverages sold by the establishment in an area outside of the establishment but adjacent thereto.
- B. Any on-sale liquor or beer licensee may operate a beer garden so long as the beer garden is adjacent and connecting to the licensed establishment and the only entry into the beer garden is from an entry way into the licensed establishment. Any beer garden shall have a fence at least six (6) feet high around the beer garden constructed in such a way that no person may crawl through or under said fence. Further, if there are any outside bands, jukeboxes, or loud speakers in a beer garden the same shall cease playing or operating at 12:00 a.m.
- C. The fence to be constructed around the beer garden as set out above, shall, in all respects comply with any ordinances amendatory thereto insofar as the location of said fences in regards to the proximity of streets, alleys, and property lines or boundaries.
- D. Any on-sale liquor or beer establishment who operates a beer garden shall have located within said establishment a telephone that will accept outgoing calls.
- E. Any licensee operating a beer garden shall abide by all rules and regulations as set out by state or local statutes involving the sale of said alcoholic beverages.

- F. The only alcoholic beverages to be consumed within the premises defined as a beer garden shall be those alcoholic beverages sold by the licensed establishment operating the beer garden.
- G. This Article does not apply to those establishments which request permission to operate a beer garden on one particular time a year.

Section 5.2.11      Entertainment

It shall be unlawful for any person owning, renting, leasing, operating, or managing any establishment that sells, by the drink or for consumption on the premises, intoxicating liquor or alcoholic beverages, wine or beer, in which the establishment has had a license application approved or recommended to be approved by the governing body of the City, to cause, allow, or permit any person in or about such establishment, while in the presence of any other person in such establishment, to fail to conceal with fully opaque covering, the sexual or genital parts of his or her body.

It shall also be unlawful for any patron to have physical contact with an entertainer during the course of a performance on a licensed premise except under the following conditions:

- A. The entertainer shall have invited the patron to participate in the performance; and
- B. The contact that takes place does not involve any act by the patron and the entertainer that could be characterized as a sexual act.

Any entertainer performing in an establishment, as defined above, must be at least twenty-one (21) years of age and have proper identification.

In addition, upon proof of violation of this Article, any license approved or recommended to be approved by the governing body of the City, may be revoked or suspended in pursuant to SDCL 35-2-10.

Section 5.2.12      Age to Enter onto Premises

No on-sale licensee of any class within the City shall permit any person under the age of twenty-one (21) years within said licensee's building or premises except where said person under the age of twenty-one (21) years is in the company of his parent or guardian.

Section 5.2.13      Intoxicated Person Entering Premises

No licensee of any class within the City shall permit any intoxicated person to enter his premises or to become intoxicated thereon or therein.

Section 5.2.14      Original Packages

No person within the City (except for a retailer licensed under SDCL 35-4-2(16)) shall buy from any on-sale dealer any intoxicating liquor not in the original package, whether the said original package be sealed or unsealed, or whether said original package be full or partially full.

Section 5.2.15      Off-Sale Sales

That no package or off-sale licensee within the City shall sell or allow to be sold alcoholic beverages between the hours of twelve o'clock midnight and seven o'clock A.M. in accordance with SDCL 35-4-81.1 as amended.

Section 5.2.16      Sunday Off-Sale

Pursuant to the authority granted by SDCL 35-4-81.1, the City hereby permits the sale of alcoholic beverages by off-sale licensees on Sundays. No sales of alcoholic beverages by off-sale licensees may be made on Sundays between the hours of 12:00 o'clock midnight and 7:00 o'clock a.m. of the following day.

Section 5.2.17      On-Sale Sales

No on-sale licensee within the City shall sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of two o'clock A.M. and seven o'clock A.M. or on Sunday after two o'clock A.M., or on Memorial Day after one o'clock A.M. or at any time on Christmas Day. The Sunday exclusion contained above shall not apply to those licensee's who shall obtain a license for the sale of alcoholic beverages on Sunday as provided in Section 5.2.16 of this Ordinance. It shall be unlawful for any licensee, employee, agent, or servant of an on-sale liquor establishment whose principle business is the sale of alcoholic beverages to allow any patron or customer to remain on the premises after the above designated closing time.

Section 5.2.18      Central Standard Time and Central Standard Daylight Savings

All times for opening and closing hours prescribed in herein shall be Central Standard Time or Central Standard Daylight Savings time when such time is in effect in the local community of Ethan.

Section 5.2.19      Unsealed Container

It shall be unlawful for any person to possess an alcoholic beverage in an unsealed container or in an open receptacle either within or without a motor vehicle on any sidewalk, street, alley, or highway within the City limits.

This Section shall not apply:

- A. In or upon described property which is publicly owned, or owned by a non-profit corporation, when the governing body of this municipality has authorized by permit, pursuant to SDCL 35-1-5.3, persons to consume or blend alcoholic beverages, but not to engage in the sale thereof, for a period not to exceed twenty-four (24) hours.
- B. In or upon described property which is publicly owned, or owned by a non-profit corporation, when the governing body of this municipality has authorized by permit, pursuant to SDCL 35-4-11.4, a special malt beverage retailers license to any civil, charitable, educational, or fraternal organization in conjunction with a special event within the municipality.

Section 5.2.20      Possession of Open Bottle or Can

It shall be unlawful for any person to consume or have in his possession an opened bottle or can of alcoholic liquor, as defined in SDCL 35-1-9.1 through 35-1-9.3, upon any public street or alley either

within or without a motor vehicle within the City Limits or upon any public right-of-way or highway within one (1) mile of the City Limits.

Section 5.2.21    Consumption of Alcohol at Street Dances

Alcoholic beverages served at street dances within the corporate limits shall be consumed only within the established marked or fenced boundaries. Any and all alcoholic consumption of and disorderly conduct relating thereto outside the established boundaries be subject to a Seventy-Five Dollar (\$75.00) fine.

Section 5.2.22        City Park

Alcoholic beverages may be consumed between the hours of 10:30 A.M. and 10:30 P.M. within the boundaries of the City Park hereinafter described as Lots 1-12 Block 1 A.C. Drake's 2<sup>nd</sup> Addition and Lots 1-6 Block 4 A.C. Drake's 2<sup>nd</sup> Addition. Any and all alcoholic consumption of and disorderly conduct relating thereto outside the established boundaries or allowed hours shall be subject to a Seventy-Five Dollar (\$75.00) civil fine in addition to normal criminal charges.

Section 5.2.23        Penalty

Any person violating any of the provisions of this Article shall be guilty of a Class II Misdemeanor and shall be fined pursuant to SDCL as amended.



## **CHAPTER V**

### **LICENSES, PERMITS, AND PLATS**

#### **Article 3 – Platting**

##### Section 5.3.1    Vacation

Any part of a plat may be vacated provided; such vacating does not abridge or destroy any of the rights and privileges of other proprietors in said plat. Nothing contained in this section shall authorize the closing or obstructing of any public highways laid out according to law.

##### Section 5.3.2    Procedure

Any such plat may be vacated by the proprietors thereof, at any time before the sale of any lots therein, by a written instrument declaring the same to be vacated, duly executed, acknowledged or approved and recorded in the same office with the plat to be vacated.

The execution and recording of such writing shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, commons, and public grounds, laid out or described in such plat. In cases where any lots have been sold, the plat may be vacated, as herein provided, by all the owners of lots in such plat joining in the execution of the writing aforesaid.

##### Section 5.3.3    Owner's Rights

When any part of a plat shall be vacated as aforesaid, the proprietors of the lots so vacated may enclose the streets, alleys, and public grounds adjoining said lots in equal proportions.

##### Section 5.3.4    Recording

The Board of Trustees shall approve any vacations within existing corporate limits. Once approved, it shall be referred to the Register of Deeds office for official filing



## CHAPTER VI

### TRAFFIC REGULATIONS AND VIOLATIONS

#### Article 1– General Regulations

##### Section 6.1.1 Traffic Direction

The operator of a vehicle shall drive the same upon the right half of the street, and the operator of a slow moving vehicle shall drive the same as close as possible to the right hand edge or curb of the street, unless it is impracticable to travel on such side of the street, and except when overtaking and passing another vehicle subject to the limitations applicable by law in overtaking and passing.

##### Section 6.1.2 Turning at Intersections

No operator of a vehicle shall execute a turn except in accordance with the following:

- A. Right turns. The operator of a vehicle intending to turn to the right at an intersection or into an alley or driveway shall approach the point of turn in the right hand half of the roadway and in turning shall keep as close as practicable to the right hand curb or edge of street.
- B. Left turns. The operator of a vehicle intending to turn to the left at an intersection or into an alley or driveway shall approach the point of turning in the right hand half of the roadway, and unless otherwise directed by turning to the left as at intersections shall pass to the right of the center of the intersection before turning.

##### Section 6.1.3 Exhibition Driving

No person shall drive a vehicle within the Town of Ethan 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 sway.

##### Section 6.1.4 Official Traffic Signs and Signals

The Board of Trustees shall by resolution determine and designate the character and type of all official signs and signals.

##### Section 6.1.5 Obedience of Traffic Signals

No person shall violate any rule, regulation, traffic direction, sign, or marking adopted, prescribed, or established in accordance with the provisions of this Article, unless otherwise directed by a law enforcement officer.

##### Section 6.1.6 Directing Traffic

It shall be the duty of a law enforcement officer to enforce the provisions of this Article. Law enforcement officers are hereby authorized to direct all traffic, either in person or by means of visible or audible signal in conformance with the provisions of this Article, provided that in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, law enforcement, officers of the police or fire department personnel, or any authorized individual may direct traffic, as conditions may require, notwithstanding the provisions of this Article.



No person shall refuse or fail to comply with any lawful order, signal or direction of a law enforcement officer.

Section 6.1.7    Emergency Vehicles

It shall be unlawful for the operator of any vehicle other than one on official business to follow closer than five hundred (500) feet of any fire vehicle or ambulance traveling in response to a fire alarm or emergency call and to drive into or stop any vehicle within the block where such fire apparatus or ambulance has stopped in answer to such fire alarm or emergency call.

Section 6.1.8    Speed

No person shall drive or operate any vehicle on Main Street in the Town of Ethan, between Depot Street and Third Street, at a speed greater than fifteen (15) miles per hour. No person shall drive or operate any vehicle within the corporate limits of the Town of Ethan, other than above provided, at a speed greater than twenty (20) miles per hour.

Section 6.1.9    Stalled Vehicles

No person operating a motor vehicle upon the public streets shall allow such vehicle to become partially or wholly stalled so as to impede street cleaning or other traffic within the roadway.

Section 6.1.10   Abandoned Vehicles

No person operating a motor vehicle upon the public streets which has been stalled and/or improperly parked within the roadway because of the condition of the streets shall abandon such vehicle so as to impede other traffic in the roadway. Such vehicle shall be considered abandoned if the owner or operator is not with the vehicle

Section 6.1.11   Fire Hoses

No person shall drive any vehicle over any fire hose when the same is in use on the streets or alleys of said town.

Section 6.1.12   Truck Route

All vehicles in excess of twenty thousand (20,000) pounds, gross vehicle weight (gvw), shall remain upon the Truck Route hereby defined as Second (2<sup>nd</sup>) Street, Elm Street from 2<sup>nd</sup> Street to Depot Street and Ash Street from 2<sup>nd</sup> and Depot Streets.

No Truck in excess of twenty thousand (20,000) pounds, gross vehicle weight (gvw), shall travel, park, stand or remain upon any right of way except those specifically identified herein.

## **CHAPTER VI**

### **TRAFFIC REGULATIONS AND VIOLATIONS**

#### **Article 2– Pedestrians**

##### Section 6.2.1   Crosswalks

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

Pedestrians shall move with reasonable dispatch at all crosswalks.

No pedestrian shall go from one side of the street to the other, except at a right angle and at a regular crosswalk, upon any street in the business section or on a through street.

##### Section 6.2.2   Right of Way

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

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

Every pedestrian crossing a roadway at any other point than within a marked cross-walk or any unmarked cross-walk at the end of a block shall yield the right of way to vehicles upon the roadway, provided that this provision shall not relieve the driver of any vehicle from the duty to exercise due care for the safety of pedestrians.



## CHAPTER VI

### TRAFFIC REGULATIONS AND VIOLATIONS

#### Article 3 – Parking

##### Section 6.3.1 General Regulations

Except when necessary in obedience of traffic regulations or traffic signs or signals, no operator of any vehicle shall stop, stand, or park such vehicle on Main Street in the Town of Ethan other than in the diagonal parking indicated upon the curb and only between such markings thereon designated and not within less than three (3) feet between said vehicles so parked. Upon all other streets within the Town of Ethan all vehicles shall be parked parallel with the curb line or the edge of the roadway headed in the direction of the traffic and with the curb side wheels of the vehicles within six (6) inches of the edge of the roadway.

##### Section 6.3.2 Prohibitions

It shall be unlawful for the operator of any vehicle to stop, stand or park such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, or traffic control signal:

- A. Within an intersection;
- B. On a crosswalk;
- C. Outside the first line of cars parked next to the curb lines;
- D. Within twenty-five (25) feet of the intersection of curb lines;
- E. Within fifteen (15) feet of the driveway entrance to a fire station;
- F. Within fifteen (15) feet of a fire hydrant;
- G. In front of a private driveway; and
- H. On a sidewalk or parking.
- I. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

##### Section 6.3.3 Commercial Vehicles

Parking and storage of commercial vehicles, construction equipment, farm equipment, or materials upon municipal streets or rights-of way is prohibited as follows:

- A. It shall be unlawful for any person or business to park, store, leave or permit the parking, storing, or leaving of any commercial vehicle, construction or farm equipment, and materials upon any street or public right-of-way.
- B. The transferring of materials from smaller satellite vehicles to larger trucks is prohibited on all public rights-of-way.

Section 6.3.4 Exceptions

The provisions of this section shall not apply to the following, provided said vehicle is not standing within the public right of way for a period greater than twenty-four (24) hours:

- A. Emergency vehicles;
- B. Personal passenger vehicles;
- C. Vehicles that are disabled;
- D. Light delivery trucks delivering goods from place to place;
- E. Garbage or recycling trucks during collection activities;
- F. Vehicles in the process of loading or unloading;
- G. Vehicles parked in connection with a construction-site;
- H. Vehicles or equipment which are properly signed and parked temporarily in connection with the performance of a construction or maintenance service to property on or under the Town right-of-way; and
- I. Vehicles, immobile equipment, or materials parked in connection with a construction site for longer than twenty-four (24) hours for which the owner or lessor has obtained and posted a permit from the Municipal Finance Officer and are in compliance with the limitations or conditions prescribed by the Town at the time of issuance.

Section 6.3.5 Off Street Parking

All properties, residential, industrial, or commercial, shall be large enough to provide off-street loading and un-loading and off-street parking.

## **CHAPTER VI**

### **TRAFFIC REGULATIONS AND VIOLATIONS**

#### **Article 4 – Recreational Vehicles**

##### Section 6.4.1 Private Property

It shall be unlawful to operate snowmobiles, go-carts, golf carts, or all terrain vehicles on or across the private property of another, unless permission to do so has been first obtained by the vehicle operator or vehicle owner of the snowmobile, go-cart, golf cart, or all terrain vehicle.

##### Section 6.4.2 Public Right-of-Ways

Snowmobiles, go-carts, golf carts, and all terrain vehicles may be operated on the roadways of the Town subject to the following restrictions.

- A. No snowmobiles, go-carts, golf carts or all terrain vehicles may be operated within the Town during the hours of darkness, unless the vehicle has working lights affixed to it.
- B. All unlicensed snowmobiles, go-carts, golf carts, and all terrain vehicles operated on roadways shall display a 12" x 12" orange flag attached to the snowmobile, go-cart, golf cart or all terrain vehicle in such a manner that the bottom of the flag measures sixty inches (60") from the roadway surface.
- C. Public right-of-ways within Town may only be used for travel in the most direct route to and from the Municipal Limits.
- D. Snowmobiles, go-carts, golf carts, and all terrain vehicles are prohibited from operating in all parks and recreation areas.
- E. All snowmobiles, go-carts, golf carts, and all terrain vehicles operated within the Town shall be subject to the same traffic ordinances, rules and regulations as pertain to the operation of motor vehicles when the snowmobiles, go-carts, golf carts, and all terrain vehicles are operated on Town roadways.
- F. In the event of an emergency, permission may be granted by any law enforcement officer, the Board President, or County Emergency Manager for the use of the Town roadways.

##### Section 6.4.3 Registration

All snowmobiles, go-carts, golf carts, and all terrain vehicles operated within the Town must comply with title registration and licensing requirements of the State of South Dakota.



## **CHAPTER VI**

### **TRAFFIC REGULATIONS AND VIOLATIONS**

#### **Article 5 – Bicycles**

##### Section 6.5.1   Night Riding

Any person riding a bicycle, tricycle, or other similar vehicle upon any street or alley or other public ground in the night time shall mount a reflector light in such manner that any person in said street, alley, or other public ground shall be warned of his or her approach.

##### Section 6.5.2   Fast Riding

No person shall on any street, alley, or other public ground in this Town ride a bicycle, tricycle, or other similar vehicle at a dangerous or reckless rate of speed.

##### Section 6.5.3   Riding on Sidewalks

Any person riding a bicycle, tricycle, or other similar vehicle upon any sidewalk shall do so in a courteous manner and yield to all pedestrians or other persons.





## **CHAPTER VII**

### **OFFENSES AND MISDEMEANORS**

#### **Article 1 – General Violations**

##### Section 7.1.1 Disturbances

No person shall in this Town disturb the peace of the same or of any lawful assembly of persons or of any neighborhood, or of any person or persons.

##### Section 7.1.2 Inappropriate Language

No person shall in this Town curse, swear, quarrel, or use any violent or threatening language, or make any great noise so as to disturb the peace of any person or neighborhood.

##### Section 7.1.3 Indecent Exposure

No person shall in this Town make any indecent exposure of his person

##### Section 7.1.4 Gambling

No person shall keep any building or any other place in this Town to be used or occupied for gambling or for any game of chance for money; and no person shall as owner, agent or superintendent of any such place knowingly let the same, or allow it to be used or occupied for gambling or for playing any game of chance for money.

Nothing in this Ordinance or Section shall apply to those establishments with video lottery, other lottery products, or charitable gambling, as regulated by the State of South Dakota.

##### Section 7.1.5 Fireworks

No person shall discharge, display, shoot, or light any rocket or any other piece of fireworks within corporate limits between the hours of 11:00 p.m. and 10:00 a.m. The Board of Trustees reserves the right to waive any such part of this Section or to prohibit any and all defined activities. Such action shall take place at a meeting of the Board of Trustees unless an emergency is declared by the President of the Board.

##### Section 7.1.6 Fire Alarms

No person shall in the Town of Ethan knowingly or willfully create a false alarm of fire.



## CHAPTER VII

### OFFENSES AND MISDEMEANORS

#### Article 2 – Nuisances

##### Section 7.2.1 Defined

Nuisance shall include any and all definitions herein which name or deal with activities, conditions, or presence which may commonly be referred to as a nuisance.

##### Section 7.2.2 Prohibited

No person shall create, commit, maintain or permit to be created, committed, or maintained any nuisance as defined herein within the Town of Ethan. It is declared that one or more of the following conditions either alone or in combination with others, which at the same time affects an entire community or neighborhood, or in considerable number of persons, although the extent of annoyance or damage inflicted upon the individuals may be unequal, constitutes a public nuisance.

##### Section 7.2.3 Abatement

Nuisance(s) will be identified as a nuisance by a majority of Members at any Board of Trustees Meeting unless the nuisance requires immediate emergency action, then a consensus of three (3) or more board members is sufficient.

1. Notice of Nuisance will be sent to offending property owner(s)
  - a. Notice shall be sent by certified mail to the last known address of the property owner or notice will be given by personal service.
  - b. Whenever the owner or agent is not known or cannot be found or his last known post office address is unknown, a copy of such notice will be posted on the premises where the nuisance exists. After the notice has been posted on the premises for (14) consecutive days, proper notice of the nuisance will have been given to the property owner.
2. The offending property owner has thirty (30) days to voluntarily abate, fix, or remove the nuisance at owner's expense upon notice. Nuisances that create an immediate emergency or imminent threat to the Town of Ethan must be voluntarily abated within twenty-four (24) hours of notice.
  - a. If the property owner fails to abate, fix or remove the nuisance within (30) thirty days after receiving notice the Town can pursue any legal process or remedy allowed by the laws of the State of South Dakota, including a civil action against the property owner, resident, or tenant. Also, the Town may enter the property after thirty (30) days notice to cleanup, abate, or remove the nuisance and assess the property for the cost to cleanup, abate, or remove the nuisance by special assessment against the property or lot as authorized by SDCL 21-10-6.
  - b. If the offending nuisance is so dangerous as to create an immediate emergency the offending nuisance property, owner, or tenant will be given twenty-four (24) hours to abate the nuisance before the Town can abate the nuisance. Three (3) or more board

members can identify such an emergency nuisance. An emergency nuisance is a nuisance that is so dangerous that it substantially endangers the community and must be immediately abated or removed to prevent imminent harm to the community.

Section 7.2.4 Remedies and Sanctions Not Exclusive

The remedies and sanctions set forth in this Ordinance shall not be construed so as to exclude any other remedies or sanctions, either criminal or civil, elsewhere provided in this Code or by South Dakota State Law.

## CHAPTER VII

### OFFENSES AND MISDEMEANORS

#### Article 3 – Abandoned Vehicles

##### Section 7.3.1 Public Nuisance

The presence of an abandoned, inoperable, unlicensed, or junked motor vehicle or parts thereof, on private or public property, is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Section. This Article shall not apply to any motor vehicles enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, lawfully licensed by any state or to any motor vehicle in a appropriate storage place or depository maintained in a manner authorized by the Town Board of Trustees.

##### Section 7.3.2 Storing on Public Property

No person shall park, store, leave, or permit the parking, storing, or leaving of abandoned, inoperable, unlicensed, or junked motor vehicles of any kind, whether attended or not, upon any public property within the Town.

##### Section 7.3.3 Removal of Vehicles

Whenever the Board of Trustees or a law enforcement officer finds an abandoned, junked, unlicensed, or unattended motor vehicle on public property within the Town, the Board of Trustees or the law enforcement officer is authorized to place written notice on the vehicle that it will be removed to a place of safety unless the owner removes the vehicle from public property within twenty-four (24) hours of the giving of the notice. After the expiration of the twenty-four (24) hour period, the vehicle may be removed by a municipal employee or other authorized agency to a designated area. Nothing in this Article precludes the Board of Trustees from immediately removing a motor vehicle that causes an obstruction or hazard to traffic.

##### Section 7.3.4 Notice to Owner

It shall be the duty of the Board of Trustees or the law enforcement agency to notify, by certified mail, the registered owner, and if encumbered, the lien holder, of the removal, storage, and present location of any vehicle removed under the provisions of this Article and that the vehicle can be recovered by payment of costs incident to its removal and storage.

##### Section 7.3.5 Sale of Unclaimed Motor Vehicle

If, after two (2) months from the date of mailing or publishing a notice of removal and storage provided for by this Article, the motor vehicle shall remain unclaimed, such motor vehicle may be sold by the Board of Trustees or law enforcement agency at public auction upon notice to be published in a newspaper of general circulation in the county not less than once a week for two (2) consecutive weeks.

##### Section 7.3.6 Notice of Sale

The notice of sale provided for by this Article shall contain a description of the removed and stored motor vehicle, including the year, make, model, vehicle identification number, color, license number, if any, a statement that the motor vehicle was found abandoned or junked, the date thereof, and the place, date, and

time at which such motor vehicle shall be sold, which date shall not be sooner than one (1) week following the date of the last publication of notice.

Section 7.3.7 Lien for Costs

The Board of Trustees or Law Enforcement agency shall have a possessor lien upon any motor vehicle removed under the provisions of this Article for the cost in taking custody of and storing such motor vehicle.

Section 7.3.8 Disposal of Unclaimed Vehicle

If, after two (2) months from the date of mailing or publishing the notice of removal and storage provided for by this Article, the motor vehicle shall remain unclaimed, the title to such motor vehicle may be disposed of in any manner as may be provided by the Board of Trustees. The proceeds of any such disposal shall first be applied to the costs incurred in the enforcement of this Article with the balance to be deposited to the general fund of the Town.

## CHAPTER VII

### OFFENSES AND MISDEMEANORS

#### Article 4 – Abandoned Vehicles – Private Property

##### Section 7.4.1 Junk Cars on Private Property

A vehicle shall be declared a nuisance on public or private property when the vehicle is junked, wrecked, partially dismantled, inoperative, and/or unlicensed. This shall not apply to vehicles under repair for a period of not more than ten (10) days or those completely enclosed in a garage or building for purposes of storage.

##### Section 7.4.2 Private Property Owners

No person owning, in charge of, or in control of any real property within the Town, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any abandoned, junked, or unlicensed motor vehicle of any kind to remain on such property longer than fifteen (15) days.

##### Section 7.4.3 Notice to Remove Vehicles

Whenever it comes to the attention of the Board of Trustees or Law Enforcement Agency that any person has an abandoned, unlicensed, or junked motor vehicle on said property, a notice in writing shall be served upon such person requesting the removal of such motor vehicle in the time specified in this Article.

##### Section 7.4.4 Responsibility for Removal of Vehicles

Upon proper notice, the owner of the abandoned, unlicensed, or junked motor 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.

##### Section 7.4.5 Notice Procedure

The Board of Trustees or Law Enforcement Agency shall give notice of removal to the owner or occupant of the private property where the vehicle is located. It shall constitute sufficient notice, when a copy of same is sent by registered mail to the owner or occupant of the private property at the last known address.

The notice shall contain the request for removal with fifteen (15) days after the mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be violation of this Article.

##### Section 7.4.6 Removal

If the owner or the occupant of the private property fails to remove the abandoned, wrecked, dismantled, inoperative, unlicensed, junked, or partially dismantled motor vehicle within fifteen (15) days after the notice to remove is mailed to him, then a municipal employee or other authorized agency shall be allowed to remove the vehicle and cause the same to be transferred and removed to a designated area.



Section 7.4.7 Notice to Owner

It shall be the duty of the Board of Trustees or the law enforcement agency to notify, by certified mail, the registered owner, and if encumbered, the lien holder, of the removal, storage, and present location of any vehicle removed under the provisions of this Article and that the vehicle can be recovered by payment of costs incident to its removal and storage.

Section 7.4.8 Sale of Unclaimed Motor Vehicle

If, after two (2) months from the date of mailing or publishing a notice of removal and storage provided for by this Article, the motor vehicle shall remain unclaimed, such motor vehicle may be sold by the Board of Trustees or law enforcement agency at public auction upon notice to be published in a newspaper of general circulation in the county not less than once a week for two (2) consecutive weeks.

Section 7.4.9 Notice of Sale

The notice of sale provided for by this Article shall contain a description of the removed and stored motor vehicle, including the year, make, model, vehicle identification number, color, license number, if any, a statement that the motor vehicle was found abandoned or junked, the date thereof, and the place, date, and time at which such motor vehicle shall be sold, which date shall not be sooner than one (1) week following the date of the last publication of notice.

Section 7.4.10 Lien for Costs

The Board of Trustees or Law Enforcement agency shall have a possessor lien upon any motor vehicle removed under the provisions of this Article for the cost in taking custody of and storing such motor vehicle.

Section 7.4.11 Disposal of Unclaimed Vehicle

If, after two (2) months from the date of mailing or publishing the notice of removal and storage provided for by this Article, the motor vehicle shall remain unclaimed, the title to such motor vehicle may be disposed of in any manner as may be provided by the Board of Trustees. The proceeds of any such disposal shall first be applied to the costs incurred in the enforcement of this Article with the balance to be deposited to the general fund of the Town.

## **CHAPTER VII**

### **OFFENSES AND MISDEMEANORS**

#### **Article 5 – Weapons and Firearms**

##### Section 7.5.1 Carrying Concealed Weapons

No person in this town shall carry concealed upon his person any firearm, sling-shot, sheath or dirk-knife, or brass knuckles, which, when used, are likely to produce death or create great bodily harm unless so permitted by the State of South Dakota or any state with reciprocity with the State of South Dakota.

##### Section 7.5.2 Drawing Deadly Weapons

No person, not an officer of the law in execution of his duties, shall in this town draw a pistol, revolver, knife, or other deadly weapon upon any other person or persons.

##### Section 7.5.3 Discharge of Firearms

No person shall discharge or shoot any gun, pistol, or other firearm within the corporate limits of the Town of Ethan.

The Board of Trustees reserves the right to waive any such part of this Section or to prohibit any and all defined activities. Such action shall take place at a meeting of the Board of Trustees unless an emergency is declared by the President of the Board or any other legally recognized body within the Town, County, or State.



## CHAPTER VIII

### BUILDING REGULATIONS AND PROPERTY MAINTENANCE

#### Article 1 – General Permits

##### Section 8.1.1 Building Permits

There shall be a mandatory filing of a building permit for the following construction related activities:

- 1) For any structure or building in which the structure of building is erected, partially erected, moved, added to, structurally altered, removed, or demolished; or
- 2) For any structure or building in which the use for that structure or building is significantly changed; or
- 3) For any structure or building, regardless of cost, if additional land or area is required for the improvements to be sited on.

##### Section 8.1.2 Permit to Move Buildings

No person shall, without first having obtained the written permission of the Board of Trustees, move any building on any street, alley or other public ground in this town; the Board of Trustees may, in their discretion, require a cash deposit on the part of the applicant desiring to move such building of a sum not to exceed one hundred (100) dollars to be retained by the Board of Trustees to cover any injury that the Town of Ethan may sustain to its streets, sidewalks, crossings, trees or other property by the moving of such building. If the repair of the damaged street, sidewalk, crossings, trees, or other property exceeds one hundred (100) dollars, the difference will be assessed back to the applicant.

##### Section 8.1.3 Fees and Applications

The fee and permit application must be filed with the Municipal Finance Officer before any new or remodeling construction is to commence.



## CHAPTER VIII

### BUILDING REGULATIONS AND PROPERTY MAINTENANCE

#### Article 2 – Structural Regulation

##### Section 8.2.1 Buildings, Moving and New Construction

Any building which is moved into the Town limits or constructed new within the Town limits shall have a setback of at least twenty-five (25) feet from the front property line in a residential district. In the case of corner lots, the property shall have two twenty five (25) foot setbacks from each street right-of-way.

Property that is in a commercial area shall have a setback of zero (0) feet from the front and side property lines but must have adequately sized rain gutters in place if the structure is less than eight (8) feet from the property line.

Residential property must have a setback of six (6) feet from the side and rear property lines.

##### Section 8.2.2 Drainage Tile

It shall be illegal to pipe drainage tile from around the foundations of any structure located within the limits of the Town of Ethan to permit or facilitate the flow of ground water into the sanitary sewer system.

##### Section 8.2.3 Stairs, Railings and Grates

The owner of any building in this town, having a stairway leading from an adjoining sidewalk to the cellar or basement of such building shall guard such stairway with a substantial railing not less than three (3) feet high, and the entrance of such stairway shall be at right angles to the street from which entry is made, and any person who shall make or cause to be made any permanent opening in any sidewalk for the purpose of letting light into the basement or cellar, or for any other purpose, shall guard the same with a substantial railing not less than three (3) feet high or with substantial iron grate, or other strong and substantial cover, the openings of which shall not be greater than one and one-fourth (1¼) inches, but no such railing shall occupy more than two (2) feet of the sidewalk, measuring from the inner side thereof.



## CHAPTER VIII

### BUILDING REGULATIONS AND PROPERTY MAINTENANCE

#### Article 3 – Property Maintenance

##### Section 8.3.1    Defined

That the following plants and weeds shall be deemed to be noxious, dangerous and unhealthful vegetation, to-wit: sunflowers except ornamental cultivars, all species of rag weeds, all species of cockle burrs, all species of tumble weeds, all species of thistles, dandelions, plantains, wild morning glory, black mustard and pigweed.

##### Section 8.3.2    Responsibility

It shall be unlawful for any owner or person in possession of any premises within the corporate limits of the Town of Ethan to permit any noxious, dangerous or unhealthful vegetation as defined in Section 8.3.1 hereof to grow on said premises at any time.

##### Section 8.3.3    Notification

If any of said vegetation is found growing on any premises within the corporate limits within the Town of Ethan between May 15<sup>th</sup> to September 1<sup>st</sup> of each year, the Municipal Finance Officer shall give notice by publication in the official newspaper of the Town of Ethan that unless said vegetation be destroyed within one (1) week from the date of publication of such notice, the Town of Ethan will destroy or cause the same to be destroyed and the cost thereof will be assessed the property whereon said vegetation shall be found growing. Said notice need not contain a specific description of the premises where said vegetation may be growing but may be a general notice covering all premises within the Town and to all owners and persons in possession thereof.

##### Section 8.3.4    Assessment of Costs

It shall be the duty of the Board of Trustees or their designee to destroy or cause to be destroyed all such vegetation found growing on any premises within the corporate limits after one (1) week from the publication of the notice provided for in the preceding section, and the Municipal Finance Officer shall assess the cost of the destruction of said vegetation upon the lots and parcels of land upon which said vegetation is destroyed, and he shall make a return of said assessment to the Board of Trustees, and the Municipal Finance Officer shall cause to be published said assessment of the Board of Trustees, together with a notice that said assessment will be considered by the Board of Trustees at an October meeting in each year, at which time any person interested may appear and be heard in the matter. Said notice shall be published once in the official newspaper of the Town at least ten (10) days prior to said October meeting.

##### Section 8.3.5    Payment

Within ten (10) days after such assessment has been approved by the Board of Trustees, said assessment shall be payable and due to said Town, and if not paid within sixty (60) days thereafter shall have a penalty of ten percent (10%) per annum.



Section 8.3.6 Collections

Said assessments shall be collected in the same manner as sidewalk assessments are now collected and the premises upon which said assessments are made may be sold for said assessments and the sale thereof shall be conducted in the same manner and at the same times and shall be governed by the same regulations as are provided for the sale of real property for sidewalk assessments.

## CHAPTER IX

### FIRE SAFETY

#### Article 1 – Recreational Fires

##### Section 9.1.1 Open Fire Location

No recreational fire shall be closer than twenty-five (25) feet from any structure, trees, shrubs, bushes, fence or any other combustible material. The location shall be no closer than fifteen (15) feet from any adjoining property line. The distance may be reduced for a special event with prior approval of the Board of Trustees. The fire pit shall be surrounded on the outside, above ground, by a non-combustible material such as, but not limited to, concrete block or rock.

##### Section 9.1.2 Portable Fire Pit Location

No active Portable Fire Pits shall be closer than twenty-five (25) feet from any structure, trees, shrubs, bushes, fence or any other combustible material and no closer than fifteen (15) feet from any adjoining property line. The distance may be reduced for a special event with prior approval of the Board of Trustees. Active Portable Fire Pits must be located upon a non-combustible surface (dirt without vegetation, stone, gravel, concrete, brick, etc.) with an area twice the diameter of the portable fire pit.

##### Section 9.1.3 Approved Cooking Device Locations

Approved cooking devices shall not be used above the first floor of any structure containing three (3) or more living units. Approved cooking devices in multi-family dwellings may be used on the first floor providing a safe distance of fifteen (15) feet in any direction from combustible materials is maintained.

##### Section 9.1.4 Size

Recreational Fires shall be in a below ground fire pit with a minimum depth of ten (10) inches and a maximum diameter of three (3) feet and the fire may not extend more than two (2) feet above the fire pit.

Portable Fire Pits shall not exceed three (3) feet in diameter and the fire may not extend more than two (2) feet above the fire ring.

##### Section 9.1.5 Suppression

An adequate fire suppression source sufficient to extinguish or control all fires permitted herein if it threatens the safety of the event must be immediately available. Portable fire extinguishers, garden hoses connected to a water supply, shovels, or other like equipment shall be within ten (10) feet of the fire.

##### Section 9.1.6 Prohibited Materials

No person shall burn hay, straw, dirt, filth, manure, garbage, sweepings, leaves, ashes, paper, rubbish or material of any kind.

No person shall singularly set fire to any combustible matter or make any fire not in accordance with the regulations herein.

Section 9.1.7   Permission

It is the responsibility of the renter/lessee of any rented or leased property to provide written documentation from the property owner, giving permission to have a recreational fire on that property.

Section 9.1.8   Supervision

All recreational fires and active portable fire pits shall be attended at all times by at least one responsible person age sixteen (16) or older from the ignition of the fire until the fire is completely extinguished. In addition, an adult owner/occupant must be present on the premises.

## CHAPTER IX

### FIRE SAFETY

#### Article 2 – Bon Fires

##### Section 9.2.1 Location

Permitted bonfires shall be located not less than fifty (50) feet from any structure, trees, shrubs, bushes, fence or any other combustible material. The location shall be no closer than fifteen (15) feet from any adjoining property line. The distance may be reduced for a special event with prior approval of the Board of Trustees.

##### Section 9.2.2 Permit

No person shall kindle or maintain any bonfire without a permit obtained from the Town of Ethan.

##### Section 9.2.3 Size

The base of the fire shall not be larger than ten (10) feet in diameter. The fire must be separated from the audience by a barrier set at a distance sufficient enough to provide maximum safety, and be constantly monitored by the person responsible for scene security.

##### Section 9.2.4 Supervision

A responsible adult, eighteen (18) years older and above, shall be designated for the safety of the bonfire area. This person must be identified as the contact person to meet with the Fire Department if any unusual concerns arise.

##### Section 9.2.5 Monitor

After completion of the celebration, the bonfire must be completely extinguished and a fire watch must be provided for a sufficient amount of time to ensure that the fire does not rekindle.

##### Section 9.2.6 Permission

It is the responsibility of the renter/lessee of any rented or leased property to provide written documentation from the property owner, giving permission to have a recreational fire on that property.

##### Section 9.2.7 Suppression

An adequate fire suppression source sufficient to extinguish or control all fires permitted herein if it threatens the safety of the event must be immediately available. Portable fire extinguishers, garden hoses connected to a water supply, shovels, or other like equipment shall be within ten (10) feet.

##### Section 9.2.8 Prohibited Materials

Bonfires should not consist of hay, straw, dirt, filth, manure, garbage, sweepings, leaves ashes, paper, rubbish or material of any kind.

No person shall singularly set fire to any combustible matter or make any bonfire within the limits of this Town without a permit issued by the Board of Trustees.



## CHAPTER IX

### FIRE SAFETY

#### Article 3 – Controlled Burns

##### Section 9.3.1   Permission

Permission must be requested of the Town Board of Trustees.

##### Section 9.3.2   Permits

No person shall kindle or maintain any prescribed burn without a permit obtained from the Town of Ethan.

##### Section 9.3.3   Decision

Board of Trustees approval or disapproval will be rendered at a formal town meeting.

##### Section 9.3.4   Fee

The Board of Trustees may establish a fee for controlled burns.

##### Section 9.3.5   Notification

The party receiving permission for a controlled burn will then be responsible for informing the local fire department, Mitchell Area Dispatch Service, and all other proper notifications.

Failure to have a controlled burn permit will result in a fine of One Hundred Dollars (\$100.00) and the responsible parties may be responsible for all costs associated with said incident.

##### Section 9.3.6   Size and Quantity

The allowable quantity of material to be burned shall be determined by the Fire Chief based upon the fire safety considerations of the situation and the desired duration of the burn.

##### Section 9.3.7   Post Burn Requirements

The parties responsible for the controlled burn are required to clear the burn area of any remaining waste material and reclaim the area to the satisfaction of the Board of Trustees.

##### Section 9.3.8   Safety

An adequate fire suppression source sufficient to extinguish or control all fires permitted herein if it threatens the safety of the event must be immediately available. Portable fire extinguishers, garden hoses connected to a water supply, shovels, or other like equipment shall be within ten (10) feet.

##### Section 9.3.9   Prohibited Materials

No person shall singularly or purposefully burn hay, straw, dirt, filth, manure, garbage, sweeping, leaves ashes, paper, rubbish or material of any kind.



## CHAPTER IX

### FIRE SAFETY

#### Article 4 – Flammable and Explosive Materials

##### Section 9.4.1 Explosive Material Storage

No person shall keep in this Town any gun powder, blasting powder, giant powder, or other similar explosive matter in any quantity exceeding fifty (50) pounds.

##### Section 9.4.2 Original Packaging

All substances mentioned in Section 9.4.1 of this Article shall be kept in the manufacturer's original container or in tin, zinc, or iron cans securely closed, and in all cases shall be properly labeled with the name of the substance therein contained, and shall be kept removed from fire, lighted lamps, candles, gas, flames, electric lights, and other flames.

##### Section 9.4.3 Handling

No person shall by handle any of the explosives mentioned in herein except in cans designated in Sections 9.4.2 thereof.

##### Section 9.4.4 Motor Fuel Storage

No person shall keep in excess of two (2) five (5)gallon containers or ten (10) gallons of gasoline unless the same is kept in a metallic container separate and at safe distance from any building, except that buildings, tanks and other equipment for the storage of gasoline, kerosene, fuel oil, and other petroleum products may be created and such petroleum products may be stored within the Town of Ethan upon application for permit to construct such buildings being filed within thirty (30) days prior to the date set for the construction of such buildings, and provided the same shall meet with the approval of the Board of Trustees of the Town of Ethan.

##### Section 9.4.5 Kerosene and Similar Oil, Storage

No person shall keep any kerosene, coal oil, machine oil, linseed oil, or any other flammable oil or oil substance without having the same securely stored in some building, and such building locked except when the same is necessarily open for business.





## CHAPTER IX

### FIRE SAFETY

#### Article 5 – Building

##### Section 9.5.1 Materials

No person shall cover or continue to keep covered any barn, stable, shed, or building or structure with hay, straw, or stalks, lying within the South Half (S ½) of Blocks Two (2) and Three (3) North Half (N ½) of Blocks Four (4) and Five (5) all within the original Town Addition, if deemed dangerous by the Board of Trustees.

##### Section 9.5.2 Fire Safety Zone

That part of the Town of Ethan lying within the South Half (S ½) of Blocks Two (2) and Three (3) North Half (N ½) of Blocks Four (4) and Five (5) all within the original Town Addition, is hereby declared and ordained to be the Fire Safety Zone.

##### Section 9.5.3 Fire Safety Zone Requirements

No person shall erect or place upon any lot or part of lot any building or part thereof not in conformance with the Fire Zone Building Code.

##### Section 9.5.4 Fire Safety Zone Building Code

The outer solid walls must be made of stone or brick at least eight (8) inches thick or veneered with brick or stone at least four (4) inches or wood framed and sheathed buildings are hereby permitted provided the walls are entirely covered with iron and roofed in accordance with the provisions herein.

All buildings shall be roofed with slate, tin, zinc, copper, iron, or other fire proof roofing.

All such buildings so erected shall be constructed under the supervision of the Board of Trustees of the Town of Ethan.

Nothing herein contained shall be construed to prohibit the erection within said fire limit of any building the outer walls of which are composed of wood, but such building shall not be more than ten (10) feet square nor more than eight (8) feet high, and shall not be attached to or within ten (10) feet of any other wooden structure nor stand within fifty (50) feet of Main Street.

##### Section 9.5.5 Damaged Buildings

No building that is damaged fifty percent (50%) of its value (such damages to be ascertained by the Board of Trustees of the Town of Ethan), by fire or otherwise, shall be built or repaired unless the outer walls and roof shall be entirely composed of incombustible material as hereinbefore specified; provided, however, that nothing herein contained shall be construed as prohibiting the erection of buildings.

##### Section 9.5.6 Exemptions

Buildings not meeting the Fire Safety Zone Building Code may be constructed within the Fire Zone, provided they are approved by a two thirds (2/3) majority vote of the Board of Trustees.



## **CHAPTER IX**

### **FIRE SAFETY**

#### **Article 6 – General Regulations**

##### Section 9.6.1 Authority

The Board President, Fire Chief, or their designee, may prohibit any and all bonfires, active portable fire pits, recreational, or cooking fires when atmospheric conditions or local conditions make such fires hazardous.

Burning may also be subject to: the Codified Laws or Administrative Rules of the State of South Dakota; and the Resolutions and/or Regulations of Davison County.

##### Section 9.6.2 Complaints

Complaints received by the Town or any department or official thereof regarding smoke or ash residue infringing on adjacent properties will require such fires be immediately extinguished or be subject to the general penalty of this code.

##### Section 9.6.3 Prohibited

No person shall utilize fires for the purpose of clearing land or during construction or demolition of a building(s) without a permit issued by the Board of Trustees in accordance with the regulations herein.

No person shall maintain or operate a burn barrel within the corporate limits. Incinerators constructed in accordance with the Uniform Fire Code may be operated upon approval of the State of South Dakota and other regulating agencies as appropriate.



## CHAPTER X

### ANIMALS

#### Article 1 – General Regulations

##### Section 10.1.1 Purpose

The purpose of this Chapter is to describe the conditions and requirements allowing citizens to keep animals within the Town of Ethan, and to describe the Town's responsibilities to its citizens regarding the humane and appropriate keeping of animals within the Town.

##### Section 10.1.2 Permitted Animals

Animals commonly purchased from a licensed pet store in the State of South Dakota are allowed by this ordinance and may be kept in the Town of Ethan. Nothing in this section shall be deemed to prohibit the keeping of domestic cats (*felis domesticus*), European polecats or ferrets (*Mustela putorius foro*), and domestic dogs (*Canis familiaris*), as long as license or permit procedures are followed.

##### Section 10.1.3 Prohibited Animals

Livestock, native species, and exotic pets are prohibited within the Town of Ethan unless a permit from the Town is obtained. Common animals hereby identified as prohibited shall include but is not limited to: cattle, sheep, swine, goats, horses, alligators, crocodiles, caymans, raccoons, skunks, foxes, bears, sea mammals, poisonous snakes, hybrids, members of the feline species other than domestic cat (*felis domesticus*), members of the canine species other than domestic dog (*canis familiaris*), domestic fowl of the order Galliformes (chickens, turkeys, grouse, pheasants), and the order Anseriformes (ducks and geese) or any other animal that would require a standard of care and control greater than that required for customary household pets.

##### Section 10.1.4 License

Any owner or keeper of a dog or cat of the age of six months or over shall, within 30 days of the acquisition of such animal or within 30 days of the time such animal becomes six months old obtain an appropriate license. All owners of licensed pets shall renew each license annually in the same manner as the original issuance.

##### Section 10.1.5 License Application

Application shall be made on a form furnished by the City Finance Officer, and shall be filed with said City Finance Officer. Such application form shall require the applicant to provide:

1. The breed, sex, color and other distinguishing characteristics of said dog or cat, the pet's name, and the name of the owner thereof.
2. A statement that said dog or cat has no vicious propensities so far as known to the application.
3. A certificate by a registered Veterinarian showing that such dog or cat has been inoculated or has a continuing immunity against Rabies within six (6) months of such application

It shall be the duty of the City Finance Officer at the time of the issuance of the license herein provided for, to furnish and deliver to said applicant, a metallic fiber or plastic tag for each dog and cat for which such license is issued. The tag shall be stamped or engraved with the registered number of the dog or cat and the year when registered. It shall then be the duty of the owner of the dog or cat to place a collar around the neck of such animal so owned and kept by him, on which collar shall be securely fastened a tag so furnished by the City Finance Officer. In case of the loss of any tag so issued, the said City Finance Officer is authorized to issue a duplicate thereof upon payment of the actual cost of same upon application being made therefore, and upon satisfactory proof that such tag has been lost.

Licenses issued pursuant to this Section are valid from January 1 through December 31. Costs will be prorated by quarters.

The owner shall contact animal control to report change of ownership, loss, or death of a licensed animal.

#### Section 10.1.6 Fee Schedule

The City Council may in special circumstances, after a hearing by the board, exempt the license fee in individual cases. Unless an exemption has been secured the fee for an original and a renewal dog or cat license shall be as follows:

- |  |        |
|--|--------|
| 1. Dog or Cat (Spayed or Neutered)     | \$2.50 |
| 2. Dog or Cat (Non-spayed or neutered) | \$2.50 |
| 3. Other Permitted Pet(s)              | \$2.50 |

In the case of spayed or neutered animals, the applicant must furnish a registered Veterinarian's statement confirming that fact.

#### Section 10.1.7 Agent Fees

Places of business designated by the governing body to make available animal licenses to owners may charge up to \$1.00 for each new or renewal license in order to defray the costs of providing the licensing service and the recordkeeping expense associated therewith.

#### Section 10.1.8 Immunizations

Every animal, except fowl, fish and reptile, authorized by this ordinance held as a domestic pet in the city, three (3) months of age or older, is hereby required to be immunized against rabies by a licensed veterinarian or other qualified person. Immunization against rabies shall be given by 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. Any owner acquiring an animal authorized by this ordinance by purchase, gift, birth or other method shall have such animal immunized against rabies immediately after acquisition or when the animal reaches the age of three (3) months. In the event no immunization serum is available for a particular animal, then it need not be immunized.

Section 10.1.9 Immunization Tag

All veterinarians or other qualified persons designated by the health officer to immunize animals against rabies shall provide the owner at the time of immunization with a metallic tag bearing the date of the immunization. All animals shall have said tag affixed to a collar, harness or chain when off the premises of the owner.

Section 10.1.10 Grazing Permit

Any property that is adjacent to property lying outside of Town limits may apply for a permit to allow animals to graze the area for ten (10) days. The cost of the permit is Fifty Dollars (\$50.00) and is valid for ten (10) days from the date of issuance. A fee of Fifty Dollars (\$50.00) per day shall be assessed to the property owner for animals being on the property after ten (10) days. Proper fencing should be in place on the property in order for the permit to be allowed. The board reserves the right to deny any permits that are requested.

Section 10.1.11 Number of Animals

It is unlawful for any person to have or to keep more than four (4) permitted animals over the age of six (6) months, except birds and fish, on any lot or premises in the Town, unless such person residing on or in the lot or premises has a valid kennel license issued by the Board of Trustees. Governmental agencies, veterinarian offices, and licensed pet stores are exempt from the provisions of this section.

Section 10.1.12 Nuisances

The keeping of animals on any private property in the Town shall not be on a scale creating a nuisance. It is considered a nuisance and shall be unlawful for any person to keep and maintain (other than the care and treatment of injured or abandoned birds and animals by people licensed for that purpose) or to sell native fur bearers, bears, mountain lions, bobcats, lynx, panthers, endangered species, exotic cats, or venomous snakes.

Section 10.1.13 Care

The Board of Trustees is hereby authorized to enter into any contract with any person, association or corporation for the housing, care, disposition or destruction of animals impounded under the provisions of this Ordinance. The owner shall pay any expense incident to the impoundment, destruction, care, or any costs of animals thereof. Neither the Town nor any person authorized by this section shall be liable for the destruction of any animal when done within the guidelines set forth herein.





## **CHAPTER X**

### **ANIMALS**

#### **Article 2 – Hunting, Trapping, and Poison**

##### Section 10.2.1 Hunting prohibited

No person shall hunt game in the Town of Ethan. This section does not apply to law enforcement officers or animal control officers in the discharge of their official duties.

##### Section 10.2.2 Poison

Unless recommended by a licensed veterinarian, it shall be unlawful for any person to:

1. Willfully administer or cause to be administered, poison of any sort whatsoever to any animal, that is the property of another with the intent to injure or destroy such animal, or
2. Willfully place any poison or poisoned food where the same is accessible to any such animal.

##### Section 10.2.3 Trapping of Animals

No person without permission of an authorized representative of the Town of Ethan shall set, allow to be set, or use any trap for the purpose of catching any animal, which trap could injure or kill any animal, except rodent traps in the interior of a building, and except by persons employed by or agents of a governmental authority for purposes of the Town's health and welfare.



## CHAPTER X

### ANIMALS

#### Article 3 – Rabies

##### Section 10.3.1 Rabid Animals

No person shall knowingly keep any animal infected with rabies or any animal that has been bitten by an animal that has been infected with rabies.

##### Section 10.3.2 Reporting

Any person who shall suspect that any animal in the Town is infected with rabies shall report said animal to an authorized representative of the Town of Ethan or local law enforcement, describing the animal and giving the name and address of the owner if known.

##### Section 10.3.3 Impoundment

Anytime an authorized representative of the Town of Ethan or any law enforcement officer suspects an animal within the Town is infected with rabies, the Town may require it to be impounded for observation as hereinafter provided. When any owner of an animal has been notified that the animal has bitten or attacked any person, the owner must within twenty-four (24) hours place the animal under the care and observation of a licensed veterinarian. The period of observation shall be a period of not less than ten (10) days except in those cases when an animal has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for the animal. An authorized representative of the Town of Ethan or any law enforcement officer, may, if he feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of an animal that has bitten. The quarantined animal must at all times be available for inspection during the quarantine.

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

Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have exposed to rabies shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

##### Section 10.3.4 Destruction

Any animal reasonably believed to have rabies, and if, under the circumstances, it is not reasonable to impound or to attempt to seize that animal for the purpose of further observation, a law enforcement officer may destroy the animal. The owner shall pay any expense incident to the impoundment, destruction, or diagnosis of rabid animals thereof. Neither the Town nor any person authorized by this section shall be liable for the destruction of any animal when done under circumstances as set forth in this section.



## **CHAPTER X**

### **ANIMALS**

#### **Article 4 – Vicious Animals**

##### Section 10.4.1 Defined

Vicious animals are defined as any animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack or bites, inflicts injury, assaults, or otherwise attacks a person or other animal whether on public or private property, provided that the animal has not been provoked to do so by teasing, tormenting, abusing, or assaulting the animal.

##### Section 10.4.2 Declared

An animal may be declared to be vicious by the President of the Board of Trustees, any law enforcement officer, or the attending physician of any victim of an animal bite or scratch.

##### Section 10.4.3 Exemption

No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal.

##### Section 10.4.4 Notification

When an animal is declared to be vicious as provided for above the Town will notify the owner or keeper in writing via a mailing by certified mail.

##### Section 10.4.5 Owner Responsibility

Following such notice by certified mail, the owner or keeper of such identified vicious animal will have ten (10) days from date of mailed notice to no longer harbor, keep, or possess within the corporate limits of Ethan any fierce, dangerous, or vicious animal.

##### Section 10.4.6 Enforcement

If the conditions outlined above are not complied with, any law enforcement officer may impound or to attempt to seize that animal for the purpose of destroying the animal. The owner shall pay any expense incident to the impoundment and destruction of vicious animals. Neither the Town nor any person authorized by this section shall be liable for the destruction of any animal when done under circumstances as set forth in this section.



## CHAPTER XI

### FLOOD REGULATIONS

#### Article 1 – Flood Damage

##### Section 11.1.1 Authorization

The Legislature of the State of South Dakota has in Title 9 to the South Codified Laws delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

##### Section 11.1.2 Finding of Fact

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

##### Section 11.1.3 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 11.1.4 Methodology

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

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;



3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging, and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

## **CHAPTER XI**

### **FLOOD REGULATIONS**

#### **Article 2 – General Provisions**

##### Section 11.2.1 Flood Hazard Areas

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town of Ethan, Davison County, South Dakota.

##### Section 11.2.2 Establishment of Special Areas

Since areas of special flood hazard have not been identified, water surface elevations have not been provided, nor has sufficient data identifying the floodway or coastal high hazard area been provided by the Federal Emergency Management Agency (FEMA), the community shall obtain, review, and reasonably utilize data available from other Federal, State, or other sources.

##### Section 11.2.3 Development Permit

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

##### Section 11.2.4 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 11.2.5 Abrogation and 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 11.2.6 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 11.2.7 Disclaimer

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 hereunder.



## **CHAPTER XI**

### **FLOOD REGULATIONS**

#### **Article 3 – Administration**

##### Section 11.3.1 Designation of Flood Plain Administrator

The Municipal Finance Officer of the Town of Ethan 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 11.3.2 Flood Plain Administrator

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

1. Maintain and hold open for the public inspection all records pertaining to the provisions of this ordinance.
2. Review permit application to determine whether proposed construction or other development, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve, or deny all applications for development permits required by adoption of this ordinance.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

##### Section 11.3.3 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 at least one (1) foot above;
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 Section 11.4.1;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
5. Maintain record of all such information in accordance with approved standards.

#### Section 11.3.4 Approval or Denial of Permit

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 11.3.5 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 (½) 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 Chapter XI, Article 3 have been fully considered. As the lot size increases beyond the one-half (½) 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.
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,
    - i. showing a good and sufficient cause;
    - ii. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Any application to which 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
  - i. the criteria outlined in Section 11.3.5 are met; and
  - ii. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.



## **CHAPTER XI**

### **FLOOD REGULATIONS**

#### **Article 4 – Provisions for Flood Hazard Reduction**

##### Section 11.4.1 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 11.4.2 Standards for Subdivision Proposals

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

##### Section 11.4.3 Penalties

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 Five Hundred Dollars (\$500.00) or imprisoned for not more than thirty (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 Town of Ethan from taking such other lawful action as is necessary to prevent or remedy any violation.