5/10/17 Entire book updated C. Kuecker

5-[illegible]2021 Updated [illegible]

10-16-2023 Updated C. Kuecker

9-30-26 Updated

Ordinance Book
Index

This list is from oldest to newest (front to back) of the Ordinance Book. An index of older/original ordinances/resolutions is at the very back of the Ordinance Book. All new pages are to be inserted at the back of the front section – before the colored piece of paper.

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Resolution 2020-03 2020 Capital Outlay Accumulations (rotary mower)
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Resolution 2021-01 A Resolution to Revise Garbage Rates
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Ordinance 2021-03 An Ordinance adding Chapter 17 to the Revised Ordinances of the Town of Java, South Dakota Creating Licensing Provisions for cannabis Establishments
Ordinance 2021-04 Supplemental Appropriations Ordinance Amending Ordinance No 2020-01 2021 Appropriations Ordinance

Resolution 2022-01 A Resolution to Revise Water Rates
Resolution 2022-02 WEB Water Development Association, Inc.: Underground Pipelines & Related Appurtenances
Easement and Restrictive Covenant
Ordinance 2022-01 2023 Appropriations Ordinance
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2/18/01 Updated with new Ordinances 1990-2/2001.
JVO
updated 4/2003
JVO

Ordinance 9-8 May 1994
RE: 911 house numbering

Ordinance 1997-1 March 1997
RE: Land use tax for paving

NEW ORDINANCE NO. 1 - 1990

An Ordinance amonding Ordinance No. 110 relating to rates pertaining to sewer rates.

Be it ordained by the Town of Java, South Dakota that this ordinance is to control the maintenance and construction of our Waste Water Treatment facility, be it hereby to read as follows,

RATES: The following rates and charges for services of the Municipal Wastewater System are hereby established as follows,

The monthly rate for sewer be $11.50, which will be collected every Two (2) months.

FIRST READING June 4, 1990

SECOND READING July 2, 1990

ADOPTED July 2, 1990

PUBLISHED July 13, 1990

EFFECTIVE DATE Aug 2, 1990

TOWN OF JAVA

FINANCE OFFICER Donna Bieber

BOARD PRESIDENT Arthur C Frank

Ordinance NO 2 - 1990
Determining the Total Annual
Cost of Operation and Maintenance

Sec. 1. The Town Board of Trustees shall determine the total annual costs of operation and maintenance of the wastewater collection and treatment facility which are nessary to maintain the capacity and performance during the service life of the complete facility.

Sec. 2. The total annual cost of operation and maintenance shall include but not limited to labor, repairs, equipment replacement, maintenance, power, sampling, laboratory tests, reasonable contingency fund, billing, and debt retirement.

Sec. 3. The Town shall review the total annual cpsts of operation and maintenance as well as each users or class of users share of the annual cost not less often than once every two years and will revise the system as necessary to assure equity of the users rates and surcharges, and that there is sufficient funds to adequately operate and maintain the complete facility.

SEWER USE CHARGE

Sec. 1.	Estimated Users	1991-1992	100
Sec. 2.	Monthly Users Charge		$11.50

SEWER OPERATION COST

Sec. 1. Estimated monthly operation costs.

Labor	$225.00
Power	90.00
Sampling and reporting	25.00
Repair and maintenance	75.00
Loan Payment	577.00
Reserve fund	158.00

ORINANCE IN FORCE

Sec. 1. This Ordinance shall be in full force and effect from and after the passage, approval, recording and publication as provided by law.

Sec. 2. Passed and adopted by the Board of Trustees of the Town of Java, South Dakota on the 3 day of Dec, 1990.

Board President Arthur C. Frank

Finance Officer Donna Reuber

First Reading Nov. 5 1990

Second Reading Dec 3, 1990

ORDINANCE NO. 1992-1

An Ordinance relating to a new rate put on such as a users fee pertaining to hauling of solid waste.

Be it ordained by the Town of Java, South Dakota that this ordinance is to help with the increased cost of hauling our solid waste to the County Landfill, it is to hereby read as follows,

RATES: The following users fee per water hookup will be established as follows,

The monthly rate will be $2.00, which will be collected every Two (2) months along with the water & sewer bill.

Anyone not paying this fee will be responsible in hauling their own solid waste to the County Landfill.

FIRST READING Nov. 2, 1992

SECOND READING Dec 7, 1992

ADOPTED Dec. 7, 1992

PUBLISHED Dec. 11, 1992

EFFECTED DATE Dec 31 1992

TOWN OF JAVA

FINANCE OFFICER Donna Lieber

BOARD PRESIDENT Arthur C Frank

ORDINANCE NO. 1996-1

AN ORDINANCE AMENDING THE JAVA COMMUNITY ANTENNA TELEVISION ORDINANCE TO CHANGE THE EXPIRATION DATE FROM MARCH 31, 2003 TO MARCH 31, 2011.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF JAVA, SOUTH DAKOTA.

SECTION XI be amended to change the fifteen (15) year term specified therein to twenty-three (23) years.

FIRST READING April 1 1996
SECOND READING May 6, 1996
ADOPTED May 8, 1996
PUBLISHED May 23, 1996
EFFECTIVE DATE June 20, 1996

Arthur C. Frank
Mayor

ATTEST: Carol Allbee
(SEAL) Finance officer

FEB 04 1997

Affidavit of Publication

STATE OF SOUTH DAKOTA }
COUNTY OF WALWORTH } ss:

I, Kathy Walker, being first duly sworn under oath say: the Selby Record is a legal weekly newspaper of general circulation as required by South Dakota Codified Laws, and any acts amendatory thereto, published to Allan and Leah Burke in said county and state, and has been such legal newspaper during the time hereinafter mentioned; that during all of said time as an employee or officer of said newspaper, I have had personal knowledge of the facts stated in this affidavit; that the advertisement headed:

Town of Java - Public Notice, Ordinance #1996-1

A printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive weeks upon the following dates, to wit:

May 23, 19 96 ..... 19 .....

..... , 19 .... 19 .....

..... , 19 .... 19 .....

..... , 19 .... 19 .....

..... , 19 .... 19 .....

That the full amount of the fees charged for publishing the same to wit: the sum of $6.83

inures soley to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.

.....

subscribed and sworn to before me this

..... day of, ... , 19 .....

.....

.....

Public Notices

ORDINANCE NO. 1996-1
AN ORDINANCE AMENDING THE JAVA COMMUNITY ANTENNA TELEVISION ORDINANCE TO CHANGE THE EXPIRATION DATE FROM MARCH 31, 2003 TO MARCH 31, 2011.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF JAVA, SOUTH DAKOTA.

SECTION XI be amended to change the fifteen (15) year term specified therein to twenty-three (23) years.

FIRST READING - April 1, 1996
SECOND READING - May 6, 1996
ADOPTED - May 6, 1996
PUBLISHED - May 23, 1996
EFFECTIVE DATE - June 20, 1996

Arthur C. Frank,
Mayor

Attest:
Carol Albee,
Finance Officer

625

Contracts

Company #: 32 Contract Type: New ☐ Renewal ☐ Expired ☐

Other Party: City of Java Amendment ☑

Description: Extension of existing franchise

Date of Inception: 3-31-1988 Renewal/Exp Date: 3-31-2011 Notice Date: _____

Certificate of Insurance Required? Not Required ☐ To Others ☐ From Others ☐ If so, date requested: _____

Company #: 36 Contract Type: New ☐ Renewal ☐ Expired ☐

Other Party: City of Ainsworth Amendment ☑

Description: Extension of existing franchise

Date of Inception: 5-14-90 Renewal/Exp Date: 5-14-2011 Notice Date: _____

Certificate of Insurance Required? Not Required ☐ To Others ☐ From Others ☐ If so, date requested: _____

Company #: _____ Contract Type: New ☐ Renewal ☐ Expired ☐

Other Party: _____

Description: _____

Date of Inception: _____ Renewal/Exp Date: _____ Notice Date: _____

Certificate of Insurance Required? Not Required ☐ To Others ☐ From Others ☐ If so, date requested: _____

Prepared By: _____ Date: _____

COPY

ORDINANCE NO. 135

AN ORDINANCE GRANTING TO MIDCONTINENT CABLE SYSTEMS CO. OF SOUTH DAKOTA, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO INSTALL, MAINTAIN AND OPERATE, OVER, UPON, AND UNDER THE STREETS, ALLEYS, PUBLIC GROUNDS AND EASEMENTS DEDICATED FOR COMPATIBLE USES OF THE TOWN OF JAVA, SOUTH DAKOTA, A CABLE TELEVISION SYSTEM FOR THE PURPOSE OF OFFERING AUDIO, VIDEO AND DATA SERVICES.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAVA, SOUTH DAKOTA.

SECTION I. For convenience, the Town of Java is designated and referred to as "Town", and said Midcontinent Cable Systems Co. of South Dakota, P. O. Box 910, Aberdeen, South Dakota 57401, is designated and referred to as "Grantee". Any reference to either includes their respective successors and assigns.

SECTION II. There is hereby granted to Grantee, its successors and assigns, subject to the limitations herein stated, the right and franchise to install, maintain and operate in said Town a cable television system for the purpose of offering audio, visual and data services, and to that end and for those purposes, said Grantee is hereby granted the right to occupy and use the streets, alleys, and public places of the Town as now or hereafter constituted, and easements for compatible uses, for the purpose of constructing, operating and maintaining over, upon and under the same, said system.

SECTION III. This franchise shall not be exclusive and shall not be construed to prevent the Town from granting to any other party the right to use the streets, alleys, and public grounds of the Town for a like purpose.

SECTION IV. The Town reserves any right it may have, under its police power to control or regulate the use of said streets, alleys, and public grounds by Grantee.

SECTION V. During the term of the rights granted hereunder, and so long as the Grantee operates said system, the Grantee shall pay as an annual occupation tax as compensation to the Town for the rights granted herein, a sum equal to three percent (3%) of the annual total gross receipts of the cable system; "Gross Receipts" shall consist of those revenues derived from the monthly service charges paid by subscribers for basic cable service and premium pay services, such as HBO. Gross receipts shall not include revenues received as installation charges, and fees for reconnections, inspections, repairs or modifications of any installation, and all State and Federal taxes relating thereto.

In no event shall any of such payments be payable until the system is actually in operation with paying subscribers, but there shall be no minimum number of subscribers hereunder. The payments that Grantee makes to the Town shall be in lieu of any other occupation tax, license tax, or similar levy by the Town and shall be paid on a monthly basis based on the preceding years gross subscriber revenues. Upon completion of Grantee's audit, Grantee shall pay to the Town within 15 days the balance due, if any, for the operating year covered by the audit.

This amount payable by the Grantee to the Town shall be the sole amount payable for all of its rights under this Ordinance including, but not limited to, the use of the streets and other facilities of the Town in the operation of the Cable System and for the municipal supervision thereof and shall be in lieu of any other occupational tax or franchise fee.

Notwithstanding the annual gross receipts fee or tax payable hereunder, if the Grantee is legally obligated to collect or pay any sales tax or other taxes, the Grantee shall have the right to charge the subscribers an additional amount equal to such tax.

Notwithstanding anything in the previous paragraphs of this Section, the Town agrees that the Grantee shall not be obligated to make the payment provided for in this Article for a period of five (5) years from the effective date of this Ordinance. The fee then shall be based on annual gross receipts received on and after the fifth anniversary of the effective date of this Ordinance.

SECTION VI.

1. Grantee shall at all times maintain on file with Auditor a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including installation charges.

2. In consideration of Grantee building a cable television system in the Town, the Board hereby waives, for the term hereof, any right it may now or hereafter have to regulate the reates charged by Grantee. In the event a later governing body of the Town undertakes, by whatever method, the regulation of Grantee's rates, then Grantee may, at any time at its option, remove all of its facilities in the Town, including the cable and all equipment used to provide cable television service to the residents of the Town.

3. The monthly rates set forth in the schedule referred to in subsection 1 above shall be payable in advance.

4. The Grantee shall not discriminate in rates between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984 and Federal Communications Commission regulations.

SECTION VII. The facilities used by the Grantee shall have a minimum capacity of twelve (12) channels. The Town shall provide Grantee with suitable space, without cost, in and adjacent to a municipally-owned building or in or adjacent to a privately-owned building, to locate its headend facilities and satellite receive dish or dishes. Grantee shall have access to such space at all times.

SECTION VIII. The Grantee shall, on the request of any person wishing to remove a building or any person who wishes to remove trees or structures from their property, temporarily raise or lower its wires to permit the moving of buildings or tree removal. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

SECTION IX. All cable and passive equipment installed by Grantee at a subscriber's location shall remain the property of Grantee and Grantee shall have the right, but shall not be obligated, to remove said cable and equipment upon termination of service to the subscriber.

SECTION X. Grantee shall have the right to assign this franchise to any party, or corporation, subject to the approval of the Town, which approval will not be unreasonably withheld, but all obligations of Grantee hereunder shall be binding upon its successors and assigns.

SECTION XI. This franchise shall continue and remain in full force and effect for a period of fifteen (15) years from the date on which this Ordinance becomes effective as provided by law. The Grantee shall have the right, upon giving thirty (30) days written notice to the Auditor, to terminate service in the Town in the event it is, in the opinion of Grantee, not econimically feasible to continue such service. Upon such termination, Grantee shall have the right to remove its equipment and facilities.

SECTION XII. Within sixty (60) days after passage and final approval of this Ordinance, Grantee shall file with the Auditor its written acceptance of this franchise.

FIRST READING February 1, 1988

SECOND READING March 7, 1988

ADOPTED March 7, 1988

PUBLISHED March 11, 1988

EFFECTIVE DATE March 31, 1988

TOWN OF JAVA

By Jon Bradley Bender
President

ATTEST:

Lekoy Bender
Auditor

(Seal)

RESOLUTION NO. 99

RESOLUTION OF THE CITY OF JAVA APPROVING AN ASSIGNMENT OF THE CABLE TELEVISION FRANCHISE FROM MIDCONTINENT CABLE SYSTEMS CO. OF SOUTH DAKOTA TO MIDCONTINENT COMMUNICATIONS

WHEREAS, Midcontinent Cable Systems Co. of South Dakota ("Franchisee") owns, operates, and maintains a cable television system ("System") in the City of Java ("Franchising Authority") pursuant to a cable television franchise (the "Franchise") and Franchisee is the current authorized holder of the Franchise; and

WHEREAS, Franchisee and Midcontinent Communications ("Transferee") are parties to an Asset Contribution Agreement, pursuant to which the System and the Franchise ultimately will be transferred to Transferee ("Transaction"); and

WHEREAS, pursuant to the proposed Transaction, Franchisee and various affiliated entities (the "TCI Parties" or "MCC Parties") which own and operate cable television systems will first take certain internal restructuring steps, including contribution of certain cable system assets (including franchises), to TCI Midcontinent, LLC ("TCI LLC") or Midcontinent Communications Investor, LLC ("MCI LLC"). As part of the Transaction, TCI LLC or MCI LLC will then contribute assets relating to such Systems and related obligations to Transferee which will hold the Franchise and will own and operate the System; and

WHEREAS, Franchisee and Transferee have requested consent by the Franchise Authority to the Transaction in accordance with the requirements of the Franchise and have filed a complete FCC Form 394 with the Franchise Authority; and

WHEREAS, the Franchise Authority has investigated the qualifications of Transferee and finds it to be a suitable Transferee;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF JAVA AS FOLLOWS:

Section 1. The Franchise Authority consents to the Transaction, and any intermediate assignment of the Franchise to an affiliate of Franchisee as necessary to effect the Transaction, in accordance with the terms of the Franchise.

Section 2. The transfer and assignment of the Franchise to Midcontinent Communications and the assumption by Midcontinent Communications of the obligations of Franchisee under the Franchise which accrue from and after the Closing Date shall be contingent upon and take effect only on the Closing Date.

Section 3. The Franchise Authority confirms that (a) the Franchise was properly granted or transferred to Franchisee, (b) the Franchise is currently in full force and effect subject to options in the Franchise, if any, to extend such term, (c) the Franchise supersedes all other agreements between the Franchise Authority and the

Franchisee, (d) the Franchise represents the entire understanding of the Franchise Authority and the Franchisee and Franchisee has no obligations to the Franchise Authority other than those specifically stated in the Franchise, and (e) Franchisee is materially in compliance with the provisions of the Franchise and to the knowledge of the Franchise Authority, no fact or circumstance exists which constitutes or which, with the passage of time or the giving of notice or both, would constitute a material default or breach under the Franchise or would allow the Franchise Authority to cancel or terminate the rights under the Franchise.

Section 4. Midcontinent Communications may transfer and assign the Franchise or control related thereto to any entity, directly or indirectly, owned or controlled by, controlling or under common control by Transferee, upon notice to the Franchising Authority of any such transfer, the Franchising Authority hereby consents to and approves the assignment, mortgage, pledge or other encumbrance, if any, of the Franchise, System, or assets relating thereto, or the interests in the permitted holder thereof, as collateral for a loan.

Section 5. This Resolution shall be deemed effective as of the date of its passage.

Section 6. This Franchise Authority releases Franchisee, effective upon the Closing Date, from all obligations and liabilities under the Franchise that accrue on and after the Closing Date; provided that Transferee will be responsible for any obligations and liabilities under the Franchise that accrue on and after the Closing Date.

Section 7. This Resolution will have the force of a continuing agreement with Transferee, and Franchise Authority will not amend or otherwise alter this Resolution without the consent of Transferee

PASSED, ADOPTED, AND APPROVED BY THE CITY OF JAVA THIS 6 DAY OF Dec., 1999.

By: Virgil La Riel
~~Mayor Pro-Tem~~
President

* * * * * * * * * * *

The undersigned, being the duly appointed, qualified, and acting Clerk of the City of Java, hereby certifies that the foregoing Resolution No. 99 is a true, correct, and accurate copy of Resolution No. 99 duly and lawfully passed and adopted by the City of Java on the 6 day of Dec., 1999.

Carol Allen
Clerk

0526832.01

ORDINANCE NO. 1996-1

AN ORDINANCE AMENDING THE JAVA COMMUNITY ANTENNA TELEVISION ORDINANCE TO CHANGE THE EXPIRATION DATE FROM MARCH 31, 2003 TO MARCH 31, 2011.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF JAVA, SOUTH DAKOTA.

SECTION XI be amended to change the fifteen (15) year term specified therein to twenty-three (23) years.

FIRST READING April 1 1996
SECOND READING May 6, 1996
ADOPTED May 8, 1996
PUBLISHED May 23, 1996
EFFECTIVE DATE June 20, 1996

Arthur C Frank
Mayor

ATTEST: Carol Albee
(SEAL) Finance Officer

ORDINANCE NO. 9-8

An ordinance to amend the code of The Town of Java, South Dakota, by adding thereto a provision for numbering buildings and to provide punishment for failure to do so.

Be it ordained by the Town Board of the Town of Java, South dakota, and it is hereby ordained by authority of the same as follows:

That the Code of the Town of Java, South Dakota, be amended by adding thereto the following to be known as Town Ordinance No. 9-8.

1. Designation of Addresses

A. Addresses for dwelling units and places of business on all public and private streets shall be assigned by the Town Board in accordance with the procedures adopted by the Town of Java.

B. The Town of Java shall keep a record of all numbers assigned under this ordinance.

2. Posting of Designated Addresses

A. The owner or occupant or person in charge of any house or building to which a address has been assigned will be notified by the Town Board of the address assigned to the same at any time after the adoption of this ordinance.

B. Within sixty (60) days after the receipt of such notification from the Town Board, the owner or occupant or person in charge of the structure to which an address has been assigned shall affix the address to the structure, if visible from the road, or to a sign or number post if not visible from the road, in such a way that the address can be clearly seen from the roadway.

C. It shall be the duty of such owner or occupant or person in charge thereof upon affixing the new number to remove any different number which might be mistaken for, or confused with, the number

assigned to said structure by the Town Board

D. Each principle building shall display the addressed assigned to the frontage on which the front entrance is located. In case a principle building is occupied by more than one business or family dwelling unit, each separate dwelling or unit must display a separate address.

E. Numbers and/or letters indicating the official address of each principle building or each front entrance to such building shall be posted in a manner as to be legible and distinguishable from the street on which the property is located, with letters painted or applied, of a contrasting color to the background, of not less than three inches (3") in height. If a building or dwelling is situated in such a way that the address cannot be easily seen from the roadway in front of said structure then a sign or address post must be used in front of the structure or at the entrance of the primary driveway and placed in such a way that it can easily be seen from the roadway.

3.New Structures

A. Addresses will be assigned to each proposed lot or tract on the surveyors copies of final subdivision plats by the Town Board.

4. Penalties

In the event that the owner or occupant or person in charge of any house or building refuses to comply with the terms of this ordinance by failing to affix the address assigned within sixty (60) days after notification, or by failing to remove any old addresses affixed to such structure or primary driveway or elsewhere which may be punished by paying a fine of not less than ten (10) dollars per day and/or one day in jail for each day that the situation is not rectified.

5. Effective Date

This ordinance shall take effect and be in full force and effect thirty (30) days from after its passage.

1st reading - April 4, 1994

2nd reading - May 2, 1994

Publishing - May 5, 1994

Effective - May 31, 1994

Donna Bieber T. O.

ORDINANCE NO. 1997-1

AN ORDINANCE PROHIBITING THE DISCHARGE OF FIREARMS WTIHIN THE CORPORATE LIMITS AND PROVIDING PENALTY FOR VIOLATIONS THEREOF

Be it Ordained by the Town of Java, South Dakota:

SECTION 1: DISCHARGE OF FIREARMS PROHIBITED

It shall be unlawful for any person to discharge any firearm within the corporate limits of the Town of Java. The purpose of this statute is to promote the health, safety, and general welfare of the community and to keep and preserve the peace and quietness of the municipality.

SECTION 2: PENALTY

Any person guilty of violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding two hundred dollars ($200.00) or by imprisonment not exceeding thirty days or by both such fine and imprisonment.

Passed upon its first reading:
March 3, 1997

Passed upon its second reading:
April 7, 1997

Approved this 7 day of April, 1997.

Published:

Elroy J. Ellerbroek
President of the Town Board

ATTEST:

Carol A. Allbee
Town Finance Officer

CHAPTER 7-2
ANIMAL LICENSING

DOG LICENSES AND COLLARS: RABIES VACCINATIONS REQUIRED

Every household within the corporate limits of the city owning or possessing a dog of the age of six months or more shall pay the City Finance Officer an annual license fee in the sum of $5. 50. Any household with more than one dog shall pay the City Finance Officer annually $8. 00 for the next or second dog and $10. 00 for every dog thereafter. Such annual license fees shall be paid on or before the first day of May of each year, and the City Finance Officer shall, upon payment and upon sufficient proof of the required rabies vaccination issue the owner thereof a license tag. Such license tags shall be immediately attached to such dog by means of a collar or other reasonable permanent method.

This is a copy of change in licensing fees for City of Java

Carol Allbee

Finance Officer

Carol Allbee

March 3, 1997

LEGAL NOTICE

ORDINANCE NO. 1999-1

An Ordinance imposing a Municipal Sales and Service Tax and a Use Tax for the Municipality of Java, Walworth county, South Dakota.

Be it Ordained by the Municipality of Java, Walworth County, South Dakota.

SECTION 1 PURPOSE

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

SECTION 2 EFFECTIVE DATE AND ENACTMENT OF TAX

From and after the 1st day of July, 1999, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by one percent (1) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Java, Walworth County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax SDCL 10-45 and acts amendatory thereto. Tax will not apply to items specifically exempt under SDCL 10-52-2.6, 10-52-11 and 10-52-12 items exempted from municipal tax include: farm machinery, irrigation equipment, parts or repairs for farm machinery, agricultural animal health products and medicine, transportation services, collection and disposal of solid waste, veterinarian and animal speciality services and air transportation.

SECTION 3 USE TAX

In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the 1st day of July, 1999, at the same rate as the municipal sales and service tax upon transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL. 10-46 and acts amendatory thereof.

SECTION 4 COLLECTION OF TAX

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

SECTION 5 INTERPRETATION

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

SECTION 6 PENALTY

Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than Two Hundred dollars ($200.00) or imprisoned in the city jail for thirty (30 days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45 and acts amendatory thereto and SDCL 10-46 and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue.

SECTION 7 USE OF REVENUE

All revenues received under this title is to be used for street capital improvements.

SECTION 8 SEPARABILITY

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

Dated this 1st day of March 1999

Mayor Arthur C. Frank

Carol Allbee, Finance Officer

First Reading, Feb. 1, 1999

Second Reading and Adoption March 1, 1999.

Published in the Selby Record March 11 and 18, 1999.

ORDINANCE NO. 1996-2

AN ORDINANCE REGULATING THE COLLECTION AND DISPOSITION OF SOLID WASTES

Be it Ordained by the Town of Java, South Dakota:

SECTION 1: MANDATORY RESIDENTIAL PARTICIPATION

Each residence of the Town of Java, South Dakota, shall be assessed monthly for the municipal collection and disposal of garbage, non-bulky trash and rubbish. Business and commercial establishments shall not be required to participate in the municipal collection so long as other arrangements are made which shall meet the standards and regulations of this ordinance and the South Dakota Department of Environmental Protection. The Town Board shall have authority to establish fees for the service provided to residential owners and occupants and to charge for and collect such fees on a monthly basis. The Town Board shall also have authority to establish fees for the service provided to participating business and commercial establishments and to charge for and collect such fees on a monthly basis.

SECTION 2: COLLECTION AND DISPOSAL

A. A municipal waste collector shall make collections at least once each week for residential wastes and for participating business and commercial establishments. Disposal of wastes from participating business and commercial establishments shall be made as frequently as may be necessary to avoid health hazards or unsightly accumulations of trash.

B. All garbage and refuse placed for collection shall be in sealed or fastened water-tight bags, or in containers not exceeding twenty gallons in size, and shall be placed at the alley or street/curb side as designed by the Town Board. Accumulations of uncovered garbage and wastes which may decay is prohibited.

C. Wastes not generally included in normal household refuse, such as stones, bricks, wire, scrap metal (other than tin cans), dead animals and hazardous materials, explosives, toxic substances, manure and all bulky refuse is not subject to collection by the municipality but is the responsibility of the person or persons generating such refuse, and said persons shall cause the same to be hauled to a Landfill site to be deposited in the place or places as directed by the landfill operator.

D. Weeds, dead trees, abandoned automobiles and similar materials upon any public or private property are declared a nuisance and shall be disposed of by or at the expense of the property owner.

E. No vehicle shall be used for hauling refuse or solid wastes that is not equipped and covered so that no spillage may occur on the streets or on the road to the landfill disposal site.

F. It shall be unlawful to litter or to fail to maintain collection containers or deposits in a clean, sanitary and reasonably healthful manner.

SECTION 3: RATES AND CHARGES

Until otherwise provided by ordinance amendatory hereof or supplemental hereto, the rates and charges for service and benefits furnished by the municipal solid waste disposal system shall be:

A. Residential owners or occupants shall pay for garbage disposal service $ 4.20 per month.

B. Business and commercial establishments utilizing the municipal solid waste disposal system shall pay for the service $_____ per month.

C. The monthly charges shall be due on or before the 15 day of each month. Failure to pay the stated charge by the due date shall result in an assessment being placed against the premises for the delinquent amount and/or any other remedies available pursuant to South Dakota law.

SECTION 4. SEVERABILITY

Should any part of the ordinance be held invalid for any reason, the remainder thereof shall not be affected and shall remain in full force and effect.

Passed upon its first reading:

November 1, 1999

Passed upon its second reading:

December 6, 1999

Approved this 6 day of December, 1999.

Published:

President of the Town Board

ATTEST:

Carol Albee
Town Finance Officer

ORDINANCE NO. 1999-3

AN ORDINANCE MANDATING ASSESSMENT FOR UTILIZATION OF THE TOWN OF JAVA, SOUTH DAKOTA, SEWER SYSTEM

Be it Ordained by the Town of Java, South Dakota:

SECTION 1. ASSESSMENT FOR UTILIZATION

Each premise's owner or occupant shall be assessed monthly for the use of the sewage treatment and disposal services provided to it by the Town of Java, South Dakota, sewer system. Failure to pay the established rate by the due date imposed by the Town Board shall result in an assessment being placed against the premises for the delinquent amount and/or any other remedies available pursuant to Chapter 15-4 of the Municipal Code of the Town of Java or by South Dakota state law.

SECTION 2. SEVERABILITY

Should any part of this ordinance be held invalid for any reason, the remainder thereof shall not be affected and shall remain in full force and effect.

Passed upon its first reading:

November 1, 1999

Passed upon its second reading: December 6, 1999

Approved this 6 day of Dec., 1999.

Published:

Virgil L. Biel
President of the Town Board

ATTEST:

Carol Albers
Town Finance Officer

ORDINANCE NO. 1999-4

AN ORDINANCE MANDATING UTILIZATION OF AND ASSESSMENT FOR THE USE OF THE TOWN OF JAVA, SOUTH DAKOTA, WATER SYSTEM

Be it Ordained by the Town of Java, South Dakota:

SECTION 1. MANDATORY PARTICIPATION

Every building within the municipal limits of Java, South Dakota, used for human occupancy in which plumbing fixtures are installed shall be connected to the public water supply system, if available. The public water supply system is available to a premise used for human occupancy if the property line of such premise is within 200 feet of the public water supply system. Each premise's owner or occupant shall be assessed monthly for the use of the public water supply system. Failure to pay the rate by the due date imposed by the Town Board shall result in an assessment being placed against the premises for the delinquent amount and/or any other remedies available per this Chapter or by South Dakota state law.

SECTION 2. SEVERABILITY

Should any part of the ordinance be held invalid for any reason, the remainder thereof shall not be affected and shall remain in full force and effect.

Passed upon its first reading:

November 1, 1999

Passed upon its second reading:

December 6, 1999

Approved this 6 day of December, 1999.

Published:

Virgil L. Biel
President of the Town Board

ATTEST:

Carol Gellner
Town Finance Officer

ORDINANCE NO__2000-1

AN ORDINANCE REGARDING THE ISSUING OF BUILDING PERMITS FOR CONSTRUCTION OR ADDITIONS TO REAL PROPERTY.

Be it Ordained by the Town of Java, South Dakota:

Building Permits:

A. At least five days before construction to real property, of a cost or value of __Five hundred dollars_____ $_500.00____. or over, the property owner shall make application to the Finance Officer and pay a fee of___$5.00_____
The application shall specify the proposed construction and the cost or value thereof.

B The Finance Officer shall, within three days after receiving an application for a building permit, issue the permit.

C. Any person who violates the terms of this ordinance shall pay a fine of __Fifty ($50.00)___dollars
D. This ordinance does not include improvements such as shingles, windows doors or other type of general up-keep and maintenance.

E All ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are expressly repealed.

Should any part of this ordinance be held invalid for any reason, the remainder thereof shall not be affected and shall remain in full force and effect.

Passed first reading: February 7, 2000

Passed second reading March 6, 2000

Approved and adopted: March 6, 2000

Notice of adoption published: March 16, 2000

Effective date: April 6, 2000

_____
MAYOR

ATTEST:

Carol Adler

ORDINANCE NO. 2000-2
2001 APPROPRIATION ORDINANCE

Be it ordained the town of Java that the following sums are appropriated to meet the obligations of the municipality.

GOVERNMENTAL FUNDS	
410 General Government	
411 Council	$3,100.
411.5 Contingency	2,000.
413 Election	450.
414.1 Legal Fees	1,500.
414.2 Finance Office	6,500.
419 General Government	9,775.
Total General Government	$23,325.
430 Public Works	
431 Highways & Streets	$11,300.
431.6 Street Lights	6,000.
432 Sanitation	7,500.
432.6 Weeds & Mowing	2,000.
Total Public Works	$26,800.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	300.
Total Culture & Recreation	$1,300.
470 Debt Service	
471 Principal	$5,040.
472 Interest	2,160.
Total Debt Service	$7,200.
510 Other Financing Uses	
511 Operating Transfer Out	$900.
Total Other Financing Uses	$900.
TOTAL APPROPRIATIONS	$59,525.

ORDINANCE NO. 2000-2
2001 APPROPRIATION ORDINANCE
(continued)

The following designates the fund or funds that money derived from the following sources is applied to.

Governmental Funds	
Unobligated Cash Balance	$10,000.
310 Taxes	25,550.
320 Licenses & Permits	2,400.
330 Intergovernmental Revenue	16,000.
340 Charges for Goods & Services	5,000.
360 Misc. Revenue	275.
390 Other Sources	300.
TOTAL MEANS OF FINANCE	$59,525.

Proprietary Funds	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund
Beg. Retained earnings	0	0	0	0
Estimated Revenue	$4,500.	$22,000.	$16,300.	$1,300.
TOTAL AVAILABLE	$4,500.	$22,000.	$16,300.	$1,300.
Less appropriations	$4,500.	$22,000.	$16,000.	$1,300.
Estimated Surplus to be Transferred to Governmental Funds			$300.	

The finance officer is directed to certify the following dollar amount of tax levies made in this ordinance to the County Auditor. $25,550.

Board President Virgil L. Reil Date Sept 18, 2000

1st reading 9/5/00

2nd reading 9/11/00

9/25/00

10/15/00

RESOLUTION:

Water meter deposit is raised to ~~$75.~~ 125.00 and late charge for delinquent accounts is raised to $5. effective with the meter reading 4/27/2001.

ORDINANCE 2001-1, AMENDING 15-1-7 CONSUMER BILLS

All consumer's bills for water, sewer, garbage, labor and materials shall be due on the 15th day of the month following the month when such services were furnished. The same shall become delinquent after the 15th day of the month in which due.

Any accounts becoming delinquent will be assessed a $5. late charge. Accounts not paid in full by the last day of the month in which due will be sent one reminder. If the account is not paid in full by the 15th of the following month (2 months delinquent) a second late charge will be added and the maintenance employee will be dispatched to read the water meter. A charge of $10. will be assessed to the delinquent account for this reading. A final bill will be sent giving five working days beginning with the day after the letter is mailed before water service will be shut off if full payment of account is not received.

ORDINANCE 2001-2, AMENDING 15-3-35 RECORDS

The city Finance Officer shall keep a correct and accurate record of all

meter readings with each customer, and all payments and accounts of water used, or other supplies or labor furnished by the city and shall collect the same when due as provided in 2001-1.

Failure by customers to submit monthly meter readings with the exception of those handicapped, senior citizens and/or other persons requesting prior assistance from the city regarding such readings will result in the maintenance employee being dispatched to read the meter at a charge of $10. per reading.

1st reading March 5, 2001

2nd reading April 2, 2001

publication April 5, 2001

President Virgil L. Biel
Virgil L. Biel

Attest Toni Van Orman
Toni Van Orman, FO

ORDINANCE NO. 2001-3
2002 APPROPRIATIONS ORDINANCE

Be it ordained the town of Java that the following sums are appropriated to meet the obligations of the municipality.

GOVERNMENTAL FUNDS	
410 General Government	
411 Council	$1,950.
411.5 Contingency	2,000.
413 Election	200.
414.1 Legal Fees	1,000.
414.2 Finance Office	6,705.
419 General Government	32,975.
Total General Government	$44,830.
430 Public Works	
431 Highways & Streets	$31,720.
431.6 Street Lights	5,500.
432 Sanitation	8,375.
432.6 Weeds & Mowing	1,670.
Total Public Works	$47,265.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	300.
Total Culture & Recreation	$1,300.
TOTAL APPROPRIATIONS	$93,395.

The following designates the fund or funds that money derived from the following sources is applied to.

Governmental Funds	
Unobligated Cash Balance	$5,000.
310 Taxes	27,210.
School Taxes	9,890.
320 Licenses & Permits	2,660.
330 Intergovernmental Revenue	11,525.
340 Charges for Goods & Services	4,400.
360 Misc. Revenue-School	25,510.
390 Other Sources-transfers from sales tax	7,200.
TOTAL MEANS OF FINANCE	$93,395.

Proprietary Funds	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund
Beg. Retained earnings	0	0	0	0
Estimated Revenue	$3,900.	$19,920.	$18,690.	$760.
Less appropriations	$3,350.	$19,920.	$18,690.	$700.
Estimated Surplus	$550.			$60.

The finance officer is directed to certify the dollar amount of tax levies made in this ordinance in the amount of $27,210. to the County Auditor.

August 6th, 2001 1st Reading

September 4th 2001 2nd Reading

September 13th 2001 Publication

Virgil L. Biel

Board President

Toni VanOrman

Attest

ORDINANCE NO. 2002-1
2003 APPROPRIATIONS ORDINANCE

Be it ordained the town of Java that the following sums are appropriated to meet the obligations of the municipality.

GOVERNMENTAL FUNDS	
410 General Government	
411 Council	$1,950.
411.5 Contingency	2,000.
413 Election	300.
414.1 Legal Fees	500.
414.2 Finance Office	6,700.
419 General Government	6,000.
Total General Government	$17,450.
430 Public Works	
431 Highways & Streets	$12,815.
431.6 Street Lights	5,500.
432 Sanitation	9,500.
432.6 Weeds & Mowing	1,000.
Total Public Works	$28.815.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	300.
Total Culture & Recreation	$1.300.
TOTAL APPROPRIATIONS	$47,565.

The following designates the fund or funds that money derived from the following sources is applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	28,875.
320 Licenses & Permits	2,710.
330 Intergovernmental Revenue	10,200.
340 Charges for Goods & Services	4,300.
390 Other Sources-transfers from sales tax	1,480.
TOTAL MEANS OF FINANCE	$47,565.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund
Beg. Retained earnings	0	0	0	0
Estimated Revenue	$39,940.	$56,500.	$18,000.	$650.
Less appropriations	$39,900.	$56,500.	$18,000.	$630.
Estimated Surplus	$40.	$0.	$0.	$20.

The finance officer is directed to certify the dollar amount of tax levies made in this ordinance in the amount of $28,875. to the County Auditor.

September 3, 2002 1st Reading

September 16, 2002 2nd Reading

September 26, 2002 Publication

Fred Caynter
Board President

Toni VanOsman
Attest

RESOLUTION

BE IT RESOLVED THE JAVA TOWN BOARD HAS DECLARED DOGS WHICH BARK AND HOWL CONTINUOUSLY , WHETHER DURING DAY LIGHT OR NIGHT TIME HOURS, WITHIN THE CITY LIMITS ARE HEREBY DECLARED A NUISANCE AFTER THREE (3) WRITTEN COMPLAINTS.

1st COMPLAINT **NOTICE CERTIFIED MAIL**

2nd COMPLAINT **NOTICE CERTIFIED MAIL**

3rd COMPLAINT **DOG WILL BE IMPOUNDED**

ALL VOTED IN FAVOR

AN AMENDING OF ORDINANCE 1999-1 SECTION 1 PURPOSE ,OF THE MUNICIPAL SALES AND SERVICE TAX AND A USE TAX FOR THE MUNICIPAL OF JAVA, WALWORTH COUNTY, SOUTH DAKOTA

Be it ordained by the Municipality of Java, Walworth County.

Section 1 purpose

The purpose of this ordience is to provide additional revenue needed for street improvements, and water and sewer upgrades for the Municipality of Java by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota by SDCL 10-52 entitled Uniform Municipal Non-Ad Tax Law, and acts amendatory thereto.

Section 7

All revenues received under this title is to be used for street, water and sewer capital improvements.

1st reading

2nd reading

published and approved

Carol Allbee
Finance officer

Arthur c Frank
Board President

ORDINANCE NO. 2004-1
2005 APPROPRIATIONS ORDINANCE

Be it ordained the town of Java that the following sums are appropriated to meet the obligations of the municipality.

GOVERNMENTAL FUNDS	
410 General Government	
411 Council	$2,675
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500
414.2 Finance Office	6,675
419 General Government	5,400.
Total General Government	**$17,650.**
430 Public Works	
431 Highways & Streets	$13,150.
431.6 Street Lights	5,600.
432 Sanitation	9,400.
432.6 Weeds & Mowing	1,200.
Total Public Works	**$29,350.**
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	100.
Total Culture & Recreation	**$1,100.**
TOTAL APPROPRIATIONS	**$48,100.**

The following designates the fund or funds that money derived from the following sources is applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	**$5,000.**
310 Taxes	**29,410.**
320 Licenses & Permits	**1,000.**
330 Intergovernmental Revenue	**7,690.**
340 Charges for Goods & Services	5,000.
TOTAL MEANS OF FINANCE	**$48,100.**

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund
Beg. Retained earnings	0	0	0	0
Estimated Revenue	$42,500.	$18,925.	$19,921.	$750.
Less appropriations	$40,500.	$18,925.	$19.921.	$650.
Estimated Surplus	$ 2,000.	$0.	$0.	$100.

The finance officer is directed to certify the dollar amount of tax levies made in this ordinance in the amount of $29,410. to the County Auditor.

First Reading, 8/2/04
Second Reading,
Art Frank, President
Carol Allbee Finance Officer

ORDINANCE NO. 2005-1

AN ORDINANCE AMENDING ORDINANCE 1997-1 PROHIBITING THE DISCHARGE OF FIREARMS AND OTHER DEVISES WITHIN AND AROUND THE CITY LIMITS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Be it Ordained by the Town of Java, South Dakota:

Ordinance 1997-1 shall be amended to read as follows:

SECTION 1: DISCHARGE OF DEVISES:

It shall be unlawful for any person, except a law enforcement officer in the performance of his or her duties, to discharge any firearm, air gun, bow and arrow, slingshot or any devise of this character within the limits of the Town of Java, South Dakota and within one fourth (1/4) mile of the boundary limits thereof.

SECTION 2: PENALTY

Any person guilty of violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding two hundred dollars ($200.00) or by imprisonment not to exceed thirty days or by both such fine and imprisonment.

Passed upon its first reading: Aug. 1, 2005.

Passed upon its second reading: Sept. 6, 2005.

Date of Publication: Sept. 15, 2005

Effective date: 20 days after second reading. Oct 5, 2005

Arthur Franck
President of Java Town Board

Attest:

Donna Bieber
Town Finance Officer

ORDINANCE NO. 2005-2
2006 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$2,675.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	6,675.
419 General Government	5,400.
Total General Government	$17,650.
430 Public Works	
431 Highways & Streets	$13,150.
431.6 StreetLights	5,600.
432 Sanitation	9,400.
432.6 Weeds & Mowing	1,200.
Total Public Works	$29,350.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	100.
Total Culture & Recreation	$1,100.
TOTAL APPORIATIONS	$48,100.

The following designates the fund or funds that money derived from the following Sources is applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	29,410.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	7,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$48,100.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund
Beg. Retained earnings	0	0	0	0
Estimated Revenue	$42,500.	$18,925.	$19,921.	$750.
Less Appropriations	$40,500.	$18,925.	$19,921.	$650.
Estimated Surplus	$2,000.	0	0	$100.

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $29,410. To the County Auditor.

First Reading 7-4-05

Second Reading 8-1-05

Art Frank, President Art Frank

Donna Bieber, Finance Officer Donna Bieber

ORDINANCE NO. 2005-3

AN ORDINANCE AMENDING ORDINANCE 1999-1 SECTION 2 SALES AND SERVICE TAX.

Be it Ordained by the Town of Java, South Dakota:

Ordinance 1999-1 shall be amended to read as follows:

SECTION 2. EFFECTIVE DATE AND ENACTMENT OF TAX.

From and afterthe first day of January , 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by 1% on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Java, Walworth County, South Dakota, who are subject to the South Dakota Retail Pccupational Sales and Service Tax SDCL 10-45 acts amendatory thereto.

First Reading: Sept. 6, 2005

Second Reading and Adoption: Oct 3, 2005

Published Oct 13, 2005

Board President: Arthur C Franks

Finance Officer: Donna Beebe

PUBLIC NOTICE

ORDINANCE NO. 1-05
AN ORDINANCE TO AMEND ORDINANCE TITLE 15 WATER AND SEWER: FOR CHAPTER 15-2 ENTITLED SERVICE RATES, BILLING, PENALTIES: SECTION 15-2-1 SERVICE RATES OF THE CITY ORDINANCES OF THE CITY OF HOSMER, SOUTH DAKOTA, BE AND THE SAME ARE HEREBY AMENDED TO SPECIFY THE SERVICE RATES FOR THE WATER AND SEWER

BE IT ORDAINED, by the City of Hosmer, South Dakota:

The Ordinance 15-2-1 be amended and hereby amended and read as follows:

Section 15-2-1 Service Rates: Until otherwise provided by ordinance amendatory hereof or supplement hereto, the rates, charges, and rentals for service and benefits furnished by the water and sewer system shall be as follows:

A. Owners or occupants of premises connected with the water and sewer system or receiving benefits from said system shall pay as follows:

1. Water Charges: The monthly minimum of $23.50 for 3,500 gallons of water. All water meters will be read on a quarterly basis by the City and the City will bill residents for all excess water use at a rate of $2.00 per 1,000 gallons over 10,500 gallons minimum for 3 months. The Senior Citizens Home will pay $3.50 for water used over the 10,500 minimum for 3 months.

2. Sewer Charges: The monthly charge for single sewer use per residence is $17.00 per month. The monthly charge for commercial sewer use is $24.50 per month.

3. Rubble Site Charge: A minimum charge of $1.00 per month shall be paid for use of the City rubble site.

4. The Hosmer Senior Citizens Home will be charged $250.00 per month for sewer use.

5. All reconnection fees are set at $500.00. If a resident pays the minimum water charge each month, the City will disconnect and reconnect water service at no charge when property is unoccupied.

6. All service charges (water, sewer, and rubble) are due on the 10th day of each month.

ATTEST:	APPROVED:
R.G. Imbery	Mike Schwingler
Finance Officer	Mayor

PASSED FIRST READING: 5-10-05
PASSED SECOND READING: 6-14-05
ADOPTED: 6-14-05
PUBLISHED: 6-15-05
EFFECTIVE: 7-4-05

ORDINANCE NO. 2006-1
2006 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$2,675.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	6,675.
419 General Government	5,400.
Total General Government	$17.650.
430 Public Works	
431 Highways & Streets	$13,150.
431.6 StreetLights	5,600.
432 Sanitation	9,400.
432.6 Weeds & Mowing	1,200.
Total Public Works	$29,350.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	100.
Total Culture & Recreation	$1,100.
TOTAL APPORIATIONS	$48,100.

The following designates the fund or funds that money derived from the following Sources is applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	29,410.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	7,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$48,100.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund
Beg. Retained earnings	0	0	0	0
Estimated Revenue	$42,500.	$18,925.	$19,921.	$750.
Less Appropriations	$40,500.	$18,925.	$19,921.	$650.
Estimated Surplus	$2,000.	0	0	$100.

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $29,410. To the County Auditor.

First Reading Aug 7, 2006

Second Reading Sept 5, 2006

Jerome Lee , President Jerome Lee

Donna Bieber, Finance Officer Donna Bieber

RESOLUTION

10-3-06

BE IT RESOLVED THAT THE TOWN OF JAVA HAS ESTABLISHED THAT ANY DOG THAT IS CAUGHT AND IMPOUNDED, THE OWNER WILL BE CHARGED $25.00 PLUS $10.00 PER DAY UP TO 4 DAYS, A COMPLAINT MUST BE MADEIN WRITING, THIS ALSO INCLUDES BARKING DOGS, This pertains to Ordinance No.2-2-12 on IMPOUNDMENT,

RESOLUTION

5-7-07

BE IT RESOLVED THAT THE TOWN OF JAVA HAS ESTABLISHED THAT NEW WATER, SEWER & GARBAGE RATES CHANGE AS OF THE JULY 2007 READINGS TO BE SUCH AS WATER $18.00 FOR THE FIRST 3000GAL. SEWER $18.00 AND GARBAGE $8.50 THIS IS PER MONTH PLUS OVERAGE AS IT WAS BEFORE $2.50 FOR EVERY 1000 GALS AFTER THAT.

ALL VOTED IN FAVOR

ORDINANCE NO. 2007-1
2008 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$2,675.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	6,675.
419 General Government	5,400.
Total General Government	$17,650.
430 Public Works	
431 Highways & Streets	$13,150.
431.6 StreetLights	6,000.
432 Sanitation	9000.
432.6 Weeds & Mowing	1,200.
Total Public Works	$29,350.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	100.
Total Culture & Recreation	$1,100.
TOTAL APPORIATIONS	$48,100.

The following designates the fund or funds that money derived from the following Sources is applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	30,410.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	6,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$48,100.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund
Beg. Retained earnings	0			
Estimated Revenue	$42,000.00.	$18360.00	$18,360.00	$650.00
Less Appropriations	$39,000.00.	$18360.00	$18,360.00	$650.00
Estimated Surplus	$2,000.			

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $30,410. To the County Auditor.

First Reading Aug 6, 2007

Second Reading Sept. 7, 2007

Jerome Lee , President Jerome Lee

Donna Bieber, Finance Officer Donna Bieber

1-7-08

RESOLUTION

Authorizing Community Development Block Grant Application to Assist In Replacement of Waterlines in Java, South Dakota

WHEREAS, the Town of Java proposes to execute an application for $360,500 Community Development Block Grant funds to help replace waterlines in the Town of Java; and

WHEREAS, the Town of Java is eligible for Federal assistance for the proposed project; and

WHEREAS, with the submission of the Community Development Block Grant application, the Town of Java assures and certifies that all Community Development Block Grant program requirements will be fulfilled; and

WHEREAS, the Town of Java has held the required public hearing on Monday, January 7, 2008, for the Community Development Block Grant; and

WHEREAS, the Town of Java is required to designate a certifying officer for the purpose of signing documents pertaining to this grant; and

WHEREAS, the Town of Java is required to designate an environmental certifying officer for the purpose of signing required environmental documents pertaining to this grant;

NOW, THEREFORE BE IT RESOLVED, that the Town President of the Town of Java, will be authorized to execute the Community Development Block Grant application for the Town of Java; and

AND BE IT FURTHER RESOLVED, that the Town President of the Town of Java, be hereby designated as the Town's certifying officer for the purpose of signing correspondence, pay requests, and other required documents;

AND BE IT FURTHER RESOLVED, that the Town President of the Town of Java, be hereby designated as the Town's environmental certifying officer for the purpose of signing correspondence and other required documents and forms.

Signed this 7th day of January, 2008

Jerome Lee, Town President

Attest: Donna Bieber
Donna Bieber, Finance Officer

ORDINANCE NO. 2008-1

AN ORDINANCE IMPOSING A MUNICIPAL SALES AND SERVICE TAX FOR THE MUNICIPALTY OF JAVA,WALWORTH COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY THE MUNICIPALITY OF JAVA, WALWORTH COUNTY, SOUTH DAKOTA.

Section 1, PURPOSE. the purpose of this ordinance is to provide additional revenue needed for streets, water & sewer improvements for the Municipality of Java, Walorth County, Suth Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

Section 2. EFFECTIVE DATE AND ENACTMENT OF TAX. From and after the first day of July, 2008, 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 percent (2 %) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Java, Walworth County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

Section 3. USE TAX. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of items purchased from and after the first of July, 2008, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax, SDCL 10-46, and acts amendatory thereto.

Section 4. COLLECTION. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same 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 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 Tax, 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.

Section 6. PENALTY. Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than $200 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

Section 7. SEPARABILITY. If any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

Dated this day of , 20 .

Mayor Jerome Lee

First Reading Feb. 4, 2008
Second Reading and Adoption March 3, 08
Published March 6, 2008
ATTEST:
Finance Officer (SEAL)
Donna Bieber

ORDINANCE NO. 2008-1
2009 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$2,675.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	6,675.
419 General Government	5,400.
Total General Government	$17,650.
430 Public Works	
431 Highways & Streets	$13,756.
431.6 StreetLights	6,000.
432 Sanitation	8000.
432.6 Weeds & Mowing	2500.
Total Public Works	$30,256.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	100.
Total Culture & Recreation	$1,100.
TOTAL APPORIATIONS	$49,006.

The following designates the fund or funds that money derived from the following Sources are applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	31,316.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	6,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$49,006.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund	Community Center
Beg. Retained earnings		0			
Estimated Revenue	$42,000.00.	$18360.00	$18,360.00	$650.00	$2500.00
Less Appropriations	$39,000.00.	$18360.00	$18,360.00	$650.00	$4000.00

Estimated Surplus $2,000.

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $31,316. To the County Auditor.

First Reading Aug. 4, 2008

Second Reading Sept. 1, 2008

Jerome Lee, President Jerome Lee

Donna Bieber, Finance Officer Donna Bieber

ORDINANCE NO. 2009-1

AN ORDINANCE ENTITLED: AN ORDINANCE IN REVISION OF SECTIONS 15-3-9, 15-3-11, 15-3-15, 15-3-20, 15-3-21 and 15-3-33 OF CHAPTER 15-3 WATER REGULATIONS, OF THE ORDINANCES OF THE TOWN OF JAVA, SOUTH DAKOTA

BE IT ORDAINED by the Town of Java, South Dakota:

Sections 15-3-9, 15-3-11, 15-3-15, 15-3-20, 15-3-21 and 15-3-33 of Chapter 15-3 Water Regulations, of the Ordinances of the Town of Java, South Dakota Shall Be Amended to Read as Follows:

15-3-9 RULES AND REGULATIONS

That the sections, rules and regulations hereinafter set out in this chapter shall be considered a part of the contract with every person which is supplied with water through the waterworks system and every person by taking water, shall be considered to express his or her assent to be bound thereby. When any of the same are violated, or such others as the Board of Trustees may adopt, the water shall be cut off from the building or place of such violation and shall not be turned on except by order of the City Finance Officer, and then only after the payment of the fee determined by resolution of the Board of Trustees for shutting off and turning on the water and such items as the Board of Trustees shall determine, and in case of such violations, the Board of Trustees or committee thereof, shall have the right to declare forfeited any payment made for water by the person committing such violation.

15-3-11 APPLICATIONS IN GENERAL

Applications for water service shall be made by the owner or agent of the property to the Board of Trustees or Superintendent of Public Utilities, stating the lot and block where such water is desired. If such application is granted by the Board of Trustees or Superintendent of Public Utilities, the applicant shall be granted a permit authorizing the connection to be made. The fee for making the tap shall be determined by resolution of the Board of Trustees and payable at the time of making said application. That all expenses in connection with the running of the water line from the main to the consumer's property shall be at the consumer's expense.

15-3-15 CONSTRUCTION

Construction from the property line to the main shall be made by the city under the supervision of the Superintendent of Public Utilities or other person especially authorized by the Board of Trustees, for which the applicant shall pay the actual cost of said construction, including labor and materials. The applicant shall pay a permit fee determined by resolution of the Board of Trustees payable to the

Municipal Finance Officer, at the time the application is filed. Upon approval of the application and prior to any construction, the applicant shall pay into the City Treasurer the estimated cost of construction, plus an inspection fee determined by resolution of the Board of Trustees. If the actual construction cost be greater than the estimated cost, the applicant shall immediately upon completion of construction pay the difference to the City Treasurer. The connection between the property line to the place where the water is used shall be done by the applicant subject to the inspection and approval of the Chief of Police or other person specially authorized by the Board of Trustees before being covered. All pipes must be laid at least six feet underground.

15-3-20 A curb stand with cut off, also referred to as a curb stop shall be placed at a uniform location, equidistant from the place of tap, and in a direct line from the tap toward the nearest point of lot lines, and inside of the curb line of the street with the top of the curb stand even with the grade of the sidewalk for controlling the supply of water to consumers.

A monthly fee for curb stands adjacent to lots which are not being provided monthly water service shall be charged a fee to the owner of the adjacent lot at a rate determined by resolution of the Board of Trustees

The city shall be entitled to remove any curb stop adjacent to any vacant lot which has not received water service during the preceding 12 months upon 30 days written notice to the owner of the adjacent lot at their last known address. If the adjacent lot owner chooses to keep the curb stop in place or install a new curb stop next to the vacant lot, the owner shall be obligated to pay the monthly fee stated above while the lot is not being provided monthly water service.

15-3-21 **STOP AND WASTE VALVES**

All persons having connections with city water mains must have proper and sufficient stop and waste valves placed at accessible places, either outside the house or in the basement, for the purpose of shutting off water in case of leaks and for repairs.

The City shall charge a service fee as determined by resolution of the Board of Trustees for turning on the water during business hours and as determined by resolution of the Board of Trustees for doing so during non-business hours. No part of this service charge is refundable.

Persons taking water from the distributing pipe must keep their service and fixtures connected therewith, including curb stop cut offs in good repair and protected from frost at their own expense, and must prevent all unnecessary waste.

Prior to water service being turned on, the consumer shall pay the city the cost of installing or replacing any curb stop cut off and for any other necessary malfunctioning fixture which is not working.

15-3-33 PAYMENT OF WATER RATES AND METER DEPOSITS

The minimum charges for water rates and/or meter deposits are to be determined by a city Board of Trustees by resolution, which shall also describe the methods by which such payments shall be made.

Passed upon its first reading: Jan 5, 2009.

Passed upon its second reading: Feb 2, 2009.

Date of Publication: Feb 11, 2009

Effective date: 3-2-, 2009.

Jerome Lee

President of Java Town Board

Attest:

Donna Bieber

Town Finance Officer

RESOLUTION
2-2-09

Be it Resolved that every curb stand adjacent to lots which are not being provided a monthly water service shall be charged a monthly fee of $10.00 per month per curb stop. The monthly charge Resolution goes into effect when the water lines are complete.

Also be it Resolved that the water deposit for all new hook-ups will be $125.00 this amount will be returned to the depositor when they disconnect and the meter is in working order and the bill is current, the Deposit Resolution is effective Feb. 11, 09.

RESOLUTION

4-6-09

BE IT RESOLVED THAT THE TOWN OF JAVA WILL RELEASE NO PRAVITE INFORMATION COLLECTED FROM ITS PATRONS.

ORDINANCE NO. 2009-2
2010 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$2,675.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	6,675.
419 General Government	5,400.
Total General Government	$17,650.
430 Public Works	
431 Highways & Streets	$13,756.
431.6 StreetLights	6,000.
432 Sanitation	8000.
432.6 Weeds & Mowing	2500.
Total Public Works	$30,256.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	100.
Total Culture & Recreation	$1,100.
TOTAL APPORIATIONS	$49,006.

The following designates the fund or funds that money derived from the following Sources are applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	31,316.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	6,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$49,006.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund	Community Center
Beg. Retained earnings		0			
Estimated Revenue	$45,000.00.	$20,000.00	$18,360.00	$650.00	$2500.00
Less Appropriations	$42,000.00.	$20,000.00	$18,360.00	$650.00	$4000.00
Estimated Surplus	$2,000.				

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $31,316. To the County Auditor.

First Reading Sept 8, 09

Second Reading Oct 5, 09

David Warner Jr., President David Warner

Donna Bieber, Finance Officer Donna Bieber

ORDINANCE NO. 2009-3

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED $58,000 PROJECT REVENUE BONDS OF THE TOWNOF JAVA; MAKING CERTIAN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; PROVIDING FOR A SPECIAL CHARGE OR SURCHARGE FOR THE PURPOSE OF PAYING PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AND AUTHORIZING CERTIAN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

BE IT ORDAINED by the Town Board of Trustees of the Town of Java, South Dakota (the "Town"), as follows:

SECTION 1. Bond Purpose and Authorization.

1.01. The Town currently operates a municipal water utility under SDCL 9-40 (the "Utility"), consisting of a system or part of a system for the collection, treatment, and disposal of sewage and other domestic, commercial, and industrial waste. The Town determines it necessary and expedient to make improvements to the Utility and issue Water Project Revenue Bonds (the "Bonds") and hereby declares the necessity therefore.

1.02 The Town is authorized to borrow money and issue its revenue bonds under SDCL Chapter 9-40 and 6-8B (the "Act"), in order to defray the cost of acquiring and constructing improvements to the Utility, consisting of the improvements generally described on Exhibit A hereto (the "Improvements"). The Town is authorized to acquire the Improvements, to issue its Bonds, in order to defray the cost thereof, and to make all pledges, covenants and agreements authorized by law for the protection of the owners of the Bonds, including, without limitation, those covenants set forth in Sections 9-40-15 through 9-40-17 of the Act. The bonds are payable solely from the revenue or income derived from the operation of the improvements and shall not constitute an indebtedness of the town within the meaning of South Dakota constitution Article 13 § 4 or any statutory provisions or limitations.

SECTION 2. Terms of the Bonds

2.01. The Bonds shall be issued in an aggregate principal amount not exceeding $58,000.00 and shall be sold to the United States of America. The Bonds will bear interest at a rate or rates per annum resulting in an interest rate not greater than 3.50% per annum and will mature over a period not to exceed forty (40) years. The Bonds shall be issued in one series. The President

and Finance Officer are hereby authorized and directed to agree with the United States of America upon the exact purchase price, principal amount, maturities, interest rate or rates, payment dates and redemption provisions for the Bonds, within the parameters set forth in this Section.

SECTION 3. Execution, Authentication, Delivery and Form of the Bonds.

3.01. The Bonds shall be prepared under the direction of the Finance Officer and shall be executed on behalf of the Town by the signatures of the President and the Finance Officer, and countersigned by an attorney actually residing in the State of South Dakota and duly licensed to practice therein, and shall be sealed with the official corporate seal of the Town; provided that all signatures may be printed, engraved or lithographed facsimiles of the originals. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. The Town hereby appoints the Finance Officer of the Town as bond registrar, transfer agent and paying agent (the "Registrar") for the Bonds.

SECTION 4. Creation of Accounts, appropriation, pledge and segregation of revenues,

4.01 An account to be designated as the 2009 Water Project Revenue Bond Account (the "Debt Service Account") is established and shall be maintained as a separate and special mandatory asset segregation bookkeeping account on the official books of the Town until the Bonds and any additional bonds (together referred to as the "Bonds") payable from the net income from the Improvements, as provided in Sections 4.03 through 4.07 hereof and interest and redemption premiums due thereon have been fully paid, or the Town's obligation with reference to the Bonds has been discharged.

4.02 Net income derived from the Improvements shall be the excess of revenues or income remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements, and operation including the interest on any general obligation bonds authorized to construct or acquire or improve such original Utility and including the necessary debt service funds required to be provided for the retirement of said bond issues, and including the interest and debt service funds required annually to be paid or set aside on any refunding bonds issued to refund such general bonds issued for the original construction or acquisition or improvement of said Utility, so extended, added to, or improved (hereafter "Project Revenues"). All Project Revenues shall be segregated and subdivided into separate accounts as designated and described in Sections 4.03 to 4.07 and are irrevocably pledged and appropriated for the payment of principal of and interest on the Bonds. As described in Section 5.05 hereof, the Town shall impose a separate surcharge for the availability,

benefit and use of the improvements and shall aggregate the revenues derived from such surcharge for the Improvements, together with the expenses of the operation and maintenance of the Improvements and shall account for them as provided in SDCL 9-40 and Section XI of the South Dakota Department of Legislative Audit Municipal Accounting Manual.

4.03. Construction Account. An account to be designated as the 2009 Water Project Revenue Bond Construction Account ("Construction Account") is established. The Construction Account shall be used only to pay as incurred and allowed costs which under generally accepted accounting principles are capital costs of the Improvements, and of such future acquisitions, reconstructions, improvements, betterments or extensions of the Utility as may be authorized in accordance with law; including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands, easements and utility rights, interest accruing on Bonds during the first year following the date of their delivery, if and to the extent that the Debt Service Account is not sufficient for payment of such interest, reimbursement of advances made from other Town funds, and all other expenses incurred in connection with the construction and financing of any such undertaking. To the Construction Account shall be credited as received all proceeds of Bonds, except amounts appropriated to the Debt Service Account under Section 4.04 and any amount to be deposited to the Reserve Account under Section 4.05, all other funds appropriated by the Town for the improvement of the Utility, and all income received from the claim with respect to the Utility received pursuant to Section 5.03 hereof shall be deposited in the Construction Account and applied to repair, replacement and restoration of the Utility; any proceeds in excess of the amount necessary for that purpose shall be transferred to the Debt Service Account. No amount shall be expended from the construction account unless contracts have been entered into and completion bonds furnished in an amount sufficient to ensure completion of the Improvements at a cost not exceeding the amount then on hand for such purpose.

4.04. Current Debt Service Account. An account to be designated as the 2009 Water Project Revenue Bond Current Debt Service Account ("Debt Service Account") is established. Upon each monthly apportionment, there shall be set aside and credited to the Debt Service Account out of the Project Revenues an amount equal to not less than one-twelfth of the total sum of the principal and interest to become due within the then next succeeding twelve months on all Bonds. Moneys from time to time held in the Debt Service Account shall be disbursed only to meet payments of principal and interest on Bonds as such payments become due; provided, that on any date when all outstanding Bonds are due or prepayable by their terms, if the amount then on hand in the Debt Service Account, together with the balance then on hand in the Reserve Account, is sufficient, with other moneys available for the purpose, to pay all Bonds and the interest accrued thereon in full, it may be used for that purpose. If any payment of principal or interest becomes due when moneys in the Debt Service Account are temporarily insufficient

therefor, such payment shall be advanced out of any Project Revenues theretofore segregated and then on hand in the Reserve Account, the Replacement and Depreciation Account or the Surplus Account. In the event that sufficient moneys are not available from the aforementioned sources, the Town, to the extent it may at the time legally do so, may, but shall not be required to, temporarily advance moneys to the Debt Service Account from other funds of the Town on hand and legally available for the purpose, but any such advance shall be repaid from Net Revenues of the Utility within 24 months.

4.05 Reserve Account. An account to be designated as the 2009 Water Project Revenue Bond Future Debt Service Reserve Account ("Reserve Account") is established. On a monthly basis, the Town shall pay into the Reserve Account an amount equal to 10% of the maximum debt service due in any future calendar year on, the Bonds. Said balance shall be maintained by such additional credits to the Reserve Account as may be necessary. Moneys on hand in the Reserve Account shall be used only to pay maturing principal and interest when other moneys in the Debt Service Account are insufficient therefor.

4.06. Replacement and Depreciation Account. An account to be designated as the 2009 Water Project Revenue Bond Contingency (Renewal and Replacement) Account ("Replacement and Depreciation Account") is established. There shall next be set aside and credited, upon each monthly apportionment, to the Replacement and Depreciation Account such portion of the Project Revenues, in excess of the current requirements of the Debt Service Account and the Reserve Account (which portion of the Project Revenues is referred to herein as "Surplus Project Revenues"), as the Town Board of Trustees shall determine to be required for the accumulation of a reasonable reserve for renewal of worn out, obsolete or damaged properties and equipment of the Utility, which reserve shall be accumulated and maintained. Moneys in this account shall be used only for the purposes above stated or, if so directed by the Town Board of Trustees, to redeem Bonds which are prepayable according to their terms, to pay principal or interest when due thereon as required in Section 4.04 hereof, or to pay the cost of improvements to the Utility; provided, that in the event that the Town shall hereafter issue bonds for the purpose of financing the construction and installation of additional improvements or additions to the Utility, but which additional bonds cannot, upon the terms and conditions provided herein, be payable from the Debt Service Account. Surplus Project Revenues from time to time received may be segregated and paid into one or more separate and additional accounts from the payment of such bonds and interest thereon, in advance of payments required to be made into the Replacement and Depreciation Account.

4.07. Surplus Account. An account to be designated as the 2009 Water Project Revenue Bond Surplus Account ("Surplus Account") is established. Any amount of the Surplus Net Revenues from time to time remaining after the above required applications thereof shall be credited to the Surplus Account, and the moneys from time to time in that account, when not required to restore

a current deficiency in the Debt Service Account as provided in Section 4.04 hereof, may be used for any of the following purposes and not otherwise:

To redeem and prepay Bonds when and as such Bonds become prepayable according to their terms;

To purchase Bonds on the open market, whether or not the Bonds so purchased or other such Bonds may then be prepayable according to their terms; and, if the Reserve Account is then funded to the full amount required to be maintained therein, and the balances in the Debt Service Account and the Replacement and Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made therefrom prior to the end of the current fiscal year, then;

To pay for repairs of or for the construction and installation of improvements or additions to the Utility; and, if the Reserve Account is then funded to the full amount required to be maintained therein, and the balances in the Debt Service Account and the Replacement and Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made therefrom prior to the end of the then current fiscal year, then:

To be held as a reserve for redemption and prepayment of the Bonds which are not then but will later be prepayable according to their terms; or

To be used for any other authorized municipal purpose designated by the Town Board of Trustees.

No moneys shall at any time be transferred from the Surplus Account or any other account of the Fund to any other fund of the Town, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section 4.07.

4.08. Deposit and Investment of Funds. The Town Finance Officer shall cause all moneys to be deposited as provided in South Dakota Law.

SECTION 5. Covenants, Remedies and Rates.

5.01. General. The Town covenants and agrees that until all Bonds are fully discharged as provided in this Ordinance, it will continue to hold, maintain and operate the Utility as a public utility and convenience, free from all liens thereon or on the income therefrom other than the liens herein granted or provided for, will observe prudent utility practices, and will maintain, expend and account for the Fund and the several accounts therein as provided in Section 4. The

Town will cause the Improvement to be constructed in accordance with plans and specifications hereto prepared and will not enter into contracts in excess of the amount provided for such purpose.

5.02. Competing Service. The Town will not establish or authorize the establishment of any other system for the public supply of service or services in competition with any or all of the services supplied by the facilities of the Utility.

5.03. Billings. The charges for Water Utility services will be billed at least monthly, and if the bill is not paid within sixty days of the date of billing, or if the customer fails to comply with all rules and regulations established for the Utility within sixty days after notice of violation thereof (which notice shall be given promptly upon discovery of any such violation), the service to the premises involved shall be discontinued and shall not be resumed until payment of all past-due bills for Water Utility service and compliance with all such rules and regulations. The Town may reduce the number of days before the service will be disconnected from sixty to any lesser number of days by ordinance or ordinance. The Town shall take all appropriate legal action to collect the unpaid charges. The Town shall follow the procedures, if any, set by South Dakota Codified Laws for disconnection of service during the winter months.

5.04. Remedies. The holder of the Bonds shall have such remedies as are set forth is SDCL 9-40.

5.05. Rates and Charges. There shall be charged a monthly surcharge for the services provided by the improvement financed by the Bonds. The surcharge shall be segregated from other revenues of the utility and shall be used for the payment of principal of and interest on the Bonds. Provided that such surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements. The rate herein specific will be collected as a surcharge for the Improvement. This surcharge shall remain in effect until such time as the Bonds are paid in full or discharged. The initial surcharge shall be set by ordinance. All users, current and future, shall be charged the surcharge for it has been found that all users benefit from the improvement. The surcharge is found to be equitable for the services provided by the Improvement. The amount of the surcharge shall be reviewed not less than annually and shall be modified in order to provide such funds as are set forth herein. All modifications may be made by Ordinance. No ordinances setting the surcharge shall be subject to referendum for they are necessary for the support of government.

5.06 Statutory Lien. There shall pursuant to SDCL 9-40-25 be a statutory mortgage lien upon the Improvements in favor of and for the equal benefit of the lawful holders of the bonds issued pursuant to SDCL 9-40, except no such lien shall attach to or become a charge upon or against

any property or Utility or any part thereof previously owned by the Town. Until all bonds are fully paid with interest, the Town shall not sell or otherwise dispose of the Utility and shall not establish, authorize or grant a franchise for the operation of any other Utility in competition with the Town. The statutory lien shall continue until the bonds are paid in full.

5.07. Build America Bonds. The Town may designate the Bonds as "Build America Bonds" under Section 54AA of the Internal Revenue Code of 1986, as amended (the "Code") and the Town may elected under the Code Section 54AA(g) to receive a credit from the United States Treasury equal to 35% of the stated interest paid on the Certificates as provided in Code Section 6431. The Town covenants to comply with the requirements of Section 54AA(g) of the Code to assure eligibility of the Town for receipt of the direct payment interest credit.

The above and foregoing Ordinance was read Sept 8,09 and Oct 5 09 and was moved for adoption by Gene Buechler seconded by Becky Witlock and upon roll call vote,

voted aye, WarnerJr., Buechler, Witlock, Helm

voted nay, none

whereupon the President declared the Ordinance to be duly passed and adopted.

Ted Warner Jr.
President

Attest:

Donna Bieber
Finance Officer

First Reading Sept 8, 09
Second Reading Oct 5 09
Adopted: Oct 5, 09
Published: Oct 8, 09
Effective Date: Oct 27, 09

RESOLUTION # 12-07-09

WHEREAS, the City of Java has identified the need for the implementation of energy conservation measures, and

WHEREAS, the City of Java proposes to undertake the following project(s):
Replacement of heating system in city hall.

WHEREAS, the City of Java is eligible to apply to the State of South Dakota for Energy Efficiency and Conservation Block Grant (EECBG) assistance for the proposed project(s) as

1) City of Java is included in the latest Census of Governments (2007) as an incorporated municipality; and
2) City of Java has a governance structure with an elected official and governing body; and
3) City of Java was not eligible for a direct allocation of EECBG under the ARRA program; and

WHEREAS, with the submission of the EECBG application the City of Java assures and certifies that all EECBG program requirements will be fulfilled,

THEREFORE, BE IT RESOLVED that the governing body of the City of Java duly authorizes the Mayor to sign and submit all necessary paperwork for the EECBG application on behalf of the City of Java.

This resolution is effective immediately upon passage.

Adopted this 7 day of, Dec, 2009

David Warner Jr.
David Warner Jr., Town President

City of Java
Applicant Unit of Governments Name

ATTEST: Donna Bieber
Donna Bieber, Finance Officer

ORDINANCE NO. 2010-1

AN ORDINANCE AMENDING THE JAVA COMMUNITY ANTENNA TELEVISION ORDINANCE TO CHANGE THE EXPIRATION DATE FROM MARCH 31, 2011 TO MARCH 31, 2025.

BE, IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF JAVA, SOUTH DAKOTA.

SECTION II be amended to change the fifteen(15) year term specified therein to fourteen (14) years.

FIRST READING 1-4-2010
SECOND READING 2-8-2010
ADOPTED 2-8-2010
PUBLISHED DATE 2-18-2010
EFFECTIVE DATE 3-9-2010

Dal Warner Jr.
BOARD PRESIDENT

ATTEST: Donna Bieber F.O.
(SEAL)

AN ORDINANCE AUTHORIZING THE GRANT OF CABLE COMMUNICATIONS FRANCHISES IN THE CITY OF JAVA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE(S).

The City of Java hereby ordains:

SECTION 1. SHORT TITLE AND DEFINITIONS

1.) Short Title. This Ordinance shall be known and cited as the Cable Communications Regulatory Ordinance.

2.) Definitions. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

(a) "Basic Cable Service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. §543(b)(7).

(b) "Cable Programming Service" means any Video Programming provided over a Cable System, regardless of service tier other than:

Video Programming carried on the Basic Service Tier;

Video Programming offered on a pay-per-channel or pay-per-program basis; or

A combination of multiple channels of pay-per-channel or pay-per-program Video Programming offered on a multiplexed or time-shifted basis so long as the combined service:

consists of commonly-identified Video Programming; and

is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. §543(l)(2) and 47 C.F.R. 76.901(b) (1993).

(c) "Cable Service" means the one-way transmission to Subscribers of Video Programming, or other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

(d) "Cable System" or "System" shall have the meaning ascribed to it in federal law.

(e) "Council" means the Java, South Dakota City Council.

(f) "Franchise" means an initial authorization, or renewal thereof issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System or other MVPD facility.

(g) "Franchise Area" means the area within the legal boundaries of the Grantor.

(h) "Grantee" is the Person which is granted a Franchise in City pursuant to this Ordinance, its agents and employees, lawful successors, transferees or assignees.

(i) "Grantor" is the City of Java.

(j) "Gross Revenue" means only that monthly revenue received from Basic Cable Service, Premium Pay Services such as HBO. The Term "Gross Revenues" shall not include any other revenue billed or received by the Grantee including, franchise fees, late fees, any fees itemized and passed through as a result of franchise imposed requirements, or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.

(k) "Multichannel Video Program Distributor" or "MVPD" means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, an OVS provider, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.

(l) "Open Video Services" or "OVS" means any video programming Services provided to any person by a Franchisee certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as may be amended, regardless of the Facilities used.

(m) "Pay Television" means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.

(n) "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.

(o) "Standard Installation" means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.

(p) "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by Grantor.

(q) "Subscriber" means any Person who lawfully receives Cable Service.

(r) "Video Programming" means programming provided by, or generally considered comparable to programming provided by a television broadcast station.

SECTION 2. GRANT OF AUTHORITY AND GENERAL PROVISIONS

1.) Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a Cable System or MVPD facility or to provide Cable Service, Video Programming or other MVPD services, including OVS, in the Grantor without a Franchise authorizing the same, unless applicable federal or State law prohibits the Grantor's enforcement of such a requirement.

2.) Grant of Franchise. Any Franchise that is granted in City shall be subject to the terms and conditions contained herein.

3.) Grant of Nonexclusive Authority.

(a) A Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the Streets, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in Franchise Area, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in Franchise Area of a Cable System.

(b) A Franchise shall be nonexclusive, and Grantor reserves the right to grant a similar use of said Streets to any MVPD at any time, provided, however, that all Franchises shall contain the same terms and conditions as this Franchise in order that one MVPD is not granted a competitive advantage over another. In the event a MVPD commences operation without a Franchise or is granted a Franchise to operate by the Grantor, the terms and conditions of which do not comply with this Ordinance, other Grantees shall have the right either (i) to opt in to the competitor's Franchise by providing ten (10) days prior written notice to the Grantor; or (ii) to petition the Grantor for modifications to its Franchise, in which case the Grantor shall work in good faith with the affected Grantee(s) to review and adopt modifications which the Grantee(s) deem necessary, review and approval by Grantor shall not be unreasonably denied.

(c) Before granting an additional franchise, the Grantor shall give written notice to all Grantees of any new application, identifying the applicant for such additional Franchise and providing at least thirty (30) days prior notice of the date, time, and place at which the Grantor shall consider and/or determine whether such additional Franchise should be granted.

(d) Every Franchise shall apply to the entire service area of the Grantor, as it exists now or may later be configured.

(e) In the event Grantor grants one or more additional Franchises or one or more non-franchised MVPD's commence providing Cable Service in the Grantor, a Grantee shall have the right to terminate or reduce the term of this Franchise in its sole discretion.

(f) Neither City nor Grantee(s) may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any other ordinance and this Franchise, the Franchise shall control.

4.) Franchise Term. A Franchise shall be in effect for a period of up to fourteen (14) years from the effective date of the agreement, unless renewed, revoked, or terminated sooner as herein provided.

5.) Territorial Area Involved. A Franchise shall be granted for the corporate boundaries of Grantor, as it exists from time to time. In the event of annexation by Grantor, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee(s) shall not be required to extend service beyond its present System boundaries unless there is a minimum of twenty-five (25) homes per cable mile as measured from the last fiber node or terminating amplifier

6.) Written Notice. All notices, reports, or demands required to be given in writing under this Ordinance shall be deemed to be given when delivered personally to any officer of Grantee or Grantor's Administrator of this Ordinance as specified in a Franchise.

SECTION 3. APPLICATION FOR NEW FRANCHISE

1.) An application for an initial Franchise to provide Video Programming shall be in writing on a form provided by the City which shall contain where applicable:

(a.) Applicant name and business address of Applicant.

(b.) A statement as to the proposed Franchise Area, and whether Applicant holds an existing authorization to access the Rights-of-Way in the City and a map of the areas where such authorization exists if for an area other than the entire City.

(c.) Resume of prior history of Applicant, including the legal, technical, and financial expertise of Applicant in the Cable Service field.

(d.) List of officers, directors, and managing employees of Applicant and resumes of each.

(e.) A proposed construction and schedule to provide Cable Service or Video Programming to Subscribers.

(f.) A certificate of insurance consistent with the requirements of this Ordinance.

(g.) A description of the Cable System the Applicant intends to build, including its capacity, the types of equipment proposed for use and the Cable Services or Video Programming which will be offered.

(h.) A description of the financial qualifications of the Applicant to construct and operate the System including a balance sheet, income statement sources and uses of funds statement and pro forma projections for at least three (3) years of operation subsequent to System completion.

(i.) A proposed plan for Public, Educational, and Government Access Channels, including funding, facilities, and equipment and capacity on the System to be dedicated for educational and governmental use.

2.) The Initial Franchise Application may be evaluated according to the following criteria, and approved within one-hundred eighty (180) days after City deems the Application is complete. In the event Applicant is already authorized to occupy the Rights-of-Way, the time for review and approval will be ninety (90) days.

(a.) The evidence of legal, technical and financial ability required in the Applicant's proposal will be such as to assure the ability to complete the entire System within a reasonable time from the date the Franchise is granted. The City will also consider the Applicant's ability to operate the System and provide the necessary Cable Services or Video Programming in compliance with the terms of this Ordinance.

(b.) The City Administrator or designee shall prepare a report and make his or her recommendations respecting such application to the City Council

(c.) A public hearing shall be set prior to any grant of a Franchise, at a time and date approved by the City Council. Within thirty (30) days after the close of the hearing, the City Council shall make a decision based upon the evidence received at the hearing as to whether or not the Franchise(s) should be granted, and, if granted subject to what conditions.

(d.) The City may consider any additional information that it deems applicable.

SECTION 4 CONSTRUCTION AND OPERATIONS STANDARDS

1.) Conditions on Street Use.

(a) A Grantee shall obtain all required permits from Grantor before commencing any construction upgrade or extension of the System.

(b) The Grantor shall impose no permit fees upon a Grantee.

(c) If at any time during the period of this Franchise Grantor shall elect to alter, or change the grade or location of any Street, alley or other public way, a Grantee shall, at its own expense, upon reasonable notice by Grantor, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System. If Grantor reimburses other occupants of the Street, a Grantee shall be likewise reimbursed.

(d) A Grantee shall, on request of any Person holding a moving permit issued by Grantor, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and a Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

(e) A Grantee shall have the authority to trim any trees upon and overhanging the Streets, alleys, sidewalks, or public easements of Grantor so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

(f) Nothing contained in this Ordinance shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

(g) In areas where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground. In any area where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

(h) A Grantee shall at all times construct and operate its System in accordance with applicable FCC Technical specifications.

(i) In the event that the use of any part of the system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such systems or property has been installed in any street or public place without complying with the requirements of this Ordinance, or the rights granted hereunder have been terminated, cancelled or have expired, Grantee shall, subject

to the rights of the City to acquire the system as specified in Section 3.1.(j) herein, promptly remove from the streets, or public places all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the City.

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

(k) All cable and passive equipment for cable television reception service installed by Grantee at a subscriber's location shall remain the property of Grantee and Grantee shall have the right to remove said cable and equipment. Upon termination of service to any subscriber, the Grantee shall promptly remove all its above ground facilities and equipment from the premises of such subscriber upon his request.

(l) No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the designated representative of the City Council with regard to locations, height, type or any other pertinent aspect, which approval shall not be unreasonably withheld. However, no locations of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City Council or its designated representative determines that the public convenience would be enhanced thereby.

(m) Where poles or other wire-holding structures already existing in use in serving the City are available for use by Grantee, but it does not make arrangements for such use, the City Council may require the Grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.

(n) Where the City or a public utility serving the City desires to make use of poles or other wire-holding structures of the Grantee but agreement therefore with the Grantee cannot be reached, the City Council may require the Grantee to permit such use for such consideration as is just and reasonable and upon such terms as the Council determines the use would enhance the public convenience and would not unduly interfere with the Grantee's operations.

(o) Grantee shall at all times maintain on file with the City Auditor a schedule setting forth all rates and charges to be made to subscribers for basic cable service, including installation charges.

(p) During the term hereof, the City may regulate rates only if authorized to do so by Federal Communications Commission regulations and then such regulation shall only be in accordance with the provisions of such regulations.

SECTION 5. SYSTEM PROVISIONS AND PUBLIC SERVICES

1.) Operation and Maintenance of System. A Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.

2.) Service to Schools and City. A Grantee shall, subject to the line extension requirements of Section 2.5 herein, provide one (1) Drop and one (1) outlet of Basic Cable Service at no cost to public and parochial elementary and secondary schools in City, and one (1) City building to be mutually agreed upon by City and a Grantee.

3.) PEG Channel. The Grantee shall allocate one channel to the City as a public, educational or governmental access channel. Until such time as the city files a written request with Grantee for full-time use of the channel, Grantee shall have the right to use that portion of the channel capacity that is not being used by the City. Grantee shall have a reasonable period of time after notification to vacate its use of the channel. Grantee shall assist the City in obtaining the necessary licenses and frequency clearance to enable the City to use said channel.

4.) Emergency Use. In the case of any emergency or disaster, a Grantee shall, upon request of the City Council, make available its facilities to the City for emergency use. A Grantee shall comply with the mergandy alert requirements of federal law.

5.) Lockout Device. Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device.

SECTION 6. OPERATION AND ADMINISTRATION PROVISIONS

1.) Indemnification of Grantor.

(a) A Grantee shall indemnify, defend, and hold harmless Grantor, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of a Franchise granted pursuant to this Ordinance, except claims covered by worker's compensation insurance or any claims arising from or related to Grantor's negligence. Nothing in this Ordinance relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regarding, or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system.

(b) In order for Grantor to assert its rights to be indemnified, defended, and held harmless, Grantor must with respect to each claim:

(1) Promptly notify a Grantee in writing of any claim or legal proceeding which gives rise to such right;

(2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and

(3) Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph two (2) above.

2.) Insurance. A Grantee shall maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of Grantor in its capacity as such. The policies of insurance shall be in the sum of not less than Three Hundred Thousand Dollars ($300,000) for personal injury or death of any one Person, and One Million Dollars ($1,000,000) for personal injury or death of two or more Persons in any one occurrence, Three Hundred Thousand Dollars ($300,000) for property damage to any one Person and One Million Dollars ($1,000,000) for property damage resulting from any one act or occurrence.

3.) Franchise Fee.

(a) A Grantee will pay Grantor a monthly franchise fee in the amount of (b) The franchise fee shall be payable monthly, together with a brief report showing the basis for the computation.

(c) The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by Grantee is due.

SECTION 7. REVOCATION, ABANDONMENT, AND SALE OR TRANSFER

1.) Grantor's Right to Revoke. Grantor reserves the right to revoke, terminate or cancel a Franchise, if after strictly following the procedures required by Section 7.2 herein, it is determined that a Grantee has violated any material provision of its Franchise or this Ordinance and has failed to substantially cure said violation.

2.) Procedures for Revocation.

(a) Grantor shall provide a Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to substantially cure the violation or to provide adequate assurance of performance. Together with the notice required herein, Grantor shall provide Grantee with written findings of fact which are the basis of the revocation.

(b) Grantee shall be provided the right to a public hearing affording due process before the Grantor Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in paragraph (a) above. Grantor shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

(c) After the public hearing and upon written determination by Grantor to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

(d) During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

(e) Upon satisfactory correction by Grantee of the violation upon which said notice was given, the initial notice shall become void.

3.) Sale or Transfer of Franchise. No sale or transfer of a Franchise shall take place without the written approval of the Grantor, which approval shall not be unreasonably withheld. All of the rights, privileges, obligations, duties, and liabilities created by this Franchise shall pass to and be binding upon the successor or assign of a Grantee. Said approval shall not be required where a Grantee grants a security interest in its Franchise and assets to secure indebtedness.

SECTION 8. MISCELLANEOUS PROVISIONS

1.) Franchise Renewal. Any renewal of a Franchise shall be done in accordance with applicable federal law.

2.) Amendment of Franchise. A Grantee and Grantor may agree, from time to time, to amend a Franchise. Such written amendments may be made at any time.

3.) Marketing. A Grantee shall have the right to conduct direct selling in the Franchise Area, including door to door sales, notwithstanding any peddler or solicitor laws or regulations to the contrary.

4.) Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, unenforceable or unconstitutional by a decision of any authority or court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance and the remainder shall remain in full force and effect.

SECTION 9. PUBLICATION, EFFECTIVE DATE

1.) Publication; Effective Date. If applicable, this Ordinance shall be published in accordance with law. The effective date of this Ordinance shall be _____.

Passed and adopted this 8 day of Feb, ~~200~~ 2010

2.) Acceptance.

(a) Grantee shall accept this Franchise by executing same. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes. With its acceptance, Grantee shall also deliver any insurance certificates required herein that have not been previously delivered.

(b) Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.

Passed and adopted this 8 day of Feb, ~~200~~ 2010

CITY OF JAVA

By:_____
Its:_____

MIDCONTINENT COMMUNICATIONS

By: Nancy L Vogel
Its: Director of Revenue Assurance
Midcontinent Communications Investor, LLC
Managing Partner of Midcontinent
Communications

Date: 2/10/10

ORDINANCE NO. 2010-1
2011 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$2,675.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	6,675.
419 General Government	5,400.
Total General Government	$17,650.
430 Public Works	
431 Highways & Streets	$13,756.
431.6 StreetLights	6,000.
432 Sanitation	8000.
432.6 Weeds & Mowing	2500.
Total Public Works	$30,256.
450 Culture & Recreation	
452 Parks	$1,000.
455 Library	100.
Total Culture & Recreation	$1,100.
TOTAL APPORIATIONS	$49,006.

The following designates the fund or funds that money derived from the following Sources are applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	31,316.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	6,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$49,006.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund	Community Center
Beg. Retained earnings		0			
Estimated Revenue	$45,000.00.	$24,400.00	$18,360.00	$650.00	$2500.00
Less Appropriations	$42,000.00.	$22,400.00	$18.360.00	$650.00	$4000.00
Estimated Surplus		$2,000.			

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $31,316. To the County Auditor.

First Reading___Aug. 2, 2010 J. Lee 8/2/2010

Second Reading Sept. 7, 2010 J. Lee 9/7/2010

Jerome Lee President— Jerome Lee

Donna Bieber, Finance Officer___Donna Bieber_____

RESOLUTION

Authorizing SRF Signatory
For the Town Of Java

WHEREAS, the Town of Java is proposing to make improvements to its wastewater system in the Town of Java; and

WHEREAS, the Town of Java is applying for a Clean Water State Revolving Fund (CWSRF) loan in an amount up to, but not exceeding $438,325; and

WHEREAS, the Town of Java needs to authorize a CWSRF signatory.

NOW THEREFORE, BE IT RESOLVED that the Town of Java make application to the South Dakota Department of Environment and Natural Resources for a CWSRF loan in an amount up to, but not exceeding $438,325 at an interest rate up to, but not exceeding 3.25% for a term of up to 30 years. The security pledged toward repayment will be a Project Surcharge Revenue Bond; and

BE IT FURTHER RESOLVED that the Town President of the Town of Java be the authorized signatory for all loan related documents, including the application and pay requests.

Dated this 30th day of December, 2010.

Jerome Lee

Jerome Lee, Town President
Town of Java

ATTEST:

Donna Bieber

Donna Bieber, Finance Officer
Town of Java

RESOLUTION 1/2011

SEWER RATE CHANGE

BE IT RESOLVED WHEREAS, the Town of Java will raise their sewer rates from $18.00 per month to $22.00 per month starting March 1, 2011.

DATED THIS 3rd day of January, 2011

RESOLUTION

Authorizing Community Development Block Grant Application To Assist In The Wastewater Improvements Project In The Town Of Java

WHEREAS, the Town of Java proposes to execute an application for $257,500 Community Development Block Grant funds to make improvements to the wastewater system in the Town of Java; and

WHEREAS, the Town of Java is eligible for Federal assistance for the proposed project; and

WHEREAS, with the submission of the Community Development Block Grant application, the Town of Java assures and certifies that all Community Development Block Grant program requirements will be fulfilled; and

WHEREAS, the Town of Java has held the required public hearing on Monday, March 7, 2011, for the Community Development Block Grant; and

WHEREAS, the Town of Java is required to designate a certifying officer for the purpose of signing documents pertaining to this grant; and

WHEREAS, the Town of Java is required to designate an environmental certifying officer for the purpose of signing required environmental documents pertaining to this grant;

NOW, THEREFORE BE IT RESOLVED, that the Town President of the Town of Java, will be authorized to execute the Community Development Block Grant application for the Town of Java; and

AND BE IT FURTHER RESOLVED, that the Town President of the Town of Java, be hereby designated as the City's certifying officer for the purpose of signing correspondence, pay requests, and other required documents;

AND BE IT FURTHER RESOLVED, that the Town President of the Town of Java, be hereby designated as the City's environmental certifying officer for the purpose of signing correspondence and other required documents and forms.

Signed this 7 day of March, 2011

Jerome Lee, Town President

Attest: Donna Bieber
Donna Bieber, Finance Officer

June 6th

Be it resolved the following policy for breaks is/will be effective

1 6 hr shift ≥ 10 min breaks
1 8 hr shift ≥ 15 min breaks ~~and~~

The employee should avoid to the best extent not to leave the bar unattended while customers are present.

Smoking should be done at least 15 feet from the door.

effective immediately
June 6

ATTENTION ALL EMPLOYEES

The hours at the bar are from 11:00 am till 2:00am if there are no customers in the bar or only a couple and they are just visiting we must work closing the bar early. Also we are not paying wages after 2:00 am the clocks are 10 min. fast and that is enough time for you to close the till and get out. This has always been the policy and it will not change.

RESOLUTION NO. 2011-1

RESOLUTION GIVING APPROVAL TO CERTAIN SEWER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING PROJECT REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND AND PROVIDING FOR A SEGREGATED SPECIAL CHARGE OR SURCHARGE FOR THE PAYMENT OF THE BONDS.

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the "Act") as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and,

WHEREAS, a municipality is authorized by Section 6 of the Act to issue revenue bonds to defray the cost of extensions, additions and improvements to any utility previously owned without pledging its credit and is authorized to pledge the net income or revenues from the improvements in accordance with Section 15 of the Act; and,

WHEREAS, the Town of Java (the "Town") currently operates a sewer system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; and for the control of floods and drainage and has determined that improvements to the sewer facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its sewer system; and,

WHEREAS, the Town has determined to issue its revenue bonds to finance the improvements to its sewer system for the purpose of collecting, treating and disposing of sewage and other domestic, commercial and industrial wastes (the "System") and has applied to the South Dakota Conservancy District (the "District") for a Clean Water State Revolving Fund Loan to finance the improvements;

WHEREAS, the Town shall adopt special rates or surcharges for the improvements to be pledged, segregated and used for the payment of the Bonds.

NOW THEREFORE BE IT RESOLVED by the Town as follows:

SECTION 1. Definitions. The terms when used in this Resolution shall have the following meanings set forth in this section unless the context clearly requires otherwise. All terms used in

this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

"Act" means South Dakota Codified Laws Chapter 9-40.

"Loan" means the Loan made by the South Dakota Conservancy District to the Town pursuant to the terms of the Loan Agreement and as evidenced by the Revenue Bond.

"Project" means Town of Java Wastewater Improvements to Collection, Treatment and Lift Station Project.

"Revenue Bond" means the revenue bond or bonds issued the date of the Loan Agreement by the Town to the South Dakota Conservancy District to evidence the Town's obligation to repay the principal of and pay interest and Administrative Expense Surcharge on the Loan.

"System" means the Town's system of collecting, treating and disposing of sewage and other domestic, commercial and industrial wastes.

SECTION 2. Declaration of Necessity and Findings.

2.1.1. Declaration of Necessity. The Town hereby determines and declares it is necessary to construct and finance improvements to its System described as the Project.

2.2. Findings. The Town does hereby find as follows:

2.2.1. The Town hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the Town and its inhabitants, and will make the Town unable to comply with state and federal law.

2.2.2. Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-2, and the federal Clean Water Act, and the nature of the improvements financed, the Town hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

2.2.3. The Town hereby determines and finds that for the purposes of the Act, including, in particular, Sections 15 and 17 of the Act, that only the net income from the Project financed by the Revenue Bond be pledged for its payment.

SECTION 3. Authorization of Loan, Pledge of Revenue and Security.

3.1. Authorization of Loan. The Town hereby determines and declares it necessary to finance up to $438,325 of the costs of the Project through the issuance of bonds payable from the revenue of the Project and other funds secured by the Town. The

Town hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

3.2. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which is on file with the Town Finance Officer (the "Finance Officer") and open to public inspection, between the Town as Borrower and the District, is hereby in all respects authorized, approved and confirmed, and the President and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the Town deems appropriate and approves, for and on behalf of the Town. The President and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the Town set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.

3.3. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed $438,325 as determined according to the Loan Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the President, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the Town, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The President and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in Section 19 of the Act.

3.4. Pledge of Revenues. The Revenue Bond together with the interest thereon, shall not constitute a charge against the Town's general credit or taxing power, but shall be a limited obligation of the Town payable solely out of the Project Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of, interest and Administrative Surcharge on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The Town covenants and agrees to charge rates for all services from the Project or establish special charges or surcharges which will be sufficient to provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the Project, and depreciation, and the Rate Resolution shall be revised from time to time so as to produce these amounts. The Town hereby reserves the right to

determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the Town set forth in this Section 3 or any other covenant or agreement in the Loan Agreement.

SECTION 4. Special Charge or Surcharge for Revenue Bond.

The Town does hereby create the Revenue Bond Special-Surcharge District (the "District") which shall include all users which benefit from the Project. There shall be charged a special charge or surcharge pursuant to Section 15 of the Act for the services provided by Project financed by the Revenue Bond. The special charge or surcharge shall be segregated from other revenues of the System and shall be used for the payment of the Revenue Bond. The special charge or surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements and shall be 110% of the debt service requirements on the Revenue Bond.

4.1. Rates and collection. The rate herein specific will be collected as a special charge or surcharge for the Project. This special charge or surcharge shall remain in effect until such time as the Revenue Bond is defeased or paid in full.

4.2. Initial Surcharge. The initial special charge or surcharge shall be set by resolution and collected at the same time as other charges of the utility. All users within the District which benefit from the Project, current and future, shall be charged the special charge or surcharge. The special charge or surcharge is found to be equitable for the services provided by the Project. The special charge or surcharge shall begin at such time as will produce sufficient revenue to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due.

4.3. Segregation. The Finance Officer shall setup bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue, special charges and surcharges.

4.4. Periodic review. The amount of the surcharge shall be reviewed from time to time, not less than yearly, and shall be modified in order to produce such funds as are necessary and required to comply with the Loan Agreement's rate covenant and to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due. The surcharge may be set by resolution in accordance with this Section. The rate resolution shall be necessary for the support of government and shall be effective upon passage.

SECTION 5. Additional Bonds. As permitted by Sections 8 and 9 of the Act, Additional Bonds payable from revenues and income of the System or Project may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the

issuance of, or impairing the *lien of, such additional parity* bonds with respect to the net revenues or income from the extensions, additions or improvements. The Town shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

SECTION 6. Project Fund Accounts. For the purpose of application and proper allocation of the income of the Project and to secure the payment of principal, Administrative Surcharge and interest on the Revenue Bond, the following mandatory asset segregations shall be included in the sewer system account of the Town and shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:

6.1. Project Revenue Account. There shall be deposited periodically into the Project Revenue Account the net revenues as defined in Section 17 of the Act derived from the operation of the Project collected pursuant to the Resolutions and resolutions of the Town of Java, South Dakota (collectively the "Rate Resolution"). Moneys from the Project Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

6.2. Project Debt Service Account. Out of the revenues in the Project Revenue Account, there shall be set aside no later than the 25th day of each month into the account designated Project Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal of, interest and Administrative Surcharge on the Revenue Bonds and any reserve determined by the Town's governing body to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and Administrative Surcharge payable on the following January 15, April 15, July 15, or October 15 and if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.

6.3. Depreciation Account. There shall be established a General Depreciation Account. Out of the revenues of the Project Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the Board of Trustees to be a proper and adequate amount for repair and depreciation of the Project.

6.4. Project Surplus Account. There shall be established the Project Surplus Account. Revenues remaining in the Project Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be transferred to the Project Surplus Account. If at any time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Board of Trustees shall authorize the Town Finance Officer to rectify such default so far as possible by the transfer of money from the Project Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

When not required to restore a current deficiency in the Project Debt Service Account, moneys in the Project Surplus Account from time to time may be used for any of the following purposes and not otherwise:

(a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;

(b) To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the Project Debt Service Account and the Project Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then:

(c) To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be prepayable according to their terms; or

(d) To be used for any other authorized municipal purpose designated by the Board of Trustees.

(e) No moneys shall at any time be transferred from the Project Surplus Account or any other account of the Fund to any other fund of the Town, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section.

SECTION 7. Approval of Paying Agent/Registrar. The Revenue Bond shall be payable at the office of The First National Bank in Sioux Falls, Sioux Falls, South Dakota, hereby designated as paying agent and registrar.

SECTION 8. Approval of Bond Counsel. Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

SECTION 9. Tax Matters. The Interest on the Revenue Bond shall be excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended ("the Code") and applicable Treasury Regulations (the "Regulations").

SECTION 10. Covenants. The Town hereby covenants and agrees with the District and other owners of the Revenue Bond as follows:

10.1. The Town will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

10.2. The Town agrees and covenants that it will promptly construct the improvements included in the Project.

10.3. *The Town covenants* and agrees that pursuant to Sections 25 through 27 of the Act, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the Project and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal and interest on the Revenue Bond, and the Town agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the Town.

10.4. The Town covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act and shall state that it is subject to all provisions and limitations thereof pursuant to Section 19 of the Act.

SECTION 11. Depositories. The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the Town, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the Town's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys therein.

SECTION 12. Consent to Appointment. In the event of mismanagement of the Project, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the Project are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the Town hereby consents to the appointment of a receiver pursuant to Section 33 of the Act, and agrees that the receiver will have the powers set forth

therein, and in Sections 34 and 35 of the Act to operate and administer the Project, and charge and collect rates as described therein.

SECTION 13. Severability. If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

SECTION 14. Repeal of Resolution. At such time as the Revenue Bond are defeased or paid in full, this Resolution and the special charge or surcharge shall automatically be repealed without any further action of the Town.

SECTION 15. Authorization of Town Officials. The President, Finance Officer, Town Attorney and Town officials shall be and they are hereby authorized to execute and deliver for and on behalf of the Town any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

SECTION 16. Effective Date. This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Adopted at Town of Java, South Dakota, this 1 day of Aug 2011.

APPROVED:

President

(SEAL)

Attest: Town Finance Officer

Adopted: Aug 1, 2011
Published: Aug 13, 2011
Effective: _____

SURCHARGE WORK SHEET

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Loan Amount	$	335,000.00
Interest Rate and Administrative Surcharge		3.2500%
Term		30
Payments		4
(a)Annual Debt Service on Bonds		$17,523.21
(b)10% of Annual Debt Service on Bonds	$	1,752.32
(c) = (a) + (b) Total Debt Service Requirement	$	19,275.53
(d) Monthly Requirement (c)/12	$	1,606.29
(e)Number of Users		132
(f)Per User Surchage = (d) / (e)	$	12.17

ORDINANCE NO. 2011-1
2012 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$1,700.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	7,650.
419 General Government	5,500.
Total General Government	$17,750
430 Public Works	
431 Highways & Streets	$12,550.
431.6 Street Lights	7,760.
432 Sanitation	7,000.
432.6 Weeds & Mowing	2,946.
Total Public Works	$30,256.
450 Culture & Recreation	
452 Parks	$1,000.
Total Culture & Recreation	$1,000.
TOTAL APPORIATIONS	$49,006.

The following designates the fund or funds that money derived from the following Sources are applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	31,316.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	6,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$49,006.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund	Community Center
Beg. Retained earnings	0				
Estimated Revenue	$85,000.00	$27,400.00	$23,360.00	$650.00	$2500.00
Less Appropriations	$85,000.00	$26,400.00	$20,360.00	$650.00	$2500.00
Estimated Surplus	$2,000.				

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $31,316. To the County Auditor.

First Reading Aug. 1, 2011

Second Reading Sept. 5, 2012

Jerome Lee President— Jerome Lee Jerome Lee

Donna Bieber, Finance Officer Donna Bieber Donna Bieber

Jan. 11, 2012

WATER & GARBAGE RESOLUTION 2012

BE IT RESOLVED THAT EFFECTIVE MARCH 1, 2012 GARBAGE RATES WILL GO TO $10.00 PER MONTH & SEWER RATES WILL GO TO $24.00 A MONTH.

RESOLUTION NO 2-2012

A RESOLUTION AMENDING THE TOWN'S RATE STRUCTURE, PROVIDING FOR A SURCHARGE FOR IMPROVEMENTS TO SEWER SYSTEM, FOR PAYMENT OF A REVENUE BORROWER BOND AND YEARLY REVIEW OF RATE

1. Surcharge for Borrower Bond. There shall be charged a monthly surcharge for the services provided by the improvement financed by the CW-01 Conservancy District Loan. The surcharge for each loan shall be segregated from other revenues of the Town and shall be used for the payment of the Borrower Bond CW-01 (the "Borrower Bond"). Provided that such surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements.

2. Rates and collection. The Town does hereby establish, after providing for maintenance, repairs, replacements and operation (collectively "MRRO", a special charge or surcharge payable by each customer of its system who receives or benefits from the services of the project financed with the Borrower Bond (the "Borrower Bond CW-01 Surcharge"). Such charge or surcharge shall be set at a level which, assuming a 10% delinquency rate, will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Borrower Bond and the administrative expense surcharge and all other payments as may be required under the loan agreement and Borrower Bond. The Borrower Bond CW-01 Surcharge shall remain in effect until such time as the borrower bond is paid in full. The initial surcharge shall be collected at the same time as other charges of the system. The surcharge is found to be equitable for the services provided by the improvements.

3. User Rates. The following MRRO rate and clean water debt service surcharge shall be applicable to all customers served:

Monthly rate for maintenance, repairs, replacements, and operation	$6.00
Borrower Bond CW-01 Surcharge per user	$18.00
Total Monthly Charge per User	$24.00

4. Segregation. The Borrower Bond CW-01 Surcharge shall be segregated from other income of the system in a separate book keeping account and is pledged to the South Dakota Conservancy District for the payment of the loan payments on the Borrower Bond.

5. Yearly review. The amount of the MRRO rate and Borrower Bond CW-01 Surcharge shall be reviewed from year to year and may be modified in order to provide such funds as are set forth herein. The charges shall be reviewed yearly by Town personal and administratively adjusted, upwards or downwards, to such amounts as may be

necessary to pay MRRO and principal, interest, administrative surcharge and other charges as may become due and owing under the loan agreement or Borrower Bond.

6. Billing and Accounting. The surcharges shall be included in the monthly user bill. Nothing contained herein requires the surcharge be indicated on the billing, however, the surcharge segregation shall be indicated on the books of the Town.

7. Automatic Repeal. The Borrower Bond CW-01 Surcharge for the Borrower Bond shall be automatically repealed when the Borrower Bond is paid in full.

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

Town President

ATTEST:

Finance Officer

SURCHARGE WORK SHEET

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Loan Amount	$	335,000.00
Interest Rate and Administrative Surcharge		3.2500%
Term		30
Payments		4
(a)Annual Debt Service on Bonds		$17,523.21
(b)10% of Annual Debt Service on Bonds	$	1,752.32
(c) = (a) + (b) Total Debt Service Requirement	$	19,275.53
(d) Monthly Requirement (c)/12	$	1,606.29
(e)Number of Users		132
(f)Per User Surchage = (d) / (e)	$	12.17

ORDINANCE NO. 2012-1
2013 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$1,700.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	7,650.
419 General Government	5,500.
Total General Government	$17,750
430 Public Works	
431 Highways & Streets	$12,644.
431.6 Street Lights	7,760.
432 Sanitation	7,000.
432.6 Weeds & Mowing	2,946.
Total Public Works	$30,256.
450 Culture & Recreation	
452 Parks	$1,000.
Total Culture & Recreation	$1,000.
TOTAL APPORIATIONS	$49,100.

The following designates the fund or funds that money derived from the following Sources are applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	31410.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	6,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$49,100

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund	Community Center
Beg. Retained earnings	0				
Estimated Revenue	$79,000.00	$27,400.00	$25,920.00	$650.00	$2000.00
Less Appropriations	$79,000.00	$26,400.00	$9600.00	$650.00	$1000.00

Estimated Surplus $2,000.

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $31,410.00. To the County Auditor.

First Reading Aug. 6, 2012 Jerome Lee

Second Reading Sept. 3, 2012 Jerome Lee

Jerome Lee President— Jerome Lee

Donna Bieber, Finance Officer Donna Bieber Donna Bieber

RESOLUTION NO. 1-2013

RESOLUTION AUTHORIZING AN APPLICATION FOR FINANCIAL ASSISTANCE, AUTHORIZING THE EXECUTION AND SUBMITTAL OF THE APPLICATION, AND DESIGNATING AN AUTHORIZED REPRESENTATIVE TO CERTIFY AND SIGN PAYMENT REQUESTS.

WHEREAS, the Town of Java (the "Town") has determined it is necessary to proceed with improvements to its Water Meters, including but not limited to replacing all of the water meters and installing a remote read system (the "Project"); and

WHEREAS, the Town has determined that financial assistance will be necessary to undertake the Project and an application for financial assistance to the South Dakota Board of Water and Natural Resources (the "Board") will be prepared; and

WHEREAS, it is necessary to designate an authorized representative to execute and submit the Application on behalf of the Town and to certify and sign payment requests in the event financial assistance is awarded for the Project,

NOW THEREFORE BE IT RESOLVED by the Town as follows:

1. The Town hereby approves the submission of an Application for financial assistance in an amount not to exceed $141,000 to the South Dakota Board of Water and Natural Resources for the Project.

2. The Town of Java is hereby authorized to execute the Application and submit it to the South Dakota Board of Water and Natural Resources, and to execute and deliver such other documents and perform all acts necessary to effectuate the Application for financial assistance.

3. The Town President is hereby designated as the authorized representative of the Town to do all things on its behalf to certify and sign payment requests in the event financial assistance is awarded for the Project.

Adopted at Java, South Dakota, this 4th day of March 2013.

APPROVED:

Jeanne Lee
Town President
Town of Java

(Seal)
Attest: Donna Bieber
Town Finance Officer

ORDINANCE NO. 2013-1

2014 APPROPRIATIONS ORDINANCE

Be it ordained the Town of Java that the following sums are appropriated to meet the Obligations of the municipality.

GOVERNMENTAL FUNDS	
401 General Government	
411 Council	$2,350.
411.5 Contingency	2,000.
413 Election	400.
414.1 Legal Fees	500.
414.2 Finance Office	7,000.
419 General Government	5,500.
Total General Government	$17,750
430 Public Works	
431 Highways & Streets	$12,734.
431.6 Street Lights	7,760.
432 Sanitation	7,000.
432.6 Weeds & Mowing	2,946.
Total Public Works	$30,346.
450 Culture & Recreation	
452 Parks	$1,000.
Total Culture & Recreation	$1,000.
TOTAL APPORIATIONS	$49,190.

The following designates the fund or funds that money derived from the following Sources are applied to.

GOVERNMENTAL FUNDS	
Unobligated Cash Balance	$5,000.
310 Taxes	31500.
320 Licenses & Permits	1,000.
330 Intergovernmental Revenue	6,690.
340 Charges for Goods & services	5,000.
TOTAL MEANS OF FINANCE	$49,190.

PROPRIETARY FUNDS

	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund	Community Center
Beg. Retained earnings		0			
Estimated Revenue	$3000.00	$27,400.00	$25,920.00	$650.00	$2000.00
Less Appropriations	$500.00	$26,400.00	$9600.00	$650.00	$1000.00
Estimated Surplus		$2,000.			

The Finance officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $31,500.00. To the County Auditor.

First Reading Aug. 5, 2013

Second Reading Sept. 2, 2013

Jerome Lee President— Jerome Lee

Donna Bieber, Finance Officer Donna Bieber

RESOLUTION
Member # 425

BE IT RESOLVED that the **City of Java**
shall become a member of the SDML Workers' Compensation Fund effective **10/01/2013** or as soon thereafter as possible in accordance with the By-Laws dated as of January 1, 1987; and be it further resolved that this resolution is pursuant to SDCL 1-24, and the undersigned are hereby authorized to execute any and all documents necessary for the

City of Java

to participate in accordance with said By-Laws dated as of January 1, 1987, or as may be amended, and said By-Laws are incorporated by reference herein and a copy of said By-Laws and any amendments shall at all times be on file with the City Finance Officer, County Auditor, or Special District Business manager.

Dated this 2 day of Sept, 20 13

Title: Mayor/County Chair/Special District Chair

Attest Donna Beebe
Witness Title Finance Officer

Ordinance #2014-1 2015 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2015

410 General Government		**General Fund**	
411 Legislative		$3,525.00	
411.1 Board Council	$3,525.00		
411.5 Contingency		$2,000.00	
413 Election		$500.00	
414 Financial Administration		$8,150.00	
414.1 Legal (Attorney)	$500.00		
414.2 Finance Officer	$7,650.00		
419 Other		$5,500.00	
423 Publishing	$850.00		
426.1 Supplies	$2,000.00		
427 Travel & Conference	$250.00		
428 Utilities	$2,400.00		
Total General Government		$19,675.00	
430 Public Works			
431 Highways & Streets		$22,760.00	
431.2 Highways, Strees & Roadways	$13,500.00		
431.6 Street Lights	$7,760.00		
431.7 Snow Removal	1,500.00		
432 Sanitation		$23,900.00	
432.3 Solid Waste Collection	4,800.00		
432.4 Rubble Site	480.00		
432.6 Weed Control	2,900.00		
432.8 Sewer Loan Payment	15,720.00		
Total Public Works		$46,660.00	
450 Culture & Recreation			
452 Parks		$1,000.00	
452.2 Park Areas	1,000.00		
Total Culture & Recreation		$1,000.00	
TOTAL APPROPRIATIONS			$67,335.00

The following designates the fund or funds that money derived from the following sources is applied to.

Undesignated Fund Balance	$15,585.00	
310 Taxes	$38,500.00	
320 Licenses & Permits	$1,000.00	
330 Intergovernmental Revenue	$7,000.00	
340 Charges for Goods & Services	$5,250.00	
Total Means of Finance		$67,335.00

Proprietory Funds	Liquor	Water	Sewer	Cemetery	Community Center
Estimated Revenue	$4,372.63	$22,588.80	$18,826.00	$650.00	$375.00
Less Appropriations	$942.00	$15,714.48	$37,492.56	$650.00	$600.00
Estimated Surplus/Short-fall	$3,330.63	$7,874.42	-$18,666.56	$0.00	-$225.00

The Finance Officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $38,500.00 to the County Auditor.

Gene Buechler, President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading September 8, 2014
Placed upon its second reading September 22, 2014
Approved this 22nd day of September 2014
Published this day of September 2014

Published 1 time at the total cost of _____.

AMENDED ORDINANCE NO. 2013-1
SUPPLEMENTAL 2014 APPROPRIATIONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality.

GOVERNMENTAL FUNDS			
410 General Government			
411	Council	$ 2,750.00	
411.5	Contingency	2,000.00	
413	Election	400.00	
414.1	Legal Fees	500.00	
414.2	Finance Office	7,000.00	
419	General Government	5,500.00	
Total General Government		$18,150.00	
430 Public Works			
431	Highways & Streets	$12,734.00	
431.6	Street Lights	7,760.00	
432	Sanitation	55,596.00	
432.6	Weeds & Mowing	2,946.00	
Total Public Works		$79,036.00	
450 Culture & Recreation			
452	Parks	$ 1,000.00	
Total Culture & Recreation		$ 1,000.00	
Total Appropriations			$98,186.00

The following designates the fund or funds that money derived from the following sources is applied to.

GOVERNMENTAL FUNDS			
Unassigned Fund Balance		$13,390.00	
310	Taxes	31,500.00	
320	Licenses & Permits	1,000.00	
330	Intergovernmental Revenue	10,000.00	
340	Charges for Goods & Services	9,700.00	
391.01	Transfer of Funds	32,596.00	
Total Means of Finance			$98,186.00

PROPRIETARY FUNDS	Liquor Fund	Water Fund	Sewer Fund	Cemetery Fund	Community Center
Estimated Revenue	$5,000.00	$25,122.00	$21,749.00	$650.00	$ 375.00
Less Appropriation	500.00	20,031.00	53,447.00	650.00	3,057.00
Estimated Surplus/ Shortfall	$4,500.00	$ 5,091.00	($31,697.00)	0	($2,682.00)

The Finance Officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $31,500.00 to the Walworth County Auditor.

Gene Buechler, President, Board of Trustees

Carole Kiecker, Finance Officer

(seal)

Placed upon its first reading: November 3, 2014
Placed upon its second reading: December 1, 2014
Approved this 1st December, 2014
Published this ___ day of December, 2014

Published 1 time at the total cost of $_____.

Resolution 2015-01

Motion by Ward Jorgenson seconded by Bill Farrell to approve Resolution 2015-01.
Motion AIF

Resolution 2015-01
Transfer from Contingency Fund

WHEREAS, insufficient appropriation was made in the 2015 adopted budget for the following departments to discharge just obligations of said appropriations; and

WHEREAS SDCL 9-21-6.1 provided that transfers be made by resolution of the board from the contingency appropriation established pursuant to SDCL 9-21-6.1 to other appropriations;

THEREFORE BE IT RESOLVED that the appropriation be transferred from the contingency budget to the following department budgets:

413 Election $112.23
414.1 Legal $1,500.00

Passed 8-3-15

Carole Kiecker, FO

ORDINANCE NO. 2015-1

AN ORDINANCE AMENDING CHAPTER 2-4 LIVESTOCK

Be it Ordained by the Town of Java, South Dakota that CHAPTER 2-4 LIVESTOCK shall be amended to read as follows:

2-4-1 LIVESTOCK DEFINED

The term "livestock" shall mean any animal which is raised for normal agricultural purposes. The term does not include rabbits, but does include, although not exclusively, hogs, cattle, sheep, horses, chickens, etc.

2-4-2 LIVESTOCK EXCLUDED FROM CITY LIMITS

Except for horses as hereafter set forth in this CHAPTER, no person shall be permitted to keep livestock of any kind within the town limits except temporarily or in connection with the buying or selling of the same, not to exceed one day.

2-4-3 HORSE EXCEPTION

It shall be lawful for the owner of a horse to keep and house the horse on lands owned by the owner of the horse within the town limits under the following conditions:

A. The horse cannot be used for agricultural purposes or for profit.

B. The horse is to be used exclusively for pleasure, riding, non-profit competition, 4-H shows, therapy and clubs.

C. All horses are to have proper and adequate food and water at all times.

D. All horses are to be provided appropriate shelters or windbreaks to protect the horse from the elements.

E. All horses shall be provided recommended vaccinations under a Veterinarian's care and the records of such vaccinations shall be provided to the City of Java upon request by any Board member or the Finance Officer.

F. All horses are to be kept under sanitary conditions and provided that unattended horses are at all times kept within a fence enclosure which shall not be permitted closer than five (5) feet to any property line. No horse may be kept on a lot or lots less than 35,000 square feet in area, which area may NOT be cross fenced to an area less than 35,000 square feet. If more than 1 horse is kept, a minimum of an additional 35,000 square feet of lot area shall be provided for each additional horse.

G. Any stable, barn, enclosure, or other structure for the care or sheltering of any horse shall be located at least seventy-five (75) feet from any boundary line of the property line upon which they are situated AND must have setbacks from adjacent neighboring dwellings of at least 150 feet.

H. All stables sheds, barns, stalls, corrals or stable yards in which any horse is kept shall be thoroughly cleaned out at least every day.

I. The manure, offal, soiled straw or other refuse matter from all stables, barns, sheds, stalls, corrals, or stable yards shall be placed immediately upon removal from such stable, barn, shed, stall, corral or stable yard in closely covered metal or metal-lined receptacles and kept covered until destroyed or removed from the premises. The contents of such receptacles shall be removed therefrom and disposed of at least twice a week.

J. The premises where the horses are kept shall be maintained in a healthful manner and kept sanitary by controlling all noxious odors, flies and other pests.

2-4-4 No livestock within the town of Java may be permitted to run at large.

2-4-5 PENALTY

Any person guilty of violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding two hundred dollars ($200.00) or by imprisonment not to exceed thirty days or by both such fine and imprisonment.

Passed upon its first reading: July 6, 2015.

Passed upon its second reading: August 3, 2015.

Date of Publication: August 13, 2015

Effective date: 20 days after second reading.

President of Java Town Board

Attest:

Town Finance Officer

CABLE TV FRANCHISE

Ordinance No. 2015-2

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO VENTURE COMMUNICATIONS COOP. INC. ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO ERECT, CONSTRUCT, ACQUIRE, OPERATE AND MAINTAIN A BROADBAND COMMUNICATIONS SYSTEM FOR THE PURPOSE OF RECEIVING, TRANSMITTING AND DISTRIBUTING THE VARIOUS CABLE TELEVISION SIGNALS TO THE INHABITANTS OF THE CITY OF JAVA FOR A PERIOD OF TWENTY (20) YEARS, TOGETHER WITH THE RIGHT TO ERECT, CONSTRUCT, ACQUIRE, OPERATE AND MAINTAIN SAID SYSTEM IN, UPON, ALONG, ACROSS, ABOVE, OVER AND UNDER THE STREETS, ALLEYS, PUBLIC WAYS AND PUBLIC PLACES AS PRESENTLY EXIST, AND ALL EXTENSIONS AND ADDITIONS THEREOF FOR ALL POLES, WIRES, CABLES, LINES, CONDUITS, MANHOLES, TOWERS AND OTHER APPARATUS AS MAY BE NECESSARY FOR OPERATION AND MAINTENANCE OF SAID SYSTEM.

BE IT ORDAINED BY THE CITY OF JAVA, SOUTH DAKOTA.

I.
TITLE

This ordinance shall be known and may be cited as:

"Venture Cable Television System Franchise Ordinance."

II.
DEFINITIONS

SECTION 1. "Broadband Communications Service" shall include all of the wideband and narrow-band services now available or that may be available during the term of this franchise.

SECTION 2. "Cable Television Service" means the two-way transmission to Subscribers of Video Programming, or other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service

SECTION 3. "Cable Television System" shall mean all of the component physical operational and programming elements of any network of cables, optical, electrical or electronic equipment, used for the purpose of transmission of electrical impulses of television, radio and other intelligences, either analog, digital or by any other means to provide various Broadband Communications Service.

SECTION 4. "City" is the City of JAVA, South Dakota.

SECTION 5. "Company" hereinafter shall mean Venture Communications Cooperative, of Highmore, South Dakota.

SECTION 6. "Council" is the elected City Council of the City.

SECTION 7. "Facilities" are, but not limited to, poles, wires, cables, modulators, towers, antennae and apparatus designed, constructed and/or wired for the purpose of receiving, transmitting and distributing television and other various signals.

SECTION 8. "FCC" shall mean the Federal Communications Commission.

SECTION 9. "Franchise" means an initial authorization, or renewal thereof issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System or other MVPD facility.

SECTION 10. "Franchise Area" means the area within the legal boundaries of the City.

SECTION 11. "Person" is any person, firm, partnership, association, corporation, cooperative, company, organization or any other legal entity.

SECTION 12. "RUS" shall mean the Rural Utilities Service.

SECTION 13. "Streets" mean the surface of and the space above and below, in, along and across any public street, way, place, right-of-way, road, highway, freeway, bridge, tunnel, lane, path, bikepath, alley, court, sidewalk, park-way, drive, communications or utility easement by whatever name called, now or hereafter existing as such within the franchise area.

.SECTION 14. "Subscribers" are those persons contracting to receive Cable Television Services furnished under this franchise by the Company.

SECTION 15. "Video Programming" means programming provided by, or generally considered comparable to programming provided by a television broadcast station or cable television programming network.

III.
GRANT OF NON-EXCLUSIVE AUTHORITY

SECTION 1. There is hereby granted by the City to the Company and to its successor and assigns the non-exclusive rights and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places now existing or dedicated and all extensions of and additions thereto in the City, all facilities, television conductors and fixtures necessary for the maintenance and operation in the City of a Cable Television System for the purpose of providing Cable Television Service to all Persons within the Franchise Area which elect to subscribe for such Cable Television Services.

SECTION 2. The City acknowledges that in addition to providing Cable Television Service, the Cable Television System shall also be capable of providing other communications services, including without limitation, Broadband Communications Services, within the Franchise Area. The City further acknowledges that the provision of Broadband Communications Service is subject to the exclusive regulatory authority of the FCC and is not presently subject to the regulatory authority of the City.

IV.
COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Company shall comply with applicable local, state and federal laws and ordinances, together with reasonable police power regulation by the City.

V.
TERRITORIAL AREA INVOLVED

This Franchise is for the present territorial limits of the City and any area subsequently added thereto during the term of this Franchise; provided however, in the event of annexation by the City, or as development occurs, any new territory shall become part of the area covered, provided, however, that the Company shall not be required to extend service beyond its present system boundaries unless there is a minimum of twenty-five (25) homes per cable mile as measured from the last fiber node or terminating amplifier..

VI
LIABILITY AND INDEMNIFICATION

SECTION 1. The Company shall maintain at all times sufficient and adequate insurance coverages as required by law and in accordance with the requirements of RUS.

SECTION 2. The Company shall indemnify, defend, and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of a Franchise granted pursuant to this Ordinance, except claims covered by worker's compensation insurance or any claims arising from or related to the City's negligence. Nothing in this Ordinance relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Company's facilities while performing work connected with grading, regarding, or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system.

SECTION 3. In order for the City to assert its rights to be indemnified, defended, and held harmless, the City must with respect to each claim:

a) Promptly notify the Company in writing of any claim or legal proceeding which gives rise to such right:

b) Afford the Company the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and

c) Fully cooperate with reasonable requests of the Company, at the Company's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph two (2) above.

VII
TECHNICAL STANDARDS

The Company shall meet the requirements of the technical standards established by RUS and FCC, which said standards are acceptable to the City.

VIII.
CONSTRUCTION. OPERATION AND MAINTENANCE OF SYSTEM

SECTION 1. The Company may commence construction upon receiving all necessary and proper FCC and RUS permits, waivers, certifications, and approvals.

SECTION 2. Construction shall comply with the National Electrical Code and RUS Specifications.

SECTION 3. The Company shall maintain a sufficient number of employees to provide safe, adequate, and prompt service and repairs of its facilities, and periodically make system evaluation tests.

IX
NEW DEVELOPMENTS

This Franchise shall allow the Company to take advantage of new developments in technology and state of the art improvements in providing the best service at a reasonable cost.

X
CONDITIONS ON STREET OCCUPANCY

SECTION 1. All facilities installed by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys or other public ways and places. If at any time during the period of a Franchise the City shall elect to alter, or change the grade or location of any street, alley or other public way, the Company shall, at its own expense, upon reasonable notice by the City, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System. If the City reimburses other occupants of the street, the Company shall be likewise reimbursed.

SECTION 2. All of said facilities shall be construed, maintained and operated under the supervision of the Company. Plans for all facilities to be construed will be coordinated with the proper City officials. The Company shall at all times maintain an up-to-date record of location of all its facilities and shall provide any related information required by City personnel.

SECTION 3. In case of disturbance of any street, the Company shall, at its own expense and in a manner approved by the street department, replace and restore such street in as good a condition as before such disturbance, insofar as the same may be practicable.

SECTION 4. The Company shall, at the request of any contractor hired by the City or any person, locate free of charge, any of its facilities. The Company shall be given not less than 24 hours advance notice of such locations, except for qualified emergencies, such as broken water mains, etc. Damage to any facilities, located or not, will be billed to the contractor.

SECTION 5. Any property of the Company elected to be abandoned in place shall be abandoned in such a manner as the City may prescribe.

SECTION 6. The Company shall obtain all required permits from the City before commencing any construction upgrade or extension of the System.

SECTION 7. The City shall impose no permit fees upon the Company.

SECTION 8. The Company shall, on request of any Person holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and the Company shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

SECTION 9. The Company shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company.

SECTION 10. Nothing contained in this Ordinance shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Company's facilities.

SECTION 11. All cable and passive equipment for cable television reception service installed by the Company at a Subscriber's location shall remain the property of the Company and the Company shall have the right to remove said cable and equipment. Upon termination of service to any Subscriber, the the Company shall promptly remove all its above ground facilities and equipment from the premises of such Subscriber upon his reque

XI
RATES

SECTION 1. The Company shall adopt and maintain on file at its office a schedule setting forth all rates and charges to be made to subscribers for each type of service available.

SECTION 2. During the term hereof, the City may regulate rates only if authorized to do so by the FCC regulations and then such regulation shall only be in accordance with the provisions of such regulations..

XII
EMERGENCY USE OF FACILITIES

In case of any emergency or disaster, the Company shall, upon request of the Council, make available whenever possible its facilities to the City during such emergency or disaster period.

XIII.
SAFETY REQUIREMENTS

The Company shall at all times use ordinary care and shall maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

XIV.
TRANSFER OF FRANCHISE

The Company shall not transfer this Franchise to another person without prior approval of the Council which approval shall not be unreasonably withheld. Notwithstanding the foregoing, the Company may with prior written notice to the City transfer its rights and delegate its duties under this Franchise to a subsidiary entity which is wholly-owned by the Company..

XV.
DURATION OF FRANCHISE

This Franchise and the rights, privileges and authority hereby granted shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of twenty (20) years.

XVI.
TAMPERING

SECTION 1. It shall be unlawful for any person or persons to obtain any communications services from the Company by installing, rearranging or tampering with any facilities or equipment of said company for the purpose of receiving any signal, picture, sound or transmission, without subscribing and paying the Company therefor.

SECTION 2. Any person violating this Article shall be guilty of a misdemeanor punishable by a fine of not to exceed $100.00, imprisonment for a term not to exceed thirty (30) days, or both.

XVII.
SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions herein. The City hereby agrees not to amend, alter or change this Franchise Ordinance without the prior express written consent of the Company

XVIII.
FRANCHISE FEE

During the term of the franchise the Company shall pay an annual franchise fee in the amount of Three percent (3%) of the "annual gross subscriber revenues." "Gross subscriber revenues" shall include revenues derived from the monthly service charge paid by subscribers for basic cable television service. Subscriber revenues shall not include any state or federal taxes relating to services provided by or fees charged by Company, or revenues received as installation charges and fees for reconnections, repairs or modifications of any installations.

Payments by Company to City shall be in lieu of any occupation tax, license tax or similar levy, and shall be paid quarterly "four times per year".

XIX.
SERVICE TO CITY AND SCHOOLS

The Company shall provide one cable drop, one cable outlet, and monthly Basic Video Service without charge to one City-owned building, excluding hospitals, nursing homes, apartments or buildings located at the airport. No redistribution of the free service provided pursuant to this section shall be allowed.

The Company shall provide one cable drop, one cable outlet, and monthly Basic Video Service without charge to all public and private elementary and secondary schools, excluding home schools, located within the city.

XX.
PUBLICATION

The Company shall assume the cost of publication of the Franchise and file its acceptance thereof.

XXI
MISCELLANEOUS

SECTION 1 Written Notice. All notices, reports, or demands required to be given in writing under this Ordinance shall be deemed to be given when delivered personally or by United States Mail to the offices of the Company in Highmore, South Dakota, in the case of the Company, or the City's Finance Office in the case of the City.

SECTION 2. Franchise Renewal. Any renewal of a Franchise shall be done in accordance with applicable law, if any.

SECTION 3. Amendment of Franchise. The Company and the City may agree, from time to time, to amend a Franchise. Such written amendments may be made at any time, in accordance with applicable law.

SECTION 4. Marketing. The Company shall have the right to conduct direct selling in the Franchise Area, including door to door sales, notwithstanding any peddler or solicitor laws or regulations to the contrary.

APPROVED:

Board President

First Reading July 6, 2015

Second Reading August 3, 2015

ATTEST:

Carole Kuecker

Finance Officer

Adopted August 3, 2015

Published August 13, 2015

Ordinance 2015-3 2016 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2016

410 General Government		**General Fund**	
411 Legislative		$3,525.00	
411.1 Board Council	$3,525.00		
411.5 Contingency		$3,400.00	
413 Election		$650.00	
414 Financial Administration		$8,650.00	
414.1 Legal (Attorney)	$1,000.00		
414.2 Finance Officer	$7,650.00		
419 Other		$11,927.00	
419.2 Government Buildings	$7,027.00		
423 Publishing	$1,500.00		
426.1 Supplies	$1,000.00		
428 Utilities	$2,400.00		
Total General Government	$11,927.00	$28,152.00	
430 Public Works			
431 Highways & Streets		$23,260.00	
431.2 Highways, Streets & Roadways	$13,500.00		
431.6 Street Lights	$7,760.00		
431.7 Snow Removal	2,000.00		
432 Sanitation			
432.3 Solid Waste Collection	4,800.00	$24,420.00	
432.4 Rubble Site	1,000.00		
432.6 Weed Control	2,900.00		
432.8 Sewer Loan Payment	15,720.00		
Total Public Works		$47,680.00	
450 Culture & Recreation			
452 Parks			
452.2 Park Areas	1,000.00		
Total Culture & Recreation		$1,000.00	
TOTAL APPROPRIATIONS			$76,832.00

The following designates the fund or funds that money derived from the following sources is applied to.

Undesignated Fund Balance	$25,239.00	
310 Taxes	$39,093.00	
320 Licenses & Permits	$250.00	
330 Intergovernmental Revenue	$7,000.00	
340 Charges for Goods & Services	$5,250.00	
Total Means of Finance		$76,832.00

Proprietory Funds	Liquor	Water	Sewer	Cemetery
Estimated Revenue	$4,460.00	$16,710.00	$17,178.00	$650.00
Less Appropriations	$2,548.00	$22,008.00	$32,998.00	$650.00
Estimated Surplus/Short-fall	$1,912.00	-$5,298.00	-$15,820.00	$0.00

The Finance Officer is directed to certify the dollar amount of tax levies made in this Ordinance in the amount of $39,093.00 to the County Auditor.

Gene Buechler, President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading August 20, 2015
Placed upon its second reading September 7, 2015
Approved this
Published this day of September 2015

Published 1 time at the total cost of _____.

ORDINANCE NO. 2015-4

An Ordinance Amending Ordinance 1999-1 Section 1 Purpose, of the Municipal Sales and Service Tax and a Use Tax for the Municipal of Java, Walworth County, South Dakota

Be it ordained by the Municipality of Java, Walworth County:

Section 1 Purpose

The purpose of this ordinance is to provide additional one-time revenue that is needed for City Hall roof repairs and City Park improvements and to continue to provide additional revenue needed for street improvements, water, and sewer upgrades for the Municipality of Java by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota by SDCL 10-52 entitled Uniform Municipal Non-Ad Tax Law, and acts amendatory thereto.

Section 7 Use of Revenue

All revenues received under this title are to be used on a one time basis for City Hall roof repairs and City Park improvements and continued use for street, water, and sewer capital improvements.

1st Reading September 7, 2015

2nd Reading and Adoption October 5 2015

Published in the Selby Record October 15, 2015

Carole Kiecker, Finance Officer

Gene Buechler, Board President

Ordinance No. 2015-5
Supplemental Appropriations Ordinance
Amending Ordinance No. 2014-1 2015 Appropriations Ordinance

Be it ordained by the Town of Java, South Dakota that the following sum is supplementally appropriated to meet the obligations of the municipality.

		General Fund
419	Other Expenses	
	419.1 Building – City Hall	$ 7,431.46
431	Highways & Streets	
	431.2 Highways, Streets & Roadways	
	424 Equipment (Pay loader & Road Grader)	$21,247.83
432	Sanitation	
	432.3 Solid Waste Collection	$ 6,576.54
		$35,255.83
Source of Funding		
	Transfer from Sales Tax Fund	$35,255.83

Gene Buechler, President, Board of Trustees

Carole Kiecker, Finance Officer

Passed upon its first reading December 7, 2015
Passed upon its second reading December 28, 2015
Approved this 28th day of December, 20015

Published 1 time at the total cost of _____

Ordiance 2016-1 2017 Appropriations Ordinance

e it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2017

		General Fund
410 General Government		
411 Legislative		$4,175.00
411.1 Board	$4,175.00	
411.5 Contingency		$4,100.00
413 Election		$750.00
414 Financial Administration		$9,700.00
414_ Legal (Attorney)	$1,300.00	
4142 Finance Office	$8,400.00	
419 Other		$12,654.00
4192 Government Buildings	$7,504.00	
423 Publishing	$1,500.00	
426 1 Supplies	$1,000.00	
42: Utilities	$2,560.00	
Total General Government		$31,379.00
430 Public Works		
431 Highways & Streets		$24,156.00
431.2 Highways, Streets & Roadways	$13,866.00	
431.6 Street Lights	$7,760.00	
431.7 Snow Removal	$2,500.00	
43: Sanitation		$25,285.00
43.3 Solid Waste Collection	$5,165.00	
432.4 Rubble Site	$1,500.00	
432.6 Weed Control	$2,900.00	
432.8 Sewer Loan Payment	$15,720.00	
Total Public Works		$49,441.00
450 Culture & Recreation		
452 Parks		
452.2 Park Areas	$3,000.00	
Total Culture & Recreation		$3,000.00

Capital Outlay Accumulations Resolution 2016-1	$2,400.00		
		$2,400.00	
Total Appropriations			$86,220.00

The following designates the fund or funds that money devired from the following sources is applied to.

Undesignate Fund Balance	$28,000.00	
310 Taxes	$42,470.00	
320 Licenses & Permits	$250.00	
330 Intergovernmental Revenue	$8,000.00	
340 Charges for Good & Services	$7,500.00	
Total Means of Finance		$86,220.00

Proprietory Funds	Water	Sewer	Cemetery
Estimated Revenue	$22,700.00	$20,377.00	$59.00
Less Apprpriations	$24,950.00	$22,225.00	$650.00
Estimated Surplus/Short-fall	-$2,250.00	-$1,848.00	-$591.00

The Finance Officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $42,470.00 to the County Auditor.

Gene Buechler, President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading August 1, 2016
Placed upon its second reading September 5, 2016
Approved this 5th day of September 2016
Published this ____ day of September 2016

Published 1 time at the total cost of _____

RESOLUTION 2016-01

2017 CAPITAL OUTLAY ACCUMULATIONS

WHEREAS, THE Town Council of the Town of Java, South Dakota, under authority of SDCL 9-21-14.1, authorizing the accumulation of funds for capital outlay purposes for the year 2017, and

WHEREAS, as required by SDCL 9-21-14.2, the purpose and maximum amount of this accumulation must be clearly stated, and

WHEREAS, the Town Council of the Town of Java acknowledged that, according to SDCL 9-21-14.2, these accumulated amounts must be expended within 60 months from the date of resolution establishing said accumulation and any accumulated funds deemed no longer necessary shall revert to the general fund,

NOW THEEFORE, BE IT RESOLVED by the Town Council of the Town of Java, that a capital outlay accumulation of $2,400.00 per year, with a maximum accumulation of $12,000.00 be established for the purchase of a lawn mower.

Dated this 1st day of August 2016

Gene Buechler, President
Java Board of Trustees

(SEAL)

ATTEST:

Carole Kiecker
Finance Officer

Motion by Yvonne Helm Seconded by Patrick Schnaible to approve Resolution 2016-02
Motion Carried – All in favor

Resolution 2016-02
Transfer from Contingency Fund
WHEREAS, insufficient appropriation was made in the 2016 adopted budget for the following department to discharge just obligations of said appropriations; and

WHEREAS SDCL 9-21-6.1 provided that transfers be made by resolution of the board from the contingency appropriation established pursuant to SDCL 9-21-6.1 to other appropriations;

THEREFORE BE IT RESOLVED that the appropriation be transferred from the contingency budget to the following department budget:
450 Culture & Recreation – 452 Parks – 452.2 Park Areas $3,000.00

November 7, 2016
Carole Kiecker
Carole Kiecker, Finance Officer
The Town of Java

Ordinance No. 2016-2
Supplemental Appropriations Ordinance
Amending Ordinance No 2015-3 2016 Appropriations Ordinance

Be it ordained by the Town of Java, South Dakota that the following sum is supplementally appropriated to meet the obligations of the municipality.

	General Fund
430 Public Works	
431 Highways & Streets	
431.2 Highways, Streets & Roadways	
(Chip Sealing of Main Street)	$23,114.89
450 Culture & Recreation	
452 Parks	
452.2 Park Areas	$ 1,520.72
	$24,635.61
	=========
Source of Funding	
Transfer from Sales Tax Fund	$24,635.61
	=========

Gene Buechler, President, Board of Trustees

Carole Kiecker, Finance Officer

Passed upon its first reading December 5, 2016 ✓
Passed upon its second reading December 19 2016
Approved this 19 day of December, 2016

Published 1 time at the total cost of _____

Ordiance 2017-3 2018 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2018

410 General Government		**General Fund**
411 Legislative		$4,175.00
411.1 Board	$4,175.00	
411.5 Contingency		$4,452.00
413 Election		$800.00
414 Financial Administration		$9,800.00
414.1 Legal (Attorney)	$1,300.00	
414.2 Finance Office	$8,500.00	
419 Other		$13,264.00
419.2 Government Buildings	$8,004.00	
423 Publishing	$1,500.00	
426.1 Supplies	$1,100.00	
428 Utilities	$2,660.00	
Total General Government		$32,491.00
430 Public Works		
431 Highways & Streets		$25,574.00
431.2 Highways, Streets & Roadways	$15,314.00	
431.6 Street Lights	$7,760.00	
431.7 Snow Removal	$2,500.00	
432 Sanitation		$26,085.00
423.3 Solid Waste Collection	$5,865.00	
432.4 Rubble Site	$2,000.00	
432.6 Weed Control	$2,500.00	
432.8 Sewer Loan Payment	$15,720.00	
Total Public Works		$51,659.00
450 Culture & Recreation		
452 Parks	$2,500.00	
452.2 Park Areas	$2,500.00	
Total Culture & Recreation		$2,500.00

Capital Outlay Accumulations Resolution 2016-1	$2,400.00		
		$2,400.00	
Total Appropriations			$89,050.00

The following designates the fund or funds that money devired from the following sources is applied to.

Undesignate Fund Balance	$28,000.00	
310 Taxes	$44,800.00	
320 Licenses & Permits	$250.00	
330 Intergovernmental Revenue	$8,000.00	
340 Charges for Good & Services	$8,000.00	
Total Means of Finance		$89,050.00

Proprietory Funds	**Water**	**Sewer**	**Cemetery**
Estimated Revenue	$23,600.00	$21,000.00	$60.00
Less Apprpriations	$24,950.00	$22,225.00	$650.00
Estimated Surplus/Short-fall	($1,350.00)	($1,225.00)	($590.00)

The Finance Officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $44,800.00 to the County Auditor.

Gene Buechler , President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading August 7, 2017
Placed upon its second reading September 6, 2017
Approved this 6th day of September 2017
Published this 6th day of September 2017

Published 1 time at the total cost of _____

Ordiance 2018-1 2019 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2019

410 General Government		**General Fund**
411 Legislative		$3,175.00
411.1 Board	$3,175.00	
411.5 Contingency		$4,100.00
413 Election		$800.00
414 Financial Administration		$10,800.00
414.1 Legal (Attorney)	$1,300.00	
414.2 Finance Office	$9,500.00	
419 Other		$15,354.00
419.2 Government Buildings	$9,004.00	
423 Publishing	$1,250.00	
426.1 Supplies	$2,100.00	
428 Utilities	$3,000.00	
Total General Government		$34,229.00
430 Public Works		
431 Highways & Streets		$24,760.00
431.2 Highways, Streets & Roadways	$14,000.00	
431.6 Street Lights	$7,760.00	
431.7 Snow Removal	$3,000.00	
432 Sanitation		$28,585.00
423.3 Solid Waste Collection	$6,865.00	
432.4 Rubble Site	$2,500.00	
432.6 Weed Control	$3,500.00	
432.8 Sewer Loan Payment	$15,720.00	
Total Public Works		$53,345.00
450 Culture & Recreation		
452 Parks	$2,500.00	
452.2 Park Areas	$2,500.00	
Total Culture & Recreation		$2,500.00

Capital Outlay Accumulations Resolution 2016-1	$2,400.00		
		$2,400.00	
Total Appropriations			$92,474.00

The following designates the fund or funds that money devired from the following sources is applied to.

Undesignated Fund Balance	$33,266.00	
310 Taxes	$42,608.00	
320 Licenses & Permits	$250.00	
330 Intergovernmental Revenue	$8,200.00	
340 Charges for Good & Services	$8,150.00	
Total Means of Finance		$92,474.00

Proprietory Funds	**Water**	**Sewer**	**Cemetery**
Estimated Revenue	$24,500.00	$21,000.00	$60.00
Less Apprpriations	$25,650.00	$22,225.00	$650.00
Estimated Surplus/Short-fall	($1,150.00)	($1,225.00)	($590.00)

The Finance Officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $42,608.00 to the County Auditor.

Gene Buechler, President, Board of Trustees

Carole Kiecker, FO

Carole Kiecker, Finance Officer

Placed upon its first reading August 6, 2018
Placed upon its second reading September 6 2018
Approved this 6 day of September 2018
Published this ____ day of September 2018

Published 1 time at the total cost of _____

Resolution 2018-1
Transfer from Contingency Fund

Motion by Marilyn, seconded by Patrick to approve Resolution 2018-1
Motion passed, 4-0

Resolution 2018-1
Transfer from Contingency Fund
WHEREAS, insufficient appropriation was made in the 2018 adopted budget for the following department(s) to discharge just obligations of said appropriations; and
WHEREAS SDCL 9-21-6.1 provided that transfers be made by resolution of the board from the contingency appropriation established pursuant to SDCL 9-21-6.1 to other appropriations;
THEREFORE BE IT RESOLVED that the appropriation be transferred from the contingency budget to the following department budget(s):
430 Public Works
431 Highways & Streets
431.7 Snow Removal $2,000.00

Date: October 1, 2018

Gene Buechler, President, Board of Trustees

Carole Kiecker, Finance Officer

"The Town of Java is an equal opportunity provider and employer."

ORDINANCE NO. 2018-2
SUPPLEMENTAL APPROPRIATIONS ORDINANCE
AMENDING ORDINANCE NO. 2017-3 2018 APPROPRIATIONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality

	General Fund	Water Fund	
430 Public Works			
431 Highways & Streets			
431.7 Snow Removal	$2,000.00		
602 Water Fund			
425 Maintenance		$23,001.83	
Total Appropriations			$25.001.83
Source of Funding			
Transfer from Contingency Fund	$ 2,000.00		
Transfer from Sales Tax	$23,001.83		
			$25,001.83

Gene Buechler, President of the Board of Trustees

Carole Kiecker, Finance Officer

Passed upon its first reading October 1, 2018

Passed upon its second reading November 5 2018

Approved this 5 day of November, 2018

Published 1 time at the approximate cost of _____

"The Tow of Java is an equal opportunity provider and employer."

Ordiance 2019-1 2020 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2020

410 General Government		**General Fund**
411 Legislative		$2,375.00
411.1 Board	$2,375.00	
411.5 Contingency		$4,100.00
413 Election		$800.00
414 Financial Administration		$11,300.00
414.1 Legal (Attorney)	$1,300.00	
414.2 Finance Office	$10,000.00	
419 Other		$15,854.00
419.2 Government Buildings	$9,504.00	
423 Publishing	$1,250.00	
426.11 Supplies - General	$1,600.00	
426.12 Supplies - Electrical/Propane	$2,000.00	
428 Utilities	$1,500.00	
Total General Government		$34,429.00
430 Public Works		
431 Highways & Streets		$29,568.00
431.2 Highways, Streets & Roadways	$16,808.00	
431.6 Street Lights	$7,760.00	
431.7 Snow Removal	$5,000.00	
432 Sanitation		$29,185.00
423.3 Solid Waste Collection	$7,265.00	
432.4 Rubble Site	$2,600.00	
432.6 Weed Control	$3,600.00	
432.8 Sewer Loan Payment	$15,720.00	
Total Public Works		$58,753.00
450 Culture & Recreation		
452 Parks		
452.2 Park Areas	$2,000.00	
Total Culture & Recreation		$2,000.00

Capital Outlay Accumulations Resolution 2016-1	$2,400.00		
Total Capital Outlay		$2,400.00	
Total Appropriations			$97,582.00

The following designates the fund or funds that money devired from the following sources is applied to.

Undesignate Fund Balance	$34,766.00	
310 Taxes	$46,016.00	
320 Licenses & Permits	$250.00	
330 Intergovernmental Revenue	$8,200.00	
340 Charges for Good & Services	$8,350.00	
Total Means of Finance		$97,332.00

Proprietory Funds	**Water**	**Sewer**	**Cemetery**
Estimated Revenue	$24,500.00	$21,000.00	$70.00
Less Apprpriations	$26,125.00	$19,500.00	$650.00
Estimated Surplus/Short-fall	($1,625.00)	$1,500.00	($580.00)

The Finance Officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $46,016.00 to the County Auditor.

Gene Buechler , President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading August 5, 2019
Placed upon its second reading September 4 2019
Approved this 4th day of September 2019
Published this 19 day of September 2019

Published 1 time at the total cost of _____

ORDINANCE # 2019-2
SUPPLEMENTAL APPROPRIATIONS ORDINANCE
AMENDING ORDINANCE # 2018-1 2019 APPROPRIATONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality:

	General Fund	Sewer Fund	
410 General Government			
419 Other			
601 Bar	$ 1,530.00		
430 Public Works			
431 Highways & Streets			
431.2 Highways & Streets	$ 9,581.48		
431.7 Snow Removal	$ 4,100.00		
	$13,681.48		
604 Sewer Fund			
432.5 Sewage Collection/Disposal			
425 Maintenance		$4,500.00	
Total Appropriations			$19,711.48
Source of Funding			
Transfer from Contingency Fund	$ 4,100.00		
Transfer from Sales Tax	$15,611.48		
			$19,711.48

Gene Buechler, President of the Board of Trustees

Carole Kiecker

Carole Kiecker, Finance Officer

Passed upon its first reading: December 4, 2019

Passed upon its second reading: December 30, 2019

Approved this 30 day of December, 2019

Published 1 time at the approximate cost of ___

"The Town of Java is an equal opportunity provider and employer."

RESOLUTION #2019-1
CONTIGENCY TRANSFER

Motion by Shane Ladwig, seconded by Marilyn Melcher, to approve Resolution 2019-1
Motion passed 12-4-2019

WHEREAS, insufficient appropriation was made in the 2019 adopted budget for the following departments to discharge just obligations of said appropriations; and,

WHEREAS, SDCL 9-21-6.1 provides that transfers be made by resolution of the board from the contingency appropriations established pursuant to SDCL 9-21-6.1 to other appropriations;

THEREFORE, BE IT RESOLVED that the appropriation be transferred from the contingency budget to the following department budget:

101-431-431.7	Streets	Snow Removal	$4,100.00
		TOTAL	$4,100.00

Attest:

Carole Kiecker, Finance Officer
Town of Java

Witness:

Gene Buechler, President
Java Board of Trustees

RESOLUTION 2020-01
A RESOLUTION TO RECLASSIFY PORTIONS OF TOWN STREETS

WHEREAS the portions of town streets located from the Intersection of Railway Street and St. Paul Street to State Hwy 130 and from the Intersection of Helm Street and Railroad Street to State Hwy 271 have been examined by the Java Board of Trustees, and

IT APPEARING to said Board of Trustees these street portions described hereinabove should be reclassified as minimum maintenance.

IT IS THEREFORE RESOLVED that these street portions described hereinabove be reclassified as minimum maintenance streets.

Passed and Adopted this 1st day of June, 2020
(Motion by Donna Bubb seconded by Shane Lathrop, to approve and immediately adopt
Resolution 2020-01 4 ayes 0 nays)

ATTEST:

Seal

Carole Kiecker, Finance Officer

Gene Buechler, President
Java Board of Trustees

RESOLUTION 2020-02

2020 CAPITAL OUTLAY ACCUMMULATIONS

WHEREAS, the Town Council of the Town of Java, South Dakota, under authority of SDCL 9-21-14.1, authorizing the accumulation of funds for capital outlay purposes the year 2020, and

WHEREAS, as required by SDCL 9-21-14.2, the purpose and maximum amount of this accumulation must be clearly stated, and

WHEREAS, the Town Council of the Town of Java acknowledged that, according to SDCL 9-21-14.2, these accumulated amounts must be expended within 60 months from the date of resolution establishing said accumulation and any accumulated funds deemed no longer necessary shall revert to the general fund.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Java, South Dakota, that a capital outlay accumulation of $ 1,200.00 per year, with a maximum accumulation of $ 6,000.00 be established for the purchase of a utility trailer.

Approved and Adopted this 6th day of July, 2020
(Motion by Patrick Schaible Seconded by Shane Ladwig, to approve and adopt Resolution 2020-02, 4 ayes 0 nays)

Gene Buechler, President
Java Board of Trustees

(Seal)

ATTEST:

Carole Kiecker, Finance Officer

RESOLUTION 2020-03

2020 CAPITAL OUTLAY ACCUMMULATIONS

WHEREAS, the Town Council of the Town of Java, South Dakota, under authority of SDCL 9-21-14.1, authorizing the accumulation of funds for capital outlay purposes the year 2020, and

WHEREAS, as required by SDCL 9-21-14.2, the purpose and maximum amount of this accumulation must be clearly stated, and

WHEREAS, the Town Council of the Town of Java acknowledged that, according to SDCL 9-21-14.2, these accumulated amounts must be expended within 60 months from the date of resolution establishing said accumulation and any accumulated funds deemed no longer necessary shall revert to the general fund.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Java, South Dakota, that a capital outlay accumulation of $1,200.00 per year, with a maximum accumulation of $6,000.00 be established for the purchase of a rotary mower.

Approved and Adopted this 6th day of July, 2020
(Motion by Patrick Schneible Seconded by Shane Sadler, to approve and adopt Resolution 2020-03, 4 ayes 0 nays)

Gene Buechler, President
Java Board of Trustees

(Seal)

ATTEST:

Carole Kiecker, Finance Officer

RESOLUTION 2020-04

2020 CAPITAL OUTLAY ACCUMMULATIONS

WHEREAS, the Town Council of the Town of Java, South Dakota, under authority of SDCL 9-21-14.1, authorizing the accumulation of funds for capital outlay purposes the year 2020, and

WHEREAS, as required by SDCL 9-21-14.2, the purpose and maximum amount of this accumulation must be clearly stated, and

WHEREAS, the Town Council of the Town of Java acknowledged that, according to SDCL 9-21-14.2, these accumulated amounts must be expended within 60 months from the date of resolution establishing said accumulation and any accumulated funds deemed no longer necessary shall revert to the general fund.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Java, South Dakota, that a capital outlay accumulation of $\$ 1200^{00}$ per year, with a maximum accumulation of $\$ 6000^{00}$ be established for the purchase of a lawn mower.

Approved ad Adopted this 6th day of July, 2020
(Motion by Patrick Schreiber Seconded by Shane Ladewig, to approve and adopt Resolution 2020-04, 4 ayes 0 nays)

Gene Buechler, President
Java Board of Trustees

(Seal)

ATTEST:

Carole Kiecker

Carole Kiecker, Finance Officer

Resolution No. 2020-05
Capital Outlay Transfer Resolution

WHERERAS, The Town of Java did approve a line for Capital Outlay transfers in the 2020 annual budget in accordance with SDCL 9-21-6.1; and

WHEREAS, The Town of Java finds it necessary to transfer from said Capital outlay line;

NOW THEREFORE IT IS HEREBY RESOLVED by the Java Board of Trustees, that the following amount(s) be transferred:

From:	Capital Outlay	$8,498.99	
To:	Sanitation: Weed Control (Lawn Mower)		$6,799.00
	Rubble Site (Half cost of Utility Trailer)		$ 749.99
	Highways & Streets: Streets (Half cost of Utility Trailer)		$ 750.00

Approved and adopted this 7th day of December, 2020

(Motion by Schnaible Seconded by Ladwig, to approve and adopt Resolution 2020-05, 4 ayes 0 nays
0 nays)

Approved:

Gene Buechler, President
Java Board of Trustees

(Seal)

Attest:

Carole Kiecker, Finance Officer

Ordiance 2020-01 2021 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2021

410 General Government		**General Fund**
411 Legislative		$2,375.00
411.1 Board	$2,375.00	
411.5 Contingency		$4,100.00
413 Election		$900.00
414 Financial Administration		$11,300.00
414.1 Legal (Attorney)	$1,300.00	
414.2 Finance Office	$10,000.00	
419 Other		$15,110.00
419.2 Government Buildings	$8,500.00	
423 Publishing	$1,250.00	
426.11 Supplies - General	$1,800.00	
426.12 Supplies - Electrical/Propane	$2,000.00	
428 Utilities	$1,560.00	
Total General Government		$33,785.00
430 Public Works		
431 Highways & Streets		$29,000.00
431.2 Highways, Streets & Roadways	$17,000.00	
431.6 Street Lights	$7,000.00	
431.7 Snow Removal	$5,000.00	
432 Sanitation		$28,085.00
423.3 Solid Waste Collection	$6,265.00	
432.4 Rubble Site	$2,100.00	
432.6 Weed Control	$4,000.00	
432.8 Sewer Loan Payment	$15,720.00	
Total Public Works		$57,085.00
450 Culture & Recreation		
452 Parks		
452.2 Park Areas	$2,000.00	
Total Culture & Recreation		$2,000.00

Capital Outlay Accumulations Resolution 2016-1	$3,600.00		
Total Capital Outlay		$3,600.00	
Total Appropriations			$96,470.00

The following designates the fund or funds that money devired from the following sources is applied to.

Undesignate Fund Balance	$29,974.00	
310 Taxes	$47,396.00	
320 Licenses & Permits	$250.00	
330 Intergovernmental Revenue	$8,500.00	
340 Charges for Good & Services	$10,350.00	
Total Means of Finance		$96,470.00

Proprietory Funds	**Water**	**Sewer**	**Cemetery**
Estimated Revenue	$24,500.00	$23,000.00	$290.00
Less Apprpriations	$26,125.00	$20,000.00	$650.00
Estimated Surplus/Short-fall	($1,625.00)	$3,000.00	($360.00)

The Finance Officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $47,396.00 to the County Auditor.

Gene Buechler , President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading August 3,2020
Placed upon its second reading September 3 2020
Approved this 3 day of September 2020
Published this ____ day of September 2020

Published 1 time at the total cost of _____

ORDINANCE NO. 2020-02
SUPPLEMENTAL APPROPRIATIONS ORDINANCE
AMENDING ORDINANCE NO. 2019-1 2020 APPROPRIATIONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality:

	General Fund	
430 Public Works		
431.1 Highways & Streets	$ 750.00	
432 Sanitation		
432.4 Rubble Site	$ 749.99	
432.6 Weed Control	$6,799.00	
	$7,548.99	
Total Appropriations		$8,498.99
Source of Funding		
Transfer from Capital Outlay Fund	$8,498.99	
		$8,498.99

Gene Buechler, President
Java Board of Trustees

Carole Kiecker, Finance Officer

Passed upon its first reading: December 7, 2020

Passed upon its second reading: December 28, 2020

Approved this 28th day of December, 2020

Published 1 time at the approximate cost of ____

"The Town of Java is an equal opportunity provider and employer."

1st Reading: 5-17-2021
2nd Reading: 6-7-2021
Date Adopted: 6-7-2021
Date Published: 6-17-2021
Effective Date: 6-17-2021

ORDINANCE NO. 2021-01

A TEMPORARY ORDINANCE REGARDING THE ISSUANCE OF LOCAL MEDICAL CANNABIS ESTABLISHMENT PERMITS AND/OR LICENSES.

WHEREAS, a local government may enact an ordinance not in conflict with SDCL Chapter 34-20G, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality. A local government may require a medical cannabis establishment to obtain a local license, zoning permit, or registration to operate, and may charge a reasonable fee for the local license, zoning permit, or registration.

WHEREAS, the Municipality of Java, SD, makes a preliminary finding that the Municipality's current regulations and controls may not adequately address the unique needs and impacts of medical cannabis establishments as defined in SDCL 34-20G-1;

WHEREAS, medical cannabis state laws under SDCL 34-20G are effective July 1, 2021. The South Dakota Department of Health shall promulgate rules pursuant to chapter 1-26 not later than October 29, 2021, as defined by SDCL 34-20G-72. During the time between July 1, 2021 and potentially as late as October 29, 2021, local units of government will not yet know standards for medical cannabis and will not be able to adequately assess the local zoning and licensing requirements necessary to approve local permits and to better ensure applicants have a more predictable permitting process and avoid stranded investments.

WHEREAS, the Municipality makes a preliminary finding that the Municipality needs further study of the relationship of medical cannabis establishments to the town's Zoning Ordinance. The public interest requires that the Municipality study, analyze, and evaluate the impacts of medical cannabis establishments and to fully explore the impacts of any proposed regulations regarding medical cannabis establishments;

WHEREAS, the Municipality makes a preliminary finding that it would be inappropriate for the Municipality to issue a local permit or license to a medical cannabis establishment prior to the South Dakota Department of Health's promulgation of regulations governing the same;

WHEREAS, the Municipality hereby exercises its authority under SDCL 11-4-3.1 and/or SDCL 9-19-13, to establish a temporary ordinance regarding the issuance of any local permits/licenses for medical cannabis establishments within the Municipality;

WHEREAS, a temporary ordinance will ensure that more comprehensive zoning ordinance and building permit changes, licensing permits, and any proposed amendments to the Municipality's Comprehensive Plan can be completely examined with adequate public input from citizens, business interests, and medical cannabis industry representatives;

WHEREAS, the Municipality finds that a temporary ordinance is reasonable to preserve the status quo and prevent significant investment pending the outcome of the above study and any proposed regulations emanating therefrom;

WHEREAS, the Municipality finds that the following ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace and support of the municipal government and its existing public institutions;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF JAVA, SD:

Section 1. Temporary Ordinance – Application for Local Permit/License

A medical cannabis establishment desiring to operate in the Municipality shall be required to apply for a permit and/or license from the Municipality. Applications for a local permit and/or license to operate a medical cannabis establishment, as defined by SDCL 34-20G-1, shall not be accepted until the South Dakota Department of Health has promulgated regulations as required by SDCL 34-20G-72. Any application received prior to such regulations being promulgated shall be denied.

Section 2. Immediate Effect.

This ordinance is necessary to protect and immediately preserve the public health, safety, welfare, peace, and support of the municipal government and its existing public institutions pursuant to SDCL 11-4-3.1 and SDCL 9-19-13.

Date adopted: 6-7-2021

Mayor/Town Board President

ATTEST:
Municipality Finance Officer

RESOLUTION 2021-01

A RESOLUTION TO REVISE GARBAGE RATES

RESOLUTION to revise and establish rates and charges to consumers of goods and services provided by the Town of Java; and

WHEREAS, the Java Board of Trustees periodically adjusts the rates, charges, and fees of said services to more accurately reflect the cost of providing said services to the customers; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAVA, SOUTH DAKOTA:

Section 1. That the rate charged for garbage services are hereby amended to read as follows:

A. Effective and in force from July 1, 2021 forward, the monthly charge to each customer for all garbage services furnished by the Town of Java shall be:

a. Monthly base rate of $ 15.00 per account

Section 2. That this Resolution shall supersede in all respects all previous resolutions of the Java Board of Trustees which set the rates, charges, and fees now being set.

Section 3. That notwithstanding the foregoing, the rates, charges, and fees set in Resolution No. 2021-01 shall continue in full force and effect from the date of this Resolution until they are superseded on as provided herein.

Section 4. That this resolution shall take effect as of July 1st 1, 2021

Adopted this 7 day of June, 2021

The above and foregoing Resolution was read by all Trustees and was moved for adoption by Ladwig, seconded by Witlock and upon roll call vote of : Buechler ✓, Gardiner Abs Ladwig ✓, Schnaible ✓, Witlock ✓ motion ~~Abs~~ on a vote of 4 ayes, 0 nays.

Whereupon the President of the Board of Trustees declared the Resolution to be duly passed and adopted.

Gene Buechler, President
Java Board of Trustees

ATTEST:
Carole Kiecker, Finance Officer

Approved and Adopted: June 7, 2021
Published:
Effective: July 1, 2021

Ordiance 2021-02 2022 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2022

410 General Government		**General Fund**
411 Legislative		$3,360.00
411.1 Board	$3,360.00	
411.5 Contingency		$4,000.00
413 Election		$1,000.00
414 Financial Administration		$12,800.00
414.1 Legal (Attorney)	$1,300.00	
414.2 Finance Office	$11,500.00	
419 Other		$16,060.00
419.2 Government Buildings	$8,500.00	
423 Publishing	$2,000.00	
426.11 Supplies - General	$1,800.00	
426.12 Supplies - Electrical/Propane	$2,200.00	
428 Utilities	$1,560.00	
Total General Government		$37,220.00
430 Public Works		
431 Highways & Streets		$29,000.00
431.2 Highways, Streets & Roadways	$17,000.00	
431.6 Street Lights	$7,000.00	
431.7 Snow Removal	$5,000.00	
432 Sanitation		$29,100.00
423.3 Solid Waste Collection	$7,380.00	
432.4 Rubble Site	$2,000.00	
432.6 Weed Control	$4,000.00	
432.8 Sewer Loan Payment	$15,720.00	
Total Public Works		$58,100.00
450 Culture & Recreation		
452 Parks		
452.2 Park Areas	$2,000.00	
Total Culture & Recreation		$2,000.00

Capital Outlay Accumulations Resolutions 2020-02, 03, 04	$2,400.00		
Total Capital Outlay		$2,400.00	
Total Appropriations			$99,720.00

The following designates the fund or funds that money derived from the following sources is applied to.

Undesignate Fund Balance	$31,224.00	
310 Taxes	$48,296.00	
320 Licenses & Permits	$200.00	
330 Intergovernmental Revenue	$9,000.00	
340 Charges for Good & Services	$11,000.00	
Total Means of Finance		$99,720.00

Proprietory Funds	**Water**	**Sewer**	**Cemetery**
Estimated Revenue	$24,500.00	$23,000.00	$290.00
Less Apprpriations	$26,125.00	$20,000.00	$650.00
Estimated Surplus/Short-fall	($1,625.00)	$3,000.00	($360.00)

The Finance Officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $48,296.00 to the County Auditor.

Gene Buechler , President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading August 2,2021
Placed upon its second reading September 1 2021
Approved this 1 day of September 2021
Published this ____ day of September 2021

Published 1 time at the total cost of _____

ORDINANCE 2021-03

AN ORDINANCE ADDING CHAPTER 17 TO THE REVISED ORDINANCES OF THE TOWN OF JAVA, SOUTH DAKOTA CREATING LICENSING PROVISIONS FOR CANNABIS ESTABLISHMENTS

BE IT ORDAINED by the Board of Trustees of the Town of Java, South Dakota, that the Revised Ordinances of the Town of Java is hereby amended by adding new Chapter 17 as follows:

17.01: PURPOSE AND INTENT

The Board of Trustees of the Town of Java enacts the following licensing ordinances in order to ensure that cannabis establishment within the municipal boundaries of the Town operate in a manner which complies with state laws and regulations, protects the health, safety, and welfare of the general public, prevents potential conflicts and issues arising from the ownership and employees, recognizes certain safety and security considerations, and minimizes risk of unauthorized use or access of cannabis by the general public.

17.02: DEFINITIONS

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis-related terms which are defined by SDCL 34-20G-1.

Cannabis (or Marijuana): all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. (hemp) and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

Cannabis Cultivation Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

Cannabis Dispensary: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

Cannabis Establishment: a cannabis cultivation facility, cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

Cannabis Product Manufacturing Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

Cannabis Products: any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

Cannabis Testing Facility: in addition to the definition in SDCL 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

Department: the South Dakota Department of Health.

17.03: Prohibited Uses

A. All uses and structures not specifically listed as a permitted use, special permitted use, or as a conditional use in a particular area shall be prohibited within the city limits of the Town of Java, South Dakota.

17.04: MAXIMUM NUMBER OF CANNABIS DISPENSARIES

A. The Town of Java, South Dakota, shall allow one (1) cannabis establishment provided the time, place and manner of said cannabis establishment comply with this ordinance.

17.05: LICENSE REQUIRED

A. No cannabis establishment may be located or operate in the city without the appropriate valid and current cannabis establishment license issued by the town pursuant to this article. A violation of this provision is subject to the general penalty provision in Chapter 17.18. Each day of the violation constitutes a separate offense.

B. No cannabis establishment may be located or operate in the town without the appropriate valid and current cannabis establishment registration certificate issued by the Department pursuant to rules promulgated under SDCL 34-20G. A violation of this provision is subject to the general penalty provision in Chapter 17.18.

17.06: LICENSE APPLICATION

A. An application for a cannabis establishment license must be made on a form provided by the town. No other application form will be considered.

B. The applicant must submit the following:
   1. Application fee of $5,000.00. The Town will reimburse $2,500.00 for applicants who fail to obtain a registration certificate from the South Dakota Department of Health. The applicant will forfeit the remaining $2,500.00 to the Town of Java.
   2. An application that will include, but is not limited to, the following:

i. The legal name of the prospective cannabis establishment;
ii. The physical address of the prospective cannabis establishment that meets the location requirements in 17.09, as well as any location requirements pursuant SDCL 34-20G and the administrative rules promulgated thereunder.
iii. The name, address, and birth date of each principal officer, owner, and board member of the proposed cannabis establishment.
iv. A sworn statement that no principal officer, owner, or board member has been convicted of a felony offense in the previous ten (10) years in any jurisdiction.
v. Any additional information requested by the town.

17.07: ISSUANCE OF LICENSE

A. The town will issue a license unless:

1. The applicant has made a false statement on the application or submits false records or documentation; or
2. Any owners, principal officer, or board member of the applicant is under the age of twenty one (21) years; or
3. Any owner principal officer, or board member of the application has been convicted of a felony offense in the previous ten (10) years in any jurisdiction;
4. The proposed location does not meet the applicable location requirements found in 17.9 and under SDCL 34-20G;
5. The proposed location does not meet all location requirements under SDCL 34-20G and the administrative rules promulgated thereunder;
6. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
7. Any owner, principal officer, or board member of the applicant has had a cannabis establishment license revoked by the town or a registration certificate revoked by the state; or
8. An applicant, or an owner, principal officer, or board member, thereof is overdue in payment to the town of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any cannabis establishment; or
9. The applicant will not be operating the business for which the license would be issued.

B. In the case of an application for a cannabis establishment license, the town will reject the application if the limit on the number of cannabis dispensaries has been reached.

C. The license must be posted in a conspicuous place at or near the entrance to the cannabis establishment so that it may be easily read at any time.

17:10: BUILLDING CODE

A. All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

17:11: EXPIRATION OF LICENSE AND RENEWAL

A. Each license expires one year from the date of issuance and may be renewed only by making application as provided in Section 17:06. Application for renewal must be submitted at least thirty (30) days before the expiration date. The license holder must continue to meet the license requirements to be eligible for renewal.

B. The renewal fee is $5,000.00. The Town will reimburse $2,500.00 for applicants who fail to obtain a renewal of their registration certificate from the Department. The applicant will forfeit the remaining $2,500.00 to the Town of Java.

C. Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the town may order closure of the cannabis establishment.

D. If a license holder has not operated an establishment for which it held a license in the preceding twelve (12) months, the license will not be renewed.

17.12: SUSPENSION

A. A license may be suspended if the license holder or an employee or agent of the license holder:
   1. Violates or is otherwise not in compliance with any section of this article.
   2. Consumes or smokes or allows any person to consume or smoke cannabis on the premises of the cannabis establishment.
   3. Knowingly dispenses or provides cannabis or cannabis products to an individual or business to whom it is unlawful to provide cannabis or cannabis products.

B. A license may be suspended if the license holder has its Department-issued registration certificate suspended, revoked, or not renewed by the Department or if the registration certificate is expired.

C. A license may be suspended if the license holder creates or allows to be created a public nuisance at the cannabis establishment.

17.13: REVOCATION

A. A license may be revoked if the license is suspended under Section 17.12 and the cause for the suspension is not remedied.

B. A license may be revoked if the license is subject to suspension under Section 17.12 because of a violation outlined in that section and the license has been previously suspended in the preceding twenty-four (24) months.

C. A license is subject to revocation if a license holder or employee of a license holder:
1. Gave false or misleading information in the material submitted during the application process;
2. Knowingly allowed possession, use, or sale of non-cannabis controlled substances on the premises;
3. Operated the cannabis establishment or the business of the cannabis establishment for which a license is required under this article while the license was suspended;
4. Repeated violations of Section 17.12;
5. Operated a function of a cannabis establishment for which the license holder was not licensed (e.g., a licensed cannabis cultivation facility, conducting cannabis testing functions without a cannabis testing establishment license);
6. A license holder, or an owner, principal officer, or board member thereof is delinquent in payment to the town, county, or state for any taxes of fees related to the cannabis establishment;
7. A license holder or an owner, principal officers, or board member thereof has been convicted of, or continues to employ an employee who has been convicted of a felony offense as defined by SDCL 34-20G; or
8. The license holder has its Department issued registration certificate suspended, revoked, or not renewed or the registration certificate is expired.
9. The license holder allows a public nuisance to continue after one (1) notice from the Town.

17.14: SUSPENSION AND REVOCATION PROCESS

A. The license holder will receive a notice of intent to suspend or notice of intent to revoke informing the license holder of the violation and the town's intention to suspend or revoke the license. The notice will be hand delivered to the license holder or an employee or agent of the license holder or sent by certified mail, return receipt requested to the physical address of the cannabis establishment.

B. If the license holder disputes the suspension or revocation, the license holder has ten (10) days from the postmark date on the notice, or the date the notice was hand delivered to request a hearing before a hearing panel which will consist of the Java Board of Trustees and Finance Officer.

C. A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.

D. A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.

E. The license holder who has had the license revoked may not be issued any cannabis establishment license for one year from the date the revocation became effective.

17.15: APPEAL

An applicant or license holder who has been denied a license or renewal of a license or who has had a license suspended or revoked under this article may appeal to the Java Board of Trustees by submitting a written appeal within ten (10) days of the postmark on the notice of denial, nonrenewal, suspension, or revocation. The written appeal must be submitted to City-Hall, 5104 Milwaukee Street, PO Box 56, Java, South Dakota 57452-0056. The appeal will be considered by the Java Board of Trustees at a regularly scheduled meeting within one month of the receipt of the appeal.

17.16: LICENSES NOT TRANSFERRABLE

No cannabis establishment license holder may transfer the license to any other person or entity either with or without consideration, nor may a license holder operate a cannabis establishment at any place other than the address designated in the application.

17.17: LIABILITY FOR VIOLATIONS

Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee or agent of a cannabis establishment that constitutes grounds for suspension or revocation will be imputed to the cannabis establishment license holder for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director or general partner or a person who managed, supervised or controlled the operation of the cannabis establishment, knowingly allowed such act to occur on the premises.

17.18: PENALITIES

Any person who operates or causes to be operated a cannabis establishment without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of one thousand dollars ($1,000.00). Each day a cannabis establishment so operates is a separate offense or violation. After fifteen (15) days the penalty will increase to five thousand dollars ($5,000.00) a day.

Severability: The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

1st Reading: 19 August 2021
2nd Reading: 1 September 2021
Date Adopted 1 September 2021
Date Published 8 September 2021
Effective Date 28 September 2021

Gene Buechler, President, Java Board of Trustees

(Seal)

ATTEST:

Carole Kiecker, Finance Officer, Town of Java

Published once at the approximate cost of _____

"The Town of Java is an equal opportunity provider & employer."

ORDINANCE NO. 2021-04
SUPPLEMENTAL APPROPRIATIONS ORDINANCE AMENDING ORDINANCE NO. 2020-01
2021 APPROPRIATIONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality:

	General Fund	Proprietary Funds	
410 General Government			
411 Legislative			
411.1 Board	$ 172.41		
419 Other			
419.2 Government Buildings	$1,391.83		
423 Publishing	$ 743.06		
426.12 Supplies Electrical/Propane	$ 520.03		
428 Utilities	$ 138.81		
	$2,793.73		
430 Public Works			
432 Sanitation			
423.3 Solid Waste Collection	$1,340.99		
602 Water		$4,000.00	
604 Sewer		$9,040.58	
Total Appropriations			$17,347.71
Sources of Funding			
Transfer from Alcohol Reversion	$ 1,391.83		
Transfer from Sales Tax	$13,040.58		
Transfer from Contingency	$ 2,915.30		
			$17,347.71

Gene Buechler, President
Java Board of Trustees

Carole Kiecker, Finance Officer

Passed upon its first reading: December 30, 2021
Passed upon its second reading: February 7, 2022
Adopted this 7th day of February 2022

Published 1 time at the approximate cost of _____

"The Town of Java is an equal opportunity provider and employer."

RESOLUTION 2022-01
A RESOLUION TO REVISE WATER RATES

RESOLUTION to revise and establish rates and charges to consumers of goods and services provided by the town of Java; and
WHEREAS, THE Java board of Trustees periodically adjusts the rates, charges, and fees of said services to more accurately reflect the cost of providing said services to the customers; and
NOW THEREFORE, BE IT RESOLED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAVA, WALWORTH COUNTY, SOUTH DAKOTA:

Section 1 That the rate charged for water services are hereby amended to read as follows:

A. Effective and in force from October 1, 2022 forward, the monthly charge to each customer for all water services furnished by the Town of Java shall be:
    a. Monthly base rate of $23.00 per account for 0-3,499 gallons of water used;
    b. Rate for each 999 gallons of water used over the base 0-3,499 gallons used increases by $5.00 over the monthly base rate;
    c. Late charge increases to $10.00 per month.

Section 2 That this Resolution shall supersede in all respects all previous resolutions of the Java Board of Trustees which set the rates, charges, and fees now being set.
Section 3 That notwithstanding the foregoing, the rates, charges, and fees set in Resolution 2022-01 shall continue in full force and effect from the date of this Resolution until they are superseded on as provided herein.
Section 4 That this resolution shall take effect as of October 1, 2022.

Adopted this 12th day of September 2022

The above and foregoing Resolution was read by all Trustees and was moved for adoption by Witlock, seconded by Gardiner and upon roll call vote of: Buechler aye, Gardiner aye, Ladwig aye, Schnaible aye, Witlock aye, motion passed on a vote of 5 ayes, 0 nays.

Whereupon the President of the Board of Trustees declared the Resolution to be duly passed and adopted.

Gene Buechler, President
Java Board of Trustees

ATTEST:

Carole Kiecker
Carole Kiecker, Finance Officer

Approved and Adopted: September 12, 2022
Published:
Effective: October 1, 2022

Resolution 2022-02

WEB Water Development Association, Inc.: Underground Pipelines & Related Appurtenances

BE IT RESOLVED that WEB Water Development Association, Inc., a South Dakota nonprofit corporation, will be allowed and permitted to run underground pipelines and related appurtenances for transmitting water or all purposes for which said corporation was formed along any and all alley and other public rights-of-way, in the Town of Java, South Dakota, so long as said pipelines are buried.

BE IT FURTHER RESOLVED that when the pipeline is installed in the alley and other public right-of-ways, such right-of-ways must be restored to as near its original condition as is practical with normal construction methods.

BE IT FURTHER RESOLVED that the installation of such pipeline and appurtenances in the alley and other public right-of-ways will conform to plans and specifications to be submitted to the Town, prior to construction, for review and comment, and must include the following conditions:

1. Notice Prior to Starting Work: Before starting construction work, the Town will be notified at least 48 hours in advance of the time work is to begin.
2. Minimum Interference with Traffic: All work will be planned and carried out so as to minimize inconvenience to the traveling public.
3. Clean Up Right-of-Way: Upon completion of work, litter will be removed and the right-of-ways and it will be left in as presentable a condition.
4. Care of Drainage: If the contemplated work interferes with established drainage, provisions will be incorporated in the project during construction to maintain normal drainage.
5. Maintenance: The pipelines and appurtenances placed in the City right-of-way will be maintained and reasonable care exercised in inspecting and repairing any portion of the right-of-way which occurs as a result of the operation and maintenance of the pipelines and appurtenances.
6. Paved and FAS (Future Paves) Roadways: Pipelines installed perpendicular to asphalt or concrete paved roadways will be installed by boring or jacking methods or by an open cut. Pipelines installed longitudinally n a right-of-way will be by an open cut. Minimum of one-half of paved surfacing will be left clear and open to traffic at all times. All lanes will remain clear and open during the hours of darkness.
7. Graveled and Other Roadways: Pipelines installed transversely or longitudinally in a graveled or other road right-of-way will be by an open cut method. Roadways maybe closed during construction for crossing provided a detour signing is maintained. All lanes will remain clear and open during the hours of darkness.
8. Depth of Pipelines: Pipelines will be placed to a depth of cover consistent with design standards for water pipelines for the area. Where additional pipeline cover is necessary to accommodate future roadways, vertical and horizontal roadway designed clearances, the Town of Java will so advise WEB Water at the time of Town review of the need for change in pipeline cover.

Adopted this 3rd day of October 2022

The above and foregoing Resolution was read by all Trustees and was moved for adoption by Gardiner, seconded by Witlock and upon roll call vote of: Buechler aye Gardiner aye Ladwig absent Schnaible aye, Witlock aye, motion passed on a vote of 4 ayes, 0 nays.

Whereupon the President of the Board of Trustees declared the Resolution to be duly passed and adopted.

Gene Buechler President
Java Board of Trustees

ATTEST:
Carole Kiecker, Finance Officer
Town of Java

Approved and adopted: October 3, 2022
Published:
Effective: October 3, 2022

PREPARED BY:
Rodrick L. Tobin
Siegel, Barnett & Schutz, LLP
PO Box 490
Aberdeen, SD 57402-0490
605-225-5420

EASEMENT AND RESTRICTIVE COVENANT

Town of Java, a municipal corporation of the state of South Dakota, of
PO Box 56, Java, South Dakota 57452

(hereinafter "Grantor" whether one or more) is the record title holder of land located in Walworth County, South Dakota described as:

Lots 10-14, Block 5, Original Plat of the Town of Java

(hereinafter "Easement Area"). For and in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which Grantor acknowledges, Grantor hereby grants bargains, sells, transfers and conveys to WEB Water Development Association, Inc., a South Dakota nonprofit corporation (hereinafter "WEB") the following easements and restrictive covenants:

1. Permanent and perpetual easements:

    a. An easement and right-of-way on, in, over, under, through and across the Easement Area, for the purpose of locating, establishing, constructing, boring, laying, installing, operating, using, maintaining, inspecting, testing, protecting, repairing, assigning, restoring, renewing, reconstructing, replacing, relocating, substituting, changing, altering, converting, resizing, extending, adding to or removing ("WEB's Activities") one or more water pipelines, connections, valves, and all other devices, referred to as, deemed necessary by WEB for its water system.

    b. An easement over and across any portion of Grantor's land adjacent to the Easement Area for ingress and egress purposes to allow WEB to access the Easement Area. Where possible, WEB will use any established road, path or lane on Grantor's adjacent land. If WEB's use of this easement causes damage to such road, path or lane, WEB will repair it to a condition as good as or better than existed prior to WEB's use. WEB will pay Grantor for any damage WEB causes to Grantor's growing crop resulting from WEB's use of this easement. WEB will leave all gates as they were found.

    c. An easement to cut or remove all trees, bushes, shrubs and undergrowth and remove any man-made obstruction, regardless of whether the obstruction was built on-site or installed, which in WEB's sole judgment, impedes, interferes with, obstructs or endangers WEB's use of the easements herein granted.

    d. An easement to take whatever actions are necessary to protect the pipelines, connections, valves, and any other devices a part of or appurtenant to WEB's water system within the Easement Area including, without limitation, installing above-ground markers and protection devices.

2. Temporary easements: A temporary easement to access and use any portion of Grantor's land adjacent to the Easement Area in the event WEB's Activities in the Easement Area require such additional space to be efficiently and timely completed. WEB will notify Grantor in advance, when possible, before accessing or using such additional space and WEB will compensate Grantor for any damage to growing crop or pasture resulting from

such temporary access and use.

3. Restrictive Covenant: The right to restrict and prohibit, within the Easement Area, the construction or erection of any structure, earthworks or anything else over, under, through and across the area 15 feet either side of the centerline of the waterline, meter pit, connections, valves, and all other devices and extending to a depth 20 feet below any such waterline, meter pit, connection, valve, and device and extending 50 feet above the land surface, referred to as "Restricted Area." Along with the right to prohibit anyone from moving any structure or anything else into the Restricted Area, and furthermore to prohibit any change in the grade or shape of the land in the Restricted Area.

The easements and restrictive covenants created herein are permanent and perpetual covenants running with the land and are binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, administrators, devisees, successors, WEBs, lessees and assigns. The consideration referenced herein constitutes payment in full for the specified easements and restrictive covenants. Subject to the terms stated herein, WEB will have all rights and benefits necessary or useful for the full and complete enjoyment and use of the easements and restrictive covenants. Grantor may not cause any easement area, or part thereof, to be separately assessed for tax purposes. Grantor may not cause the encumbrance of any easement area which would adversely affect WEB's use. WEB has the right to assign or transfer, in whole or in part, the easement and other rights created herein. Grantor consents to WEB granting a lien and security interest in WEB's rights and property located in, on, or under Grantor Property. All easements and covenants created herein are private and do not constitute a grant for public use.

Grantor has signed this instrument on October 3, 2022.

Town of Java, South Dakota

By: _____

Its: Board President

Attest: Carol Keeler

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20___, before me, the undersigned officer, personally appeared _____ who acknowledged himself/herself to be the _____ of The Town of Java, a South Dakota municipal corporation, and that he/she as such member, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Town of Java by himself/herself as _____.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____

Notary Public, South Dakota

My Commission Expires: 5/18/2027

(Notarial Seal)

TODD DARIN SPEIDEL
SEAL NOTARY PUBLIC SOUTH DAKOTA SEAL

Ordiance 2022-01 2023 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2023

410 General Government		General Fund
411 Legislative		$3,360.00
411.1 Board	$3,360.00	
411.5 Contingency		$4,000.00
413 Election		$1,200.00
414 Financial Administration		$12,800.00
414.1 Legal (Attorney)	$1,300.00	
414.2 Finance Office	$11,500.00	
419 Other		$17,700.00
419.2 Government Buildings	$8,500.00	
423 Publishing	$2,500.00	
426.11 Supplies - General	$1,800.00	
426.12 Supplies - Electrical/Propane	$3,200.00	
428 Utilities	$1,700.00	
Total General Government		$39,060.00
430 Public Works		
431 Highways & Streets		$30,700.00
431.2 Highways, Streets & Roadways	$18,500.00	
431.6 Street Lights	$7,200.00	
431.7 Snow Removal	$5,000.00	
432 Sanitation		$29,720.00
423.3 Solid Waste Collection	$8,000.00	
432.4 Rubble Site	$2,000.00	
432.6 Weed Control	$4,000.00	
432.8 Sewer Loan Payment	$15,720.00	
Total Public Works		$60,420.00
450 Culture & Recreation		
452 Parks		
452.2 Park Areas	$2,000.00	
Total Culture & Recreation		$2,000.00

Capital Outlay Accumulations Resolution 2016-1	$2,400.00	
Total Capital Outlay Accumulations		$2,400.00
Total Appropriations		$103,880.00

The following designates the fund or funds that money devired from the following sources is applied to.

Undesignate Fund Balance	$31,648.00
310 Taxes	$49,532.00
320 Licenses & Permits	$200.00
330 Intergovernmental Revenue	$9,750.00
340 Charges for Good & Services	$12,750.00
Total Means of Finance	$103,880.00

Proprietory Funds	**Water**	**Sewer**	**Cemetery**
Estimated Revenue	$28,500.00	$24,000.00	$290.00
Less Apprpriations	$32,000.00	$22,000.00	$650.00
Estimated Surplus/Short-fall		$2,000.00	

The Finance Officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $49,532.00 to the County Auditor.

Gene Buechler , President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading August 1, 2022
Placed upon its second reading September 12 2022
Approved this 12 day of September 2022
Published this 29 day of September 2022

Published 1 time at the total cost of 40.10

ORDINANCE 2022-02
SUPPLEMENTAL APPROPRIATIONS ORDINANCE AMENDING ORDINANCE 2021-02
2022 APPROPRIATIONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality:

		General Fund	Proprietary Funds	
419 Other				
423	Publishing	$ 100.00		
426.12	Supplies: Electrical/Propane	$ 557.23		
		$ 657.23		
430 Public Works				
432.3	Solid Waste Collection	$1,366.76		
450 Culture & Recreation				
452	Parks			
452.2	Park Areas	$1,889.22		
433 Water			$ 2,000.00	
432 Sanitation				
432.5	Sewage Collection/Disposal		$14,053.17	
Total Appropriations				$19,966.38
Source of Funding				
Transfer from Sales Tax Fund		$16,053.17		
Transfer from Contingency		$ 3,913.21		
				$19,966.38

Gene Buechler, President
Java Board of Trustees

Carole Kiecker, Finance Officer

Passed upon its first reading: December 5, 2022
Passed upon its second reading: December 28, 2022
Adopted this 28 day of December, 2022

Published 1 time at the approximate cost of _____

"The Town of Java is an equal opportunity provider and employer."

Ordiance 2023-01 2024 Appropriations Ordinance

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during the fiscal year 2023

410 General Government		**General Fund**
411 Legislative		$4,110.00
411.1 Board	$4,110.00	
411.5 Contingency		$4,500.00
413 Election		$1,400.00
414 Financial Administration		$12,800.00
414.1 Legal (Attorney)	$1,300.00	
414.2 Finance Office	$11,500.00	
419 Other		$18,300.00
419.2 Government Buildings	$8,500.00	
423 Publishing	$2,500.00	
426.11 Supplies - General	$1,800.00	
426.12 Supplies - Electrical/Propane	$3,700.00	
428 Utilities	$1,800.00	
Total General Government		$41,110.00
430 Public Works		
431 Highways & Streets		$32,200.00
431.2 Highways, Streets & Roadways	$18,500.00	
431.6 Street Lights	$7,200.00	
431.7 Snow Removal	$6,500.00	
432 Sanitation		$32,220.00
423.3 Solid Waste Collection	$9,500.00	
432.4 Rubble Site	$2,000.00	
432.6 Weed /Mosquito Control	$5,000.00	
432.8 Sewer Loan Payment	$15,720.00	
Total Public Works		$64,420.00
450 Culture & Recreation		
452 Parks		$2,000.00
452.2 Park Areas	$2,000.00	
Total Culture & Recreation		$2,000.00

Capital Outlay Accumulations Resolution 2016-1		
Total Capital Outlay Accumulations	$2,400.00	$2,400.00
Total Appropriations		$109,930.00

The following designates the fund or funds that money devired from the following sources is applied to.

Undesignate Fund Balance	$33,720.00
310 Taxes	$51,510.00
320 Licenses & Permits	$200.00
330 Intergovernmental Revenue	$10,750.00
340 Charges for Good & Services	$13,750.00
Total Means of Finance	$109,930.00

Proprietory Funds	**Water**	**Sewer**	**Cemetery**
Estimated Revenue	$29,500.00	$24,000.00	$290.00
Less Apprpriations	$33,000.00	$22,000.00	$650.00
Estimated Surplus/Short-fall	($3,500.00)	$2,000.00	($360.00)

The Finance Officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $51,510.00 to the County Auditor.

Gene Buechler , President, Board of Trustees

Carole Kiecker, Finance Officer

Placed upon its first reading August 7, 2023
Placed upon its second reading September 11, 2023
Approved this 11 day of September 2023
Published this ____ day of September 2023

Published 1 time at the total cost of _____

ORDINANCE NO. 2023-02
SUPPLEMENETAL APPROPRIATIONS ORDINANCE AMENDING ORDINANCE NO. 2022-01
2023 APPROPRIATIONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality:

	General Fund	Proprietary Funds	
410 General Government			
411 Legislative			
411.1 Board	$ 1,100.00		
430 Public Works			
431 Highways, Streets & Roadways			
431.2 Highways, Streets & Roadways	$20,000.00		
431.7 Snow Removal	$ 1,500.00		
432 Sanitation			
423.3 Solid Waste Collection	$ 700.00		
	$22,200.00		
602 Water		$ 7,000.00	
604 Sewer		$ 4,000.00	
Total Appropriations			$34,300.00
Sources of Funding			
Transfer from Election	$ 1,100.00		
Transfer from CLFRF	$20,000.00		
Transfer from Contingency	$ 4,000.00		
Transfer from Sales Tax	$ 9,200.00		
			$34,300.00

Gene Buechler, President
Java Board of Trustees

Carole Kiecker, Finance Officer

Passed upon its first reading: September 11, 2023
Passed upon its second reading: Oct 2, 2023
Adopted this 2 day of October, 2023

Published 1 time at the approximate cost of _____

"The Town of Java is an equal opportunity provider and employer."

ORDINANCE NO. 2023-03
SUPPLEMENETAL APPROPRIATIONS ORDINANCE AMENDING ORDINANCE NO. 2022-01
2023 APPROPRIATIONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality:

	General Fund	Proprietary Funds	
430 Public Works			
431 Highways, Streets & Roadways			
431.7 Snow Removal	$ 1,100.00		
432 Sanitation			
423.3 Solid Waste Collection	$ 700.00		
	$ 1,800.00		
602 Water		$11,736.03	
604 Sewer		$ 5,000.00	
Total Appropriations			$18,536.03
Sources of Funding			
Transfer from Election	$ 1,100.00		
Transfer from CLFRF	$ 4,736.03		
Transfer from Contingency	$ 3,700.00		
Transfer from Sales Tax	$ 9,000.00		
			$18,536.03

Gene Buechler, President
Java Board of Trustees

Carole Kiecker, Finance Officer

Passed upon its first reading: December 14, 2023
Passed upon its second reading: December 28, 2023
Adopted this 28th day of December, 2023

Published 1 time at the approximate cost of _____

"The Town of Java is an equal opportunity provider and employer."

ORDINANCE NO. 2024-01
2025 APPROPRIATION ORDINANCE

Be it ordained by the Town of Java, SD that the following sums are appropriated to meet the obligations of the municipality during fiscal year 2025.

				General Fund
410	General Government			
	411	Legislative		$4,110.00
	411.1	Board	$4,110.00	
	411.5	Contingency		$4,500.00
	413	Election		$1,400.00
	414	Financial Administration		$12,800.00
	414.1	Legal (Attorney)	$1,300.00	
	414.2	Finance Office	$23,000.00	
	419	Other		$18,300.00
	419.2	Government Buildings	$8,500.00	
	423	Publishing	$2,500.00	
	426	Supplies		
	426.1	General	$1,800.00	
	426.1	Electric/Propane	$3,700.00	
	428	Utilities	$1,800.00	
Total General Government				$41,110.00
420	Public Works			
	431	Highway & Streets		$32,200.00
	431.2	Highways, Streets	$18,500.00	
	431.6	Street Lights	$7,200.00	
	431.7	Snow Removal	$6,500.00	
	432	Sanitation		$32,220.00
	432.3	Solid Waste Collection	$9,500.00	
	432.4	Rubble Site	$2,000.00	
	432.6	Weed/Mosquito Control	$5,000.00	
	432.8	Sewer Loan Payment	$15,720.00	
Total Public Works				$64,420.00
450	Culture and Recreation			
	452	Parks		$2,000.00
	425.2	Park Areas	$2,000.00	
Total Culture and Recreation				$2,000.00

Capital Outl	**ccumulations Resolution 2016-1**	
Total Capita.	**lay Accumulations**	$2,400.00
		400.00
		$109,930.00

The following designates the fund or funds that money derived from the following sources is applied to.

Governmental Funds	
Undesignated Fund Balance	$33,720.00
310 Taxes	$51,510.00
320 Licenses and Permits	$200.00
330 Intergovernmental Revenue	$10,750.00
340 Charges for Goods and Services	$13,750.00
Total Means of Finance	**$109,930.00**

Proprietary Funds	**Water**	**Sewer**	**Cemetery**
Estimated Revenue	$29,500.00	$24,000.00	$290.00
Less Appropriations	$33,000.00	$22,000.00	$650.00
Esiimated Surplus/Shortfall		$2,000.00	

The finance officer is directed to certify the dollar amount of tax levis made in this ordinance in the amount of $51,510.00 to the County Auditor.

Gene Buechler, President, Board of Trustees

Rebecca Witlock, Vice President, Board of Trustees

Placed upon its first reading September 3, 2024
Placed upon its second reading September 17, 2024
Approved this 17th day of September 2024
Published this _____ day of September 2024

Published at the total cost of _____

Town of Java
Animal Control/Resolution: 2024-01
(Reference Java Ordinance Title Two: Animals, Chapter 2-2 Dogs)

RESOLUTION to revise and establish rates and regulations to dog owners within the Town of Java; and

WHEREAS, THE Java Board of Trustees periodically adjusts the rates and regulations regarding dogs within the Town of Java to more accurately reflect the cost of providing safety to the community members; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAVA, WALWORTH COUNTY, SOUTH DAKOTA:

Section I Impoundment of Dogs

A. Effective and in force from April 25, 2024 forward:
    1. Within 24 hours following impoundment of a dog, notice must be given to the owner.
    2. If owner is unknown, written notice shall be given to the Java Finance Officer describing the dog, time and place where apprehended, and how the owner may recover the dog.
        a. After 48 hours from the time of posting the notice at the Town of Java Finance Office, the animal will be sold or humanely disposed of.
    3. If a dog is impounded the fee will be $50.00 for the 1st day and $25.00 per day thereafter.
        a. If the dog is not licensed and/or vaccinated, an additional $100.00 fee will be assessed.
        b. The dog owner will have to license the dog with the Town of Java prior to the dog being released.
        c. The dog owner will have 10 (ten) working days to vaccinate and provide veterinary documentation to the Town of Java.
    4. Vicious dogs
        a. The dog will be impounded and not released until fees are paid.
        b. If the dog cannot be impounded safely, the dog may be immediately destroyed by law enforcement, the Town of Java governing body or their designated animal control officer.

Adopted this 1st day of April 2024

The above and foregoing Resolution was read by all Trustees and was moved for adoption by Beckyer Hark, seconded by Klaire Lee and upon roll call vote of: Buechler aye Gardiner aye, Lee aye Schnaible aye, Witlock aye, motion passed on a vote of 5 ayes 0 nays.

Whereupon the President of the Java Board of Trustees declared the Resolution 2024-01 to be duly passed and adopted.

Gene, Buechler, President
Java Board of Trustees

ATTEST:

Carole Kiecker, Finance Officer

Approved and Adopted: April 1, 2024
Published: April 11, 2024
Effective: April 25, 2024

RESOLUTION NUMBER 2024-01

TOWN OF JAVA
AUTHORIZING RESOLUTION
AUTHORIZING USAGE OF BANKWEST ACCOUNTS PAYABLE CREDIT CARD TO PAY INCIDENTAL MONTHLY BILLS

WHEREAS, the Town of Java has authorized an incidental account making general fund monies available for use during the month, prior to approval at the first meeting of the month per SDCL 9-23-23, and

WHEREAS, these funds may be expended with the preauthorization of two officers of the municipality, the Council Board President and the Council Board Vice President and

WHEREAS, Bankwest Accounts Payable Credit Card is established to pay monthly bills, and would help facilitate the flow of city business, and

WHEREAS, a detailed account of the expenditures from Bankwest Accounts Payable Credit Card shall be presented with verified vouchers, itemized and supported by receipted bills or other information as evidence of payment, and shall be pre-authorized by council board members for purchases over $150.00, and

NOW THEREFORE BE IT RESOLVED that the Council Board Members in and for the Town of Java does hereby approve the use of the Bankwest Accounts Payable Credit Card per SDCL 9-23-23, using the above-mentioned constraints.

Dated this 3rd day of September 2024

Gene Buechler, President

(SEAL)

Eva Cagnones, Finance Officer

Rescinded March 3, 2025 Refer to March 3, 2025 meeting minutes Cynthia Schneider

RESOLUTION NO. 2024-02

RESOLUTION AUTHORIZING AN APPLICATION FOR FINANCIAL ASSISTANCE, AUTHORIZING THE EXECUTION AND SUBMITTAL OF THE APPLICATION, AND DESIGNATING AN AUTHORIZED REPRESENTATIVE TO CERTIFY AND SIGN PAYMENT REQUESTS.

WHEREAS, the City of Java (the "City") has determined it is necessary to proceed with improvements to its Wastewater System, including but not limited to replacing several blocks of sewer lines in town, make improvements to the SCADA system and purchase generators for the lift stations (the "Project"); and

WHEREAS, the City has determined that financial assistance will be necessary to undertake the Project and an application for financial assistance to the South Dakota Board of Water and Natural Resources (the "Board") will be prepared; and

WHEREAS, it is necessary to designate an authorized representative to execute and submit the Application on behalf of the City and to certify and sign payment requests in the event financial assistance is awarded for the Project,

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. The City hereby approves the submission of an Application for financial assistance in an amount not to exceed $2,600,000 to the South Dakota Board of Water and Natural Resources for the Project.

2. The Town President is hereby authorized to execute the Application and submit it to the South Dakota Board of Water and Natural Resources, and to execute and deliver such other documents and perform all acts necessary to effectuate the Application for financial assistance.

3. The Town President is hereby designated as the authorized representative of the City to do all things on its behalf to certify and sign payment requests in the event financial assistance is awarded for the Project.

Adopted at Java, South Dakota, this 2 day of Dec 2024.

APPROVED:

Town President
City of Java

(Seal)

Attest: Lydia Schwalbe
Finance Officer
City of Java

Resolution No. 2024-03
Capital Outlay Transfer Resolution

WHEREAS, The Town of Java did approve a line for Capital Outlay transfers in the 2020 annual budget in accordance with SDCL 9-21-6.1; and

WHEREAS, The Town of Java finds it necessary to transfer from said Capital Outlay line;

NOW THEREFORE IT IS HEREBY RESOLVED by the Java Board of Trustees, that the following amount(s) be transferred:

From:	Capital Outlay Fund	$7500.00
To:	General Fund	
	Water Fund	

Approved and adopted this 30th day of December, 2024

(Motion by Ludwig Seconded by Forget, to approve and adopt Resolution 2024-03, 4 ayes 0 nays

Approved:

Gene Buechler, President
Java Board of Trustees

(Seal)

Attest:
Lydia Schnaible
Lydia Schnaible, Finance Officer

ORDINANCE NO. 2024-02
SUPPLEMENTAL APPROPRIATIONS ORDINANCE
AMENDING ORDINANCE 2023-01 APPROPRIATIONS ORDINANCE

Be it ordained by the Town of Java that the following sums are supplementally appropriated to meet the obligations of the municipality:

	General Fund	Proprietary Funds
414 Financial Administration		
414.2 Finance Office	$4500.00	
419 Other		
419.2 General Government Buildings	$13,000.00	
430 Public Works		
431 Highways and Streets	$200.00 $17,700	
602 Water		$2200.00
Total Appropriations		$19,900

Sources of Funding

Transfer from Election	$1,200.00
Transfer from Attorney Fees	$1,300.00
Transfer from Rubble Site	$1,500.00
Transfer from Capital Outlay Fund	$7,500.00
Transfer from West Nile	$3,900.00
Transfer from Contingency	$4,500.00

Gene Buechler, President
Java Board of Trustees

Lydia Schnaible
Lydia Schnaible, Finance Officer

Passed upon its first reading: Dec. 30, 2024

Passed upon its second reading: Jan. 6, 2025

Approved this 6th day of January, 2025

Published 1 time at the approximate cost of ____

"The Town of Java is an equal opportunity provider and employer."

Resolution 2025-01
Resolution Authorizing An Application for Financial Assistance, Authorizing the Execution and Submittal of the Application, and Designating an Authorized Representative to Certify and Sign Payment Requests

WHEREAS, the Town of Java (the "Town") has determined it is necessary to proceed with improvements to its Water Tower, including but not limited to the stand pipe (the "Project"); and

WHEREAS, the Town has determined that financial assistance will be necessary to undertake the Project and an application to USDA Rural Development will be prepared; and

WHEREAS, it is necessary to designate an authorized representative to execute and submit the application on behalf of the Town and to certify and sign payment requests in the event financial assistance is awarded for the Project.

NOW THEREFORE IT BE RESOLVED by the Town as follows:

1. The Town hereby approves the submission of an application for financial assistance in an amount not to exceed $150,000 to USDA Rural Development.
2. The Town President is hereby authorized to execute the application and submit it to USDA Rural Development, and to execute and deliver such other documents and perform all acts necessary to effectuate the application for financial assistance.
3. The Town President is hereby designated as the authorized representative of the Town to do all things on its behalf to certify and sign payment requests in the event financial assistance is awarded.

Adopted at Java, South Dakota, this 3rd day of March, 2025.

Approved:

Town President
Town of Java

(Seal)

Attest:

Lydia Schmidt

Finance Officer
Town of Java

Ordinance 2025-1

An ordinance amending the Java Community Antenna Television Ordinance to extend the Midcontinent Franchise Agreement with their revisions, and change the expiration date from March 9, 2025 to June 1, 2035.
Be it ordained by the City Commission of the City of Java, South Dakota.

SECTION II be amended to change the fourteen (14) year term specified therein to ten (10) years.

Gene Buechler, President

Lydia Schnaible, Finance Officer

Passed upon its first reading: April 7, 2025

Passed upon its second reading: May 5, 2025

Approved this 5th day of May, 2025

Published 1 time at the approximate cost of _____

"The Town of Java is an equal opportunity provider and employer."

AN ORDINANCE TO AMEND THE MIDCONTINENT FRANCHISE AGREEMENT

WHEREAS Midcontinent Communications ("Grantee" or "Midco") holds a communications franchise ("Franchise") for the construction and operation of a communications system within the City of Java, South Dakota ("Grantor"); and

WHEREAS, Grantor and Midco have mutually agreed amend the Franchise by adopting this Ordinance Amendment ("Amendment") and to make such other changes as are mutually agreed upon herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JAVA, SOUTH DAKOTA:

1. The Effective Date of this Amendment shall be June 1, 2025.

2. Section 4, paragraph (o), shall be deleted and the following inserted:

   Grantee shall at all times maintain a website containing a schedule setting forth rates and charges to be made to subscribers for basic cable service, including installation charges

3. Section 5, paragraph 2.) Services to Schools and City shall be deleted in its entirety.

4. Franchise Term shall be ten (10) years from the Effective Date of this Amendment.

5. Written Notice to Grantee shall be:

   Midcontinent Communications
   Attn: Legal Counsel
   4020 W Cayman St.
   Sioux Falls, SD 57107

6. Except as expressly modified herein, all other terms and conditions of the Franchise shall remain in full force and effect. Neither party waives any rights it may have pursuant to applicable law.

[Signatures follow]

Dated this 3rd day of May, 2025.

City of Java, South Dakota

By: _____
Gene Buechler, Mayor

ATTEST:

BY: _____
Lydia Schmaltz, City Auditor

Midcontinent Communications
By Midcontinent Communications Investor, LLC
Its Managing general partner

_____
By: Patrick McCann
Its: VP of Legal and General Counsel

RESOLUTION NO. 2025-02

RESOLUTION GIVING APPROVAL TO CERTAIN SEWER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING PROJECT REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND AND PROVIDING FOR A SEGREGATED SPECIAL CHARGE OR SURCHARGE FOR THE PAYMENT OF THE BONDS.

WHEREAS, one of the purposes of SDCL Chapter 9-40 (the "Act") as found and determined by the Legislature is to provide for financing the acquisition, maintenance, operation, extension or improvement of any system or part of any system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; or any system for the control of floods and drainage; or any combination thereof, together with extensions, additions, and necessary appurtenances; and,

WHEREAS, a municipality is authorized by Section 6 of the Act to issue revenue bonds to defray the cost of extensions, additions and improvements to any utility previously owned without pledging its credit and is authorized to pledge the net income or revenues from the Project in accordance with Section 15 of the Act; and,

WHEREAS, the Town of Java (the "Town") currently operates a sewer system for the collection, treatment and disposal of sewage and other domestic, commercial and industrial wastes; and for the control of floods and drainage and has determined that improvements to the sewer facilities are necessary for the conduct of its governmental programs and qualifies as an improvement, extension or addition to its sewer system; and,

WHEREAS, the Town has determined to issue its revenue bonds to finance the improvements to its sewer system for the purpose of collecting, treating and disposing of sewage and other domestic, commercial and industrial wastes (the "System") and has applied to the South Dakota Conservancy District (the "District") for a Clean Water State Revolving Fund Loan to finance the improvements;

WHEREAS, the Town shall adopt special rates or surcharges for the improvements to be pledged, segregated and used for the payment of the Bonds.

NOW THEREFORE BE IT RESOLVED by the Town as follows:

SECTION 1. Definitions.

The terms when used in this Resolution shall have the following meanings set forth in this section unless the context clearly requires otherwise. All terms used in this Resolution which are not defined herein shall have the meanings assigned to them in the Loan Agreement unless the context clearly otherwise requires.

"Act" means South Dakota Codified Laws Chapter 9-40.

"Loan" means the Loan made by the South Dakota Conservancy District to the Town pursuant to the terms of the Loan Agreement and as evidenced by the Revenue Bond.

"Project" means the Town of Java Wastewater Line Improvement Project-Phase I..

"Revenue Bond" means the revenue bond or bonds issued the date of the Loan Agreement by the Town to the South Dakota Conservancy District to evidence the Town's obligation to repay the principal of and pay interest and Administrative Expense Surcharge on the Loan.

"System" means the Town's system of collecting, treating, and disposing of sewage and other domestic, commercial, and industrial wastes.

SECTION 2. Declaration of Necessity and Findings.

2.1.1. Declaration of Necessity.

The Town hereby determines and declares it is necessary to construct and finance improvements to its System described as the Project.

2.2. Findings. The Town does hereby find as follows:

2.2.1. The Town hereby expressly finds that if the Project is not undertaken, the System will pose a health hazard to the Town and its inhabitants and will make the Town unable to comply with state and federal law.

2.2.2. Because of the functional interdependence of the various portions of the System, the fact that the System may not lawfully operate unless it complies with State and federal laws, including SDCL Chapter 34A-2, and the federal Clean Water Act, and the nature of the improvements financed, the Town hereby finds and determines that the Project will substantially benefit the entire System and all of its users within the meaning of Sections 15 and 17 of the Act.

2.2.3. The Town hereby determines and finds that for the purposes of the Act, including, in particular, Sections 15 and 17 of the Act, only the net income from the Project financed by the Revenue Bond be pledged for its payment.

SECTION 3. Authorization of Loan, Pledge of Revenue and Security.

3.1. Authorization of Loan. The Town hereby determines and declares it necessary to finance up to $2,600,000 of the costs of the Project through the issuance of bonds payable from the revenue of the Project and other funds secured by the Town. The Town hereby determines that because the Revenue Bond is issued in connection with a financing agreement described in SDCL 46A-1-49, pursuant to Section 15 of the Act no election is required to issue the Revenue Bond.

3.2. Approval of Loan Agreement. The execution and delivery of the Revenue Obligation Loan Agreement (the "Loan Agreement"), the form of which is on file with the Finance Officer (the "Finance Officer") and open to public inspection, between the Town as Borrower and the District, is hereby in all respects authorized, approved and confirmed, and the President and Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content attached hereto, with such changes as the Attorney for the Town deems appropriate and approves, for and on behalf of the Town. The President and Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the Town set forth in or required by the Loan Agreement. The Loan Agreement herein referred to and made a part of this Resolution is on file in the office of the Finance Officer and is available for inspection by any interested party.

3.3. Approval of Revenue Bond. The issuance of a revenue bond in a principal amount not to exceed $2,600,000 as determined according to the Loan Agreement in the form and content set forth in Appendix B attached to the form of Loan Agreement (the "Revenue Bond") shall be and the same is, in all respects, hereby authorized, approved, and confirmed and the President, Finance Officer, and other appropriate officials shall be and are hereby authorized and directed to execute and seal the Revenue Bond and deliver the Revenue Bond to the District, for and on behalf of the Town, upon receipt of the purchase price, and to use the proceeds thereof in the manner set forth in the Loan Agreement. The President and Finance Officer are hereby authorized to approve the final terms of the Revenue Bond, and their execution and delivery thereof shall evidence that approval. The Revenue Bond shall be issued under the authority of SDCL Chapter 9-40 and SDCL Chapter 6-8B, and the provisions of the Act are hereby expressly incorporated herein as provided in Section 19 of the Act.

3.4. Pledge of Revenues. The Revenue Bond together with the interest thereon, shall not constitute a charge against the Town's general credit or taxing power, but shall be a limited obligation of the Town payable solely out of the Project Debt Service Account, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Revenue Bond and shall be used for no other purpose than to pay the principal of, interest and Administrative Surcharge on the Revenue Bond, except as may be otherwise expressly authorized in the Loan Agreement (including the purpose of securing Additional Bonds issued as permitted by the terms thereof). The Town covenants and agrees to charge rates for all services from the Project or establish special charges or surcharges which will be sufficient to

provide for the payments upon the Revenue Bond issued hereunder as and when the same become due, and as may be necessary to provide for the operation and maintenance and repairs of the Project, and depreciation, and the Rate Resolution shall be revised from time to time so as to produce these amounts. The Town hereby reserves the right to determine on a periodic basis the appropriate allocation of operation and maintenance expenses, depreciation, repair and reserves associated with the facilities financed with the Revenue Bond, provided that such determination of allocable operation and maintenance expenses shall in no event abrogate, abridge or otherwise contravene the covenant of the Town set forth in this Section 3 or any other covenant or agreement in the Loan Agreement.

SECTION 4. Special Charge or Surcharge for Revenue Bond.

4.1. The Town does hereby create the Revenue Bond Special-Surcharge District (the "Surcharge District") which shall include all users which benefit from the Project. There shall be charged a special charge or surcharge pursuant to Section 15 of the Act for the services provided by Project financed by the Revenue Bond. The special charge or surcharge shall be segregated from other revenues of the System and shall be used for the payment of the Revenue Bond. The special charge or surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements, and operation, sufficient to fund interest, reserve and debt service fund annual requirements and shall be 110% of the debt service requirements on the Revenue Bond.

4.2. Rates and collection. The rate herein specific will be collected as a special charge or surcharge for the Project. This special charge or surcharge shall remain in effect until such time as the Revenue Bond is defeased or paid in full.

4.3. Initial Surcharge. The initial special charge or surcharge shall be set by resolution and collected at the same time as other charges of the utility. All users within the Surcharge District which benefit from the Project, current and future, shall be charged the special charge or surcharge. The special charge or surcharge is found to be equitable for the services provided by the Project. The special charge or surcharge shall begin at such time as will produce sufficient revenue to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due.

4.4. Segregation. The Finance Officer shall set up bookkeeping accounts in accordance with South Dakota Legislative Audit guidelines for the segregation of the revenue, special charges, and surcharges.

4.5. Periodic review. The amount of the surcharge shall be reviewed from time to time, not less than yearly, and shall be modified in order to produce such funds as are necessary and required to comply with the Loan Agreement's rate covenant and to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due. The

surcharge may be set by resolution in accordance with this Section. The rate resolution shall be necessary for the support of government and shall be effective upon passage.

SECTION 5. **Additional Bonds.** As permitted by Sections 8 and 9 of the Act, Additional Bonds payable from revenues and income of the System or Project may be issued, as permitted in the Loan Agreement, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The Town shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Revenue Bond pursuant to the Loan Agreement.

SECTION 6. **Project Fund Accounts** For the purpose of application and proper allocation of the income of the Project and to secure the payment of principal, Administrative Surcharge and interest on the Revenue Bond, the following mandatory asset segregations shall be included in the sewer system account of the Town and shall be used solely for the following respective purposes until payment in full of the principal of and interest on the Revenue Bond:

6.1. **Project Revenue Account.** There shall be deposited periodically into the Project Revenue Account the net revenues as defined in Section 17 of the Act derived from the operation of the Project collected pursuant to the resolutions and ordinances of the Town of Java, South Dakota (collectively the "Rate Resolution"). Moneys from the Project Revenue Account shall be transferred periodically into separate funds and accounts as provided below.

6.2. **Project Debt Service Account.** Out of the revenues in the Project Revenue Account, there shall be set aside no later than the 25th day of each month into the account designated Project Debt Service Account, a sum sufficient to provide for the payment as the same become due of the next maturing principal of, interest and Administrative Surcharge on the Revenue Bonds and any reserve determined by the Town's governing body to be necessary. The amount set aside monthly shall be not less than one-third of the total principal, interest, and Administrative Surcharge payable on the following February 15, May 15, August 15 or November 15 and if there shall be any deficiency in the amount previously set aside, then the amount of such deficiency shall be added to the current requirement.

6.3. **Depreciation Account.** There shall be established a General Depreciation Account. Out of the revenues of the Project Revenue Account there shall be set aside each month into the General Depreciation Account an amount determined by the Board of Trustees to be a proper and adequate amount for repair and depreciation of the Project.

6.4. **Project Surplus Account.** There shall be established the Project Surplus Account. Revenues remaining in the Project Revenue Account at the end of any fiscal year after all periodic transfers have been made therefrom as above required, shall be deemed to be surplus and shall be transferred to the Project Surplus Account. If at any

time there shall exist any default in making any periodic transfer to the Project Debt Service Account, the Board of Trustees shall authorize the Finance Officer to rectify such default so far as possible by the transfer of money from the Project Surplus Account. If any such default shall exist as to more than one account or fund at any time, then such transfer shall be made in the order such funds and accounts are listed above.

When not required to restore a current deficiency in the Project Debt Service Account, moneys in the Project Surplus Account from time to time may be used for any of the following purposes and not otherwise:

(a) To redeem and prepay the Revenue Bond when and as such Revenue Bond becomes prepayable according to its terms;

(b) To pay for repairs of or for the construction and installation of improvements or additions to the System; and, if the balances in the Project Debt Service Account and the Project Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made there from prior to the end of the then current fiscal year, then:

(c) To be held as a reserve for redemption and prepayment of any bonds of the System which are not then but will later be prepayable according to their terms; or

(d) To be used for any other authorized municipal purpose designated by the Board of Trustees.

(e) No moneys shall at any time be transferred from the Project Surplus Account or any other account of the Fund to any other fund of the Town, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section.

SECTION 7. Approval of Paying Agent/Registrar. The Revenue Bond shall be payable at the office of U.S. Bank National Association, St. Paul, Minnesota, hereby designated as paying agent and registrar.

SECTION 8. Approval of Bond Counsel. Meierhenry Sargent LLP is hereby retained as Bond Counsel with respect to the Revenue Bond.

SECTION 9. Tax Matters. The Interest on the Revenue Bond shall be excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended ("the Code") and applicable Treasury Regulations (the "Regulations").

SECTION 10. Covenants.

The Town hereby covenants and agrees with the District and other owners of the Revenue Bond as follows:

10.1. The Town will punctually perform all duties with reference to the Project, the System and the Revenue Bond required by the constitution and laws of the State of South Dakota and by this Resolution.

10.2. The Town agrees and covenants that it will promptly construct the improvements included in the Project.

10.3. The Town covenants and agrees that pursuant to Sections 25 through 27 of the Act, the lawful holders of the Revenue Bond shall have a statutory mortgage lien upon the Project and the extensions, additions and improvements thereto acquired pursuant to the Act, until the payment in full of the principal and interest on the Revenue Bond, and the Town agrees not to sell or otherwise dispose of the System, the Project, or any substantial part thereof, except as provided in the Loan Agreement and shall not establish, authorize or grant a franchise for the operation of any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the Town.

10.4. The Town covenants and agrees with the District and other owners of the Revenue Bond that it will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost, so long as any portion of the Revenue Bond remains outstanding; that it will maintain insurance on the System for the benefit of the holders of the Revenue Bond in an amount which usually would be carried by private companies in a similar type of business; that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement. The Revenue Bond shall refer expressly to this Resolution and the Act and shall state that it is subject to all provisions and limitations thereof pursuant to Section 19 of the Act.

SECTION 11. Depositories. The Finance Officer shall cause all moneys pertaining to the Funds and Accounts to be deposited as received with one or more banks which are duly qualified public depositories under the provisions of SDCL Ch. 4-6A, in a deposit account or accounts, which shall be maintained separate and apart from all other accounts of the Town, so long as any of the Bonds and the interest thereon shall remain unpaid. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Funds and Accounts as authorized in this Resolution; except that moneys from time to time on hand in the Funds and Accounts may at any time, in the discretion of the Town's governing body, be invested in securities permitted by the provisions of SDCL 4-5-6; provided, however, that the Depreciation Fund may be invested in such securities maturing not later than ten years from the date of the investment. Income received from the deposit or investment of moneys shall be credited to the Fund or Account from whose moneys the deposit was made, or the

investment was purchased, and handled and accounted for in the same manner as other moneys therein.

SECTION 12. Consent to Appointment. In the event of mismanagement of the Project, a default in the payment of the principal or interest of the Revenue Bond, or in any other condition thereof materially affecting the lawful holder of the Revenue Bond, or if the revenues of the Project are dissipated, wasted or diverted from their proper application as set forth in the Loan Agreement, Revenue Bond, or herein, the Town hereby consents to the appointment of a receiver pursuant to Section 33 of the Act, and agrees that the receiver will have the powers set forth therein, and in Sections 34 and 35 of the Act to operate and administer the Project, and charge and collect rates as described therein.

SECTION 13. Severability.

If any section, paragraph, clause or provision of this Resolution, the Loan Agreement, the Revenue Bond, or any other Loan Document shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution or said Loan Agreement, Revenue Bond, or any other Loan Document.

SECTION 14. Repeal of Resolution. At such time as the Revenue Bond is defeased or paid in full, this Resolution and the special charge or surcharge shall automatically be repealed without any further action of the Town.

SECTION 15. Authorization of Town Officials.

The President, Finance Officer, Town Attorney and Town officials shall be and they are hereby authorized to execute and deliver for and on behalf of the Town any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the actions authorized herein.

SECTION 16. Effective Date.

This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.

Adopted at Java, South Dakota, this 2nd day of June 2025.

APPROVED:

President

(SEAL)

Attest: Lydia Schnauble
Finance Officer

First reading: June 2, 2025
Published: June 12, 2025
Effective: July 2, 2025

RESOLUTION 2025-03

A Resolution to Revise Sewer Rates

RESOLUTION to revise and establish rates and charges to consumers of goods and services provided by the Town of Java; and

WHEREAS, the Java Board of Trustees in accordance with Town of Java Resolution 2025-02, Section 4, 4.1; and

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAVA, WALWORTH COUNTY, SOUTH DAKOTA:

Section 1: That the rate charged for sewer services are hereby amended to read as follows:

A. Effective from June 27, 2025 forward, the monthly charge to each customer for all sewer services furnished by the Town of Java shall be:

a. Monthly rate of $70.00 per account.

Section 2: That this Resolution shall supersede in all respects, all previous resolutions of the Java Board of Trustees which set the rate now being set.

Adopted this 2nd day of June, 2025.

The above and foregoing Resolution was read by all Trustees and was moved for adoption by S, seconded by Ce, and upon roll call vote of: Buechler Y, Witlock Y, Lee ___, Ladwig Y, Razink Y, motion passed on a vote 4 ayes, ___ nays.

Whereupon the President of the Board of Trustees declared the Resolution to be duly passed and adopted.

Gene Buechler
President, Java Board of Trustees

ATTEST:

Lydia Schnaible
Lydia Schnaible, Finance Officer

Approved and Adopted: June 2, 2025
Published:
Effective: June 27, 2025

Resolution 2025-04
A Resolution to Establish a Sewer Surcharge

RESOLUTION to establish a Sewer Surcharge to consumers of goods and services provided by the Town of Java; and

WHEREAS, the Java Board of Trustees in accordance with Town of Java Resolution 2025-02, Section 4, 4.1; and Town of Java Resolution 2025-03; and

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAVA, WALWORTH COUNTY, SOUTH DAKOTA:

In addition to the other charges, the Town of Java hereby establishes a surcharge of $46.00 payable by each customer of its system who receives or benefits from the services of the project financed by the CW-SRF loan with the borrower bond. The collection of the surcharge shall start on June 27, 2025. The surcharge shall remain in effect until such time as the borrower bond is paid in full, it shall be collected at the same time as other charges of the system and establish a surcharge account to segregate the income from other system income for bookkeeping purposes to be pledged to the South Dakota Conservancy District. The surcharge shall be reviewed from year to year and modified in order to provide the required 110 percent debt coverage.

Adopted this 7th day of July, 2025.

The above and foregoing Resolution was read by all Trustees and was moved for adoption by B, seconded by K, and upon roll call vote of: Buechler ✓, Lee ___, Witlock ✓, Ladwig ✓, Razink, ✓. motion passed on a vote 4 ayes, ___ nays.

Whereupon the President of the Board of Trustees declared the Resolution to be duly passed and adopted.

Gene Buechler
President, Java Board of Trustees

ATTEST:
Lydia Schnaible
Lydia Schnaible, Finance Officer

Approved and Adopted: July 7, 2025
Published: July 17, 2025
Effective: June 27, 2025

RESOLUTION 2025-05
A Resolution to Revise Water Rates

RESOLUTION to revise and establish rates and charges to consumers of goods and services provided by the Town of Java; and
WHEREAS, The Java Board of Trustees periodically adjusts the rates, charges, and fees of said services to more accurately reflect the cost of providing said services to the customers; and
NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAVA, WALWORTH COUNTY, SOUTH DAKOTA:

Section 1: That the rate charged for water services are hereby amended to read as follows:

A. Effective from September 27, 2025 forward, the minimum monthly charge to each customer for all water services furnished by the Town of Java shall be:
   a. Monthly base rate of $26.00 per account for 0-3,499 gallons of water used;
   b. Rate for each 999 gallons of water used over the base 0-3,499 gallons used increases by $5.00 over the monthly base rate;

Section 2: That this Resolution shall supersede in all respects all previous resolutions of the Java Board of Trustees which set the rate now being set.

Section 3: That notwithstanding the foregoing, the rates, charges, and fees set in Resolution 2025-05 shall continue in full force and effect from the date of this Resolution until they are superseded on as provided herein.

Section 4: That this resolution shall take effect as of September 27, 2025.

Adopted this 4th day of August, 2025.

The above and foregoing Resolution was read by all Trustees and was moved for adoption by Ladwig, seconded by Witlock, and upon roll call vote of: Buechler Y, Witlock Y, Ladwig Y, Lee ____, Razink Y, motion passed on a vote 4 ayes, 0 nays.

Whereupon the President of the Board of Trustees declared the Resolution to be duly passed and adopted.

Gene Buechler
President, Java Board of Trustees

ATTEST:
Lydia Schnaible, Finance Officer

Approved and Adopted: August 4, 2025
Published: August 14, 2025
Effective: September 27, 2025

RESOLUTION 2025-06
Transfer from General Fund

WHEREAS, insufficient appropriation was made in the 2025 budget for the following fund to discharge just obligations of said appropriations;
THEREFORE, BE IT RESOLVED that the appropriation be transferred from the General Fund to the Water Fund.

	General Fund	Water Fund
602 Water Fund:		
425.00 Repairs and Maintenance		$95,000.00

Total Appropriations $95,000

Transfer from General Fund $95,000.00

President of the Board

Lydia Schraible
Finance Officer

Date 10-6-25

RESOLUTION 2025-07
Create a Water Deposit Fund/Appropriation

WHEREAS, a Water Deposit Fund has not been previously established,
THEREFORE, BE IT RESOLVED that a Water Deposit Fund will be established with the appropriation transferred from the General Fund to the Water Deposit Fund.

	General Fund	Water Deposit Fund
602.1 Water Deposit Fund:		$5,000.00
Total Appropriations $5,000		
Transfer from General Fund	$5,000.00	

President of the Board

Finance Officer

Date 10-6-25

RESOLUTION 2025-08
Abolish Curb Stop Fee

WHEREAS, the funding obligations for the 2012 Sewer Project (Resolution No. 2011-1, Resolution 2-2012) are not being met with the curb stop fee (Resolution 2-2-09) set in place.

THEREFORE, BE IT RESOLVED that the curb stop is to be abolished. All water and sewer users are to pay the minimum water and sewer rates every month. All properties that have a water and/or sewer hook-up, regardless if it is used or not, will be charged the minimum rate. The resolution will be effective 1 Oct, 2025.

President of the Board

Lydia Schmaltz
Finance Officer

Date 10-6-25

APPROPRIATIONS ORDINANCE 2025-03
2026 APPROPRIATION ORDINANCE

Be it ordained by the Municipality of Java that the following sums are appropriated to meet the obligations of the municipality.

		GENERAL FUND
Appropriations:		
Governmental Funds		
410	General Government	
	411.1 Municipal Board and President	10,167.00
	411.5 Contingency	4,300.00
413	Elections	1,400.00
414	Financial Administration	
	414.1 Attorney	2,500.00
	414.2 Finance Office	16,063.00
419	Other	
	419.2 General Government Buildings	13,335.00
430	Public Works	
	431 Streets	24,259.00
	432 Sanitation	9,000.00
	444.03 Sales Tax Remittance	679.00
	432.4 Rubble Site	2,153.00
	437 Cemetery	200.00
440	Health and Welfare	
	441.4 Pest Control	5,000.00
450	Culture-Recreation	
	452 Parks	709.00
Total 2026 Appropriations		89,765.00

Means of Finance:		GENERAL FUND
Unassigned Fund Balance		(31,800.00)
310	Taxes	
	311.1 Property Taxes - Current	53,240.00
	311.2 Property Taxes - Prior Years	1,000.00
	313 General Sales and Use Tax	37,000.00
	319 Penalties and Interest on Delinquent Taxes	200.00
320	Licenses and Permits	
	322 Pet License	75.00
	323 Building Permits	50.00
330	Intergovernmental Revenue	
	335 State Shared Revenue	
	335.1 Bank Franchise Tax	620.00
	335.3 Liquor Tax Reversion	580.00
	335.4 Motor Vehicle Licenses	5,600.00
	335.8 Local Highway and Bridge Fund	6,300.00
	335.9 Other	
	338 County Shared Revenue	
	338.1 County Road Tax - 25%	100.00
340	Charges for Goods and Services	
	344 Sanitation	
	344.1 Refuge Collection Charges	11,321.00
	344.09 Sales Tax Collections	679.00
	346 346.03 Camping Fees	100.00
360	Miscellaneous Revenue	
	361 Investment Earnings	400.00
	362 Rent	600.00
	368 Liquor Operating Agreement Income	2,220.00
	369 Miscellaneous Revenue	
	369.01 Cable Television Franchise Fee	800.00
	369.04 Patronage Dividend	700.00
Total Means of Finance		89,765.00

PROPRIETARY FUNDS:

	WATER FUND	SEWER FUND	2012 SEWER SURCHARGE FUND	2026 SEWER SURCHARGE FUND	WATER DEPOSIT FUND	CEMETERY FUND
Beginning Unrestricted Cash - Estimated	48,000.00	27,000.00	33,000.00	3,080.00	5,000.00	12,979.00
Estimated Revenue	21,979.00	5,000.00	14,472.00	36,984.00	250.00	300.00
TOTAL AVAILABLE	69,979.00	32,000.00	47,472.00	40,064.00	5,250.00	13,279.00
Less Appropriations (Expenses)	(44,942.00)	(11,143.00)	(15,716.00)	0.00	0.00	0.00
ESTIMATED ENDING CASH BALANCE	25,037.00	20,857.00	31,756.00	40,064.00	5,250.00	13,279.00
ESTIMATED SURPLUS RETAINED	25,037.00	20,857.00	31,756.00	40,064.00	5,250.00	13,279.00

The Finance Officer is directed to certify $54,240.00 as the following dollar amount of tax levies made in this ordinance to the County Auditor.

President of the Board — Date: 10/6/25

Finance Officer: Lydia Schnaible — Date: 10-6-25

Passed First Reading: September 8, 2025
Passed Second Reading: October 6, 2025
Approved and Adopted: October 6, 2025
Published: October , 2025
Effective: January 1, 2026

ORDINANCE 2025-04 Budget Supplement

Ordinance 2025-04
Supplemental Appropriation Ordinance
Town of Java
Walworth County, South Dakota

BE IT ORDAINED BY THE TOWN OF JAVA that there shall be a supplemental appropriation for the 2025 budget year as follows:

General Fund:

General Government	
411.1 Board and Council	$200.00
Source of Funds:	
413.00 Elections	$200.00
Financial Administration:	
414.2 Attorney	$400.00
Source of Funds:	
413.00 Elections	$400.00

The Finance Officer is directed to implement the funds necessary for the enforcement of this ordinance.

Gene Buechler, President of the Board

Attest

Lydia Schnaible, Finance Officer

Roll Call Vote: Buechler ✓ Jakeway ✓ Ladwig ✓ Razink ✓ Witlock ✓

First Reading: Dec. 1, 2025
Second Reading & Adoption: Dec. 29, 2025
Published: Jan. 8, 2026

Published 1 time at the approximate cost of _____

Resolution 2026-01

A RESOLUTION APPROVING THE USE OF THE RECORDS RETENTION AND DESTRUCTION SCHEDULE MANUAL FOR SOUTH DAKOTA

WHEREAS, SDCL 1-27-18 requires local governing bodies to "promote and implement the principles of efficient records management for local records"; and

WHEREAS, the Town Board desires to provide a plan for the efficient retention and management of the Town's records.

THEREFORE BE IT RESOLVED by the Town Board of Java, South Dakota, that the "Records Retention and Destruction Schedule Manual" as developed by the State of South Dakota Bureau of Administration Records Management Program has been reviewed and is approved for use by the Town of Java.

Dated this 2 day of February, 2026.

President of the Board

ATTEST:

Lydia Schraible
Finance Officer

(SEAL)

ORDINANCE NUMBER

An Ordinance in revision of the Ordinances of the
City of Java, South Dakota

Passed First Reading: Sept. 4, 1990

Passed Second Reading: Oct. 1, 1990

Approved and Adopted: Oct. 1, 1990

Notice of Adoption Published: Oct. 5, 1990

Effective Date: Oct. 25, 1990

Arthur C Franke
Mayor's Signature

ATTEST:

Donna Liebe
City Finance Officer's Signature

1990 MUNICIPAL CODE
CITY OF JAVA, SOUTH DAKOTA

August 1990

Prepared Under the Direction of:
The City Council and City Attorney
Java, South Dakota

REVISER'S NOTES:

The legislative history and notes following each ordinance section, the table of contents and the Code Index are not to be considered an official part of this Ordinance No. _____, an ordinance in Revision of the Ordinances of the City of Java, South Dakota.

In the legislative history and notes portion of each section, **"Authority"** indicates that there is direct South Dakota statutory authority for the City Code section cited to. **"Compare"** means that this section should be compared to the South Dakota Codified Laws section for similarities in wording and subject matter. **"See Also"** indicates that while not directly on point, the South Dakota Codified Laws also address the 1990 Code section to some extent. Finally, **"Cross Reference"** refers to two or more Municipal Code sections which address related matters.

Leon Neville
Reviser of Ordinances

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CHAPTER 1-1
TOWN BOARD OF TRUSTEES

1-1-1 COMPOSITION AND ELECTION OF BOARD

The Board of Trustees of Java shall consist of not less than three nor more than five members elected at large. Each board member shall be a legal voter of the town. The number of trustees may be increased to five or reduced to three in the manner prescribed within the SDCL Chapter 9-11.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-7-1

Collateral References:
56 Am Jur 2d, Municipal Corporations, §139.
62 CJS, Municipal Corporations, §§ 385-410.
Liability of township trustees for loss of public funds, 18 ALR 982.

Opinions of the Attorney General:
Age requirement for seeking election, Opinion No. 72-11.

1-1-2 TRUSTEES OATH

The members of the Board of Trustees shall qualify for office within ten (10) days after notice of their election by filing an oath of affirmative of office in the usual form provided by law.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-7-2

Collateral References:
Oath of Office, Constitution, Article XXI, §3.

1-1-3 TERMS OF OFFICE

The members of the Board of Trustees shall hold office for three years and until their successors are elected and qualified. The terms of each trustees shall be stagnated so that only one is elected at any given time.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-7-3.

Opinions of the Attorney General:
First election of trustees for terms of one, two and three years, Report 1933-34, pp. 491, 493; 1937-38, p. 544.

1-1-4 PRESIDENT OF THE BOARD

At the first regular meeting after their election, the members of the Board of Trustees shall elect one of their number as president to serve for one year and until his successor is elected and qualified.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-7-5.

1-1-5 REGULAR AND SPECIAL MEETINGS

The board shall hold regular meetings the first Monday of each month. Special meetings of the board may be held at any time upon call of the president or clerk by oral or written notice to the members present within the municipality.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-7-6.

Collateral References:
Claims allowed, memorandum in minutes of board, See SDCL § 9-23-2.
publication of proceedings of trustees, see SDCL § 9-18-1.
Record of proceedings maintained by clerk, See SDCL § 9-14-17.

1-1-6 QUORUM

Majority required for action. A majority of the members of the board shall constitute a quorum, but no act of the board shall be effective unless assented to by a majority of the members.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-7-7.

CHAPTER 1-2
CITY APPOINTIVE OFFICIALS

1-2-1 APPOINTMENT BY PRESIDENT OF BOARD

The President, the approval of the Board of Trustees, shall appoint the officers described in this chapter, and such officers shall then enter upon the discharge of their duties as soon as they have qualified, and shall hold office until appointment and qualification of their successors. Salaries of such officers shall be fixed by Resolution.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-14-3.

1-2-2 CITY ATTORNEY

In addition to those duties prescribed for a City Attorney by South Dakota Law, the City Attorney shall represent the City in all matters of city business, prepare such ordinances, notices or other papers as are incidental to the affairs of the City, advise the City officials with respect to legal affairs of the City, to represent the City in litigation in which the City is named as a party. But it is expressly understood that in cases or matters involving special assessments, bond issues, local improvements, revisions of ordinances and litigation, except in Justice Court, the City Attorney shall be entitled to reasonable compensation to be fixed by the governing body, in addition to the City Attorney's annual salary. In case of the absence of the City Attorney or his incapacity, or in matters deemed by the governing body to be of great importance to the City, or matters in which the City governing body deems the City Attorney needs assistance, a special attorney may be employed at such reasonable pay as shall be directed by them.

Legislative History:
1990 Revisions.

Authority:
SDCL Ch. 9-14 generally.

1-2-3 CHIEF OF POLICE

The chief of police shall have the general supervision of all the members of the police force, and shall insure that the ordinances of the City of Java and the laws of the State of South Dakota are enforced within city limits. His duties include all those which are ordinarily under taken by the Chief of Police and granted by local ordinances and the State. He shall furnish his own automobile, and pay the expenses thereon, and shall provide liability insurance to absolve the City of any liability incurred during the operation of said vehicle. The City shall pay that portion of insurance which is attributable to governmental use of the automobile as a patrol car.

Legislative History:
1990 Revisions.

Authority:
SDCL Ch. 9-14 generally.

1-2-4 UTILITIES SUPERINTENDENT; DEFINITION AND DUTIES OF

The Superintendent of Utilities shall have the general supervision of the entire ware and sewer system of the City, the light distribution system of the City and the streets and alleys of the City of Java. In addition to that, he will also have the general supervision necessary to keep the streets in good and travelable condition and to supervise and see that the light distribution system, water system and sewer system is in a good state of repair. While

attending to such duties, he shall have those powers that a City Policeman might have with respect to enforcing the ordinances of the City or the laws of the State.

Legislative History:
1990 Revisions.

Authority:
SDCL Ch. 9-14 generally.

1-2-5 OTHER APPOINTIVE OFFICERS AND/OR EMPLOYEES

The governing body shall, by resolution, appoint any such other City officers and employees as may be necessary, and at any such salary or wage as may be deemed appropriate.

Legislative History:
1990 Revisions.

Authority:
SDCL Ch. 9-14 generally.

CHAPTER 1-3
DUTIES AND COMPENSATION OF APPOINTIVE OFFICERS

1-3-1 DUTIES GENERALLY

The officers of the City of Java shall have the powers and perform the duties as specified and all other powers and duties as given or required by the laws of the State of South Dakota, ordinances of the City of Java, and such other powers and duties as the Board of Trustees may from time to time order, not inconsistent with the laws of the State.

Legislative History:
1990 Revisions.

Authority:
SDCL Ch. 9-14 generally.

1-3-2 COMPENSATION; DEFINITION OF

Compensation, under this chapter, means the same as reimbursement or repair or covering the costs of such specified items which would be included in repair.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-12-1 and Ch. 9-14 generally.

1-3-3 COMPENSATION; GENERAL APPLICATION

The City of Java may appropriate funds to pay the necessary expenses of its officers or employees in conducting such business or attending such meetings as the governing body shall determine necessary to carry out authorized municipal activities.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-12-2; See Also Ch. 9-14.

CHAPTER 1-4
FINANCIAL REGULATIONS

1-4-1 SALE OF PERSONAL PROPERTY

Whenever the City deems it in the best interests of the City that municipal personal property be sold, which said property has been abandoned or is about to be abandoned for public use, said property shall be sold to the highest bidder upon such terms as may be determined by the Board of Trustees.

Notice of sale shall be given by publication once a week for three successive weeks in the official newspaper of the City, which said notice shall contain a description of the personal property to be sold and the time and place where bids will be received by the Council for said sale; and the Council may at such time sell said personal property to the highest and best bidder therefor or may in its discretion reject all bids.

Legislative History:
1990 Revisions.

Authority:
SDCL Ch. 9-28.

1-4-2 CLAIMS AGAINST THE CITY

All claims against the City shall be in writing and upon forms provided by the City Finance Officer and in such form as required by statute of the State of South Dakota. Prior to passage or approval by the Council, claims shall bear the approval of the trustee or person in charge of the department for which such services or supplies are furnished.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-23-2.

1-4-3 FUNDS

The City Finance Officer shall keep full accounts of all financial affairs of the City and shall keep such accounts and furnish them in such form and in such manner from time to time as it is required by the Department of Legislative Audits of the State of South Dakota.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-22-1.

CHAPTER 1-5
CODE OF CONDUCT; FEDERAL GRANTS

1-5-1 APPLICATION

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

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-1-5.

1-5-2 REQUIREMENTS

No officer, employee, or agent of the City shall participate in the selection, award or administration of a contract supported by federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

A. The employee, officer or agent;
B. Any member of his or her immediate family;
C. His or her partner; or
D. An organization which employs, or is about to employ any of the above

has a financial or other interest in the firm selected for the award.

Officers, employees or agents of the City shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors or subcontractors.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-1-5.

1-5-3 REMEDIES

To the extent permitted by federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City officers, employees or agents or the contractors, potential contractors, or their agents.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-1-5.

CHAPTER 1-6
FINANCE

1-6-1 WARRANTS

All warrants upon the City Finance Officer that may have been issued and remain unpaid, or that may hereafter be issued, shall be paid in the order of their presentation.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-23-5.

1-6-2 WARRANT REGISTER

The City Finance Officer shall provide and keep a warrants register which shall show in columns the number, date and amount of each warrant presented, the name of the person presenting the warrant, the date notice for payment is made, the amount of interest and the total amount paid thereon.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-23-4; Warrant register, SDCL §§ 9-23-8, 9-23-9.

1-6-3 REGISTRATION OF WARRANTS

It shall be the duty of the City Finance Officer upon the presentation of any City warrant for payment, if there are no funds in the treasury to pay the same to enter such warrant in the warrant register. He shall endorse thereon the words "registered for payment", with the date of such registration, and shall sign such endorsement, and thereafter it shall draw interest at the legal rate as set by the Board of Trustees until paid.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-23-10 through 9-23-12.

1-6-4 NOTICE TO HOLDERS OF WARRANTS

It shall be the duty of the City Finance Officer, as soon as sufficient funds are received for the payment of the warrants, to pay the first in order on the warrant register and to notify by mail the holder of such warrant, or in case the holder is not known then the person that registered it, that the warrant will be paid upon presentation and interest thereon shall cease.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-23-19.

1-6-5 PENALTY FOR NEGLECT

If the City Finance Officer shall fail to register any warrant in the order of its presentation when presented as provided herein, or shall fail to notify the holder thereof as provided in §

1-6-2, he shall be liable on his official bond to each and every person, the payment of whose warrant is thereby delayed, in the sum of fifty dollars ($50.00) to be recovered in a civil action.

Legislative History:
1990 Revisions.

TITLE TWO
ANIMALS

Chapter 2-1	**Definitions**
Chapter 2-2	**Dogs**
Chapter 2-3	**Cats**
Chapter 2-4	**Livestock**

CHAPTER 2-1
DEFINITIONS

2-1-1 DEFINITIONS IN GENERAL

Words, when used in this chapter, unless the context otherwise plainly refers, shall have the meaning indicated:

At Large:	Means off or outside of the premises belonging to the owner or keeper of such dog and not under the control of such owner, possessor, or keeper, or the agent or servant or member of his immediate family, by means of a leash, cord or chain not to exceed ten (10) feet in length, provided that an unleashed dog off the owner's premises shall not be deemed at large if he is under the immediate control of the owner of his agent.
Dog:	Means any member of the canine family, both male and female.
Leash:	Means a cord, thong, or chain not more than ten (10) feet in length by which a dog is controlled by the person accompanying it.
Owner:	Means a person owning, keeping or harboring a dog; the occupant of any premises to which a dog customarily returns is presumed to be the owner.
Premises:	Means the dwelling house and outbuildings and the lot or tract of land on which the same are situated and shall include an automobile or other vehicle in which the owner of the dog shall be an occupant or of which he shall have control, or in which any dog shall be situated with the consent of the owner of the vehicle.
Qualified Person:	Means any person granted a permit by the governing body of the city to vaccinate animals against rabies.
Vaccination:	Means the injection by a veterinarian or other qualified person of vaccine approved by, and administered in accordance with, the provisions of this article and the resolutions of the governing body of the city.
Veterinarian:	Means any licensed practitioner of veterinary medicine licensed to practice such profession in the state.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-29-12; See Also SDCL § 2-14-4

CHAPTER 2-2
DOGS

2-2-1 LICENSING DOGS

There is hereby imposed upon each dog more than six (6) months old, kept within city limits, a yearly license fee in a sum to be determined by the Board of Trustees depending upon how many animals a particular individual owns. The amount shall increase with the number of dogs a person has in his possession. The purpose of this statute is to prevent the nuisance of multiple dog ownership. The fees shall be paid on or before May first of each year, and the third dog shall cost at lest twenty five dollars ($25.00).

Legislative History:
1990 Revisions.

Cross References:
The Java City Code. Title Thirteen, Chapter II. Section I

Authority:
SDCL § 9-29-12

Collateral References:
SDCL Chapter 40-34 generally
Constitutionality of dog laws, 49 ALR 847
Dogs as nuisance, 79 ALR 1060; 11 ALR3d 1399

Law Reviews:
The nuances of nuisance: Forty Cats are too many: Four, just enough; 5 SD LRev 86 (1960)

2-2-2 CONDITIONS FOR A DOG LICENSE

As a condition to the issuance of a dog license, the person making such application shall furnish a certificate from a licensed veterinarian that the dog sought to be licensed has been vaccinated for and made immune to rabies within the previous year.

Legislative History:
1990 Revisions.

Collateral References:
SDCL Chapter 40-34 generally

Authority:
SDCL § 9-29-12

Cross References:
The Java City Code, Title 13-2

2-2-3 RABIES VACCINATIONS IN GENERAL

On or before July 1 of each year, every owner shall have his dog or cat vaccinated against rabies, except that in all cases where an animal shall have been properly vaccinated with the type of vaccine known as the modified live virus of chick embryo origin or other type vaccination having a longer immunization period and approved by resolution of the governing body of the city, the vaccination required by this section need not be repeated during the time for which the dog is effectively immunized as determined by the veterinarian or other qualified person granting a permit under this title.

Legislative History:
1990 Revisions.

Cross References:
The Java City Code, Title 13-2

Authority:
SDCL §§ 9-34-1, 9-29-12, 9-29-3

Collateral References:
SDCL Chapter 40-34 generally

2-2-4 OUT OF STATE ANIMALS

Any owner who has had his dog vaccinated against rabies in another state or municipality by the proper authority therein shall not be required to have such dog re-vaccinated during the current year when brought into this municipality provided that the requirements of such state or municipality under which the vaccination was made were of a standard which is equal or greater than those required by this article, and further provided that such dog wears a tag affixed to his collar or harness bearing the date of such vaccination.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-12, 9-29-3, 9-34-1

Collateral References:
SDCL Chapter 40-34 generally

2-2-5 CERTIFICATES AND TAGS

A veterinarian or qualified person who vaccinates the dog, shall issue to the owner thereof a vaccination certificate. The vaccination certificate shall be prepared and issued in triplicate, one copy is to be retained by the issuing veterinarian or other qualified person. A second shall be given to the City Finance Office, the third may be kept by the dog's owner. Each certificate shall bear the name and address of the veterinarian or other qualified person who issued it and a statement containing the description and the kind and name of the dog immunized, the type of vaccine used, the date of the vaccination, the date on which the period of effective immunization will expire, and the serial number.

The veterinarian or qualified person shall also furnish each owner with a metal tag bearing the certificate number and the year of vaccination. Said tag shall be affixed by the owner of the dog to the collar or harness of the said dog for which the certificate was issued. No one except the owner or his duly authorized agent shall remove the collar with the attached tag from the dog.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-29-12, 9-34-1

Collateral References:
SDCL Chapter 40-34 generally

2-2-6 QUARANTINE

Whenever the governing body of the city or the health officer thereof, has reason to believe that there is danger that rabies may spread within the municipality, the board shall publish a notice requiring owners of dogs, and other specified animals in the area designated to confine the animals for such period as may be necessary to prevent the spread of rabies. The board of health, or health officer appointed by the governing body of the city or the governing body shall have the authority to quarantine for a period not to exceed ninety (90) days, any animal bitten by another animal known or suspected to have rabies, and to quarantine for a period not to exceed fifteen (15) days, any animal which has bitten a human being or which exhibits symptoms of rabies. Whenever a dog dies with rabies or is destroyed because of its having been suspected of being rabid, the owner thereof, whether the dog has been previously quarantined or not, shall at his own expense, send the head of such dog to a proper laboratory for examination. Any confinement imposed shall be by means of a chain, and not a rope of sufficient strength to hold such an animal. Under these circumstances, any animal not confined is hereby declared to be a nuisance.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-12, 9-29-13

2-2-7 BARKING OR HOWLING DOGS

Dogs which bark and/or howl excessively, whether during day light or night time hours, within city limits, are hereby declared a nuisance, and such a disturbance may be prevented after an appropriate resolution has been drafted by the Board of Trustees.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

Collateral References:
Dogs as nuisances, 79 ALR 1060; 11 ALR3d 1399.
Liability sustained when someone is frightened by a dog, 30 ALR4th 986.

Law Reviews:
The nuances of nuisance: Forth cats are too many, Four just enough, 5 SD LRev 86 (1960).

2-2-8 FEMALE DOGS IN HEAT

All female dogs kept within the city during periods of heat shall be confined to the premises of the owner, or if taken from such premises, shall be kept upon a leash.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

Collateral References:
Dogs as nuisances, 79 ALR 1060; 11 ALR3d 1399.

Law Reviews:
The nuances of nuisance: Forth cats are too many, Four just enough, 5 SD LRev 86 (1960).

2-2-9 DOGS RUNNING AT LARGE

It shall be unlawful for any person, firm or corporation to allow any dog, owned, controlled or harbored by said persons, firm or corporation, to run at large on the streets, alleys or property of any other person within the city limits of Java, South Dakota. Such a dog shall be declared a nuisance, and in abatement, may be destroyed. Any person having a dog within the city limits shall have it tied, leased, or otherwise controlled upon their property, the dog cannot run at large off the property. It shall be unlawful for any person to allow a dog off the premises without the animal being held in leash.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13; Compare SDCL § 40-34-4

Cross Reference:
The Java City Code § 14-2-10

Law Reviews:
The nuances of nuisance: Forty cats are too many; Four just enough; 5 SD LRev 86 (1960).

Opinions of the Attorney General:
Recovery of damages done by dogs, Report 1933-32, p. 326.

Collateral References:
Constitutionality of dog laws, 49 ALR 847.
Dogs as nuisance, 79 ALR 1060; 11 ALR2d 1399.
Dog owners liability for damages from a motor accident involving attempt to avoid a collision with a dog on the highway, 41 ALR3d 888.
Liability sustained when someone is frightened by a dog, 30 ALR4th 986.
Liability when dog bites a veterinarian or a veterinarian's employee, 4 ALR4th 349.
Trespasser, liability of owner of dog known by him to be vicious for injuries to, 64 ALR3d 1039.

Collateral References (continued)
Construction and application of ordinances relating to unrestrained dogs, cats or other domestic animals, 1 ALR4th 994.

2-2-10 LEASH: DEFINITION OF

A leash according to this title is a chain not more than ten (10) feet in length, of sufficient strength to control the dog. A dog in an automobile is considered on the owner's property.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-13, 2-14-4

Cross Reference:
The Java City Code § 14-2-9

2-2-11 VICIOUS DOGS: DEFINITION OF; CONFINEMENT AND GENERAL RULE

Any dog who has bitten a person or who has the propensity to attack or bite human beings is hereby defined to be fierce, dangerous and vicious. No dog with the above mentioned propensities shall be allowed to run at large upon the premises of any person other than the owner. If such an animal is found to be running at large, it shall be impounded, and shall not be released except upon the approval of the chief of police, after the payment of fees set forth to cover the costs of impounding.

Any dog with the above mentioned propensities, which cannot be impounded safety may be immediately destroyed by any police officer acting in the like of duty.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3, 9-29-12, 9-29-13

Collateral References:
Liability sustained when someone is frightened by a dog, 30 ALR4th 986.
Liability when dog bites a veterinarian or a veterinarian's employee, 4 ALR4th 349.
Trespasser, liability of owner of dog known by him to be vicious for injuries to, 64 ALR3d 1039.
Construction and application of ordinances, relating to unrestrained dogs, cats or other domestic animals, 1 ALR4th 994.
Damages for killing or injuring dog, measure elements and amount of, 1 ALR3d 997 1022.
Destruction of dogs, validity of statute providing for, 56 ALR2d 1024.
Domestic animal or fowl, liability for killing dog to protect, 10 ALR 689.
Trespassing dog, landowner's civil liability for killing or injuring, 15 ALR2d 378.
Trespassing dog, owner's presence as affecting liability for killing, 42 ALR 437.

2-2-12 IMPOUNDMENT: GENERAL RULES AND DISPOSITION

A. Any dog found in the city in violation of any of the provisions of this Article shall be impounded by any police officer of the city or by any person appointed by the governing body of the city as its agent and employee for that purpose, and placed in the city animal pound or other suitable place provided by the city for that purpose. The Chief of Police or any officer of the Police Department or the animal control officer appointed by the governing body shall, within twenty-four (24) hours following the impounding of such dogs, notify the owner of the animals having been

impounded and of its confinement in the custody of the city. If the owner of the animal is unknown, such police officer shall post written notice in the City Finance Office, describing the animal and stating a time and place where the animal was apprehended, and how the same may be recovered by the owner.

B. Unless the dog is recovered and all charges paid for its upkeep by the owner or person having charge thereof, and unless such dog is registered and licensed as provided by this Code, it shall be sold or destroyed in the most humane manner possible after the expiration of four (4) days from the time when notice is posted stating that the dog was apprehended and impounded; Provided, however, that any dog which has been diagnosed by a licensed veterinarian to be suffering from rabies or any dangerous contagious disease, such animal shall be immediately destroyed.

C. The Chief of Police or any animal control officer appointed by the governing body shall collect a sum to be determined by the Board of Trustees for each dog impounded and the additional sum per day, for keeping any dog which has been apprehended or impounded, and such officer shall not release any dog until such charges have been paid, and until said dog has been duly registered and licensed, if need be, as provided by this title.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-12, 9-29-3

Cross References:
The Java City Code §§ 14-2-11, 14-2-13

State Law References:
SDCL §§ 40-1-6, 40-1-7

Collateral References:
Damages for killing or injuring dog, measure elements and amount of, 1 ALR3d 997, 1022.
Destruction of dogs, validity of statute providing for, 56 ALR2d 1024.
Domestic animal or fowl liability for killing dog to protect, 10 ALR 689.
Trespassing dog, landowner's civil liability for killing or injuring, 15 ALR2d 378.
Trespassing dog, owner's presence as affecting liability for killing, 42 ALR 437.

2-2-13 RIGHT OF ENTRY IN PURSUANT

When in immediate pursuit of any dog found to be at large in the city, a city police officer or other person designated by the governing body to apprehend offending dogs, may enter upon the premises of the owner of such offending dog for the purpose of apprehending such dog, provided that, for purposes of this section, the word premises shall not be construed to include the inside of any dwelling or any other building.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-29-12

Cross References:
The Java City Code § 14-2-12
Trespasser, liability of owner of dog known by him to be vicious for injuries to, 64 ALR3d 1039.
Construction and application of ordinances relating to unrestrained dogs, cats or other domestic animals, 1 ALR4th 994.

2-2-14 ENFORCING OFFICER OR CITY AGENT DEFINED

Any animal control officer appointed by the Chief of Police shall be defined as an agent of the city, or as an enforcing officer, both of which shall have power under this title. The Chief of Police may choose himself when filling this post.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-29-3, 9-29-12, 9-29-13, 2-14-4

CHAPTER 2-3
CATS

2-3-1 AUTHORITY TO CATCH AND IMPOUND

The city police officer or an animal control officer of the city is hereby authorized, upon complaint of a resident of said city, to catch upon the property of the complainant, such cats as may be causing a nuisance thereon and impound such cats in a suitable place for the care of the animal.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-12

Cross Reference:
The Java City Code § 13-2-2

2-3-2 IMPOUNDMENT, NOTICE AND DISPOSAL AUTHORITY FOR IDENTIFIED CATS

Upon impoundment of a cat without identification, the animal control officer shall, within twenty-four hours of such impoundment, notify the owner of the cat's impoundment, how the cat may be recovered, and that it must be picked up within four (4) days or the cat will be sold or destroyed in the most humane way possible.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-12

Cross Reference:
The Java City Code § 13-2-2

Collateral References:
Cat, liability for injuring or killing dog to protect, 73 ALR2d 1039.

2-3-3 IMPOUNDMENT NOTICE AND DISPOSAL AUTHORITY FOR UNCLAIMED CATS

Upon impoundment of a cat without identification, the animal control officer shall post a written notice at the City Finance Office in the city, describing the cat and stating the approximate time and place where such cat was apprehended, and how the same may be recovered by the owner. Unless recovered by the owner, said cat may be sold or destroyed in the most humane manner possible after the expiration of four (4) days from the time when notice of apprehension and impoundment was given or posted.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-12

Cross Reference:
The Java City Code § 13-2-2

2-3-4 CONTROL OF DISEASED CATS

Any cat which has been diagnosed by a licensed veterinarian to be suffering from rabies or a dangerous contagious disease shall not be released, but may be destroyed forthwith or otherwise held or disposed of according to the recommendation of the veterinarian.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-1

2-3-5 RELEASING SHELTERED ANIMALS

No person shall unlawfully release, or assist in releasing, any dog, cat or other animal from the city impoundment facility. A violation hereof shall be punishable by a maximum fine of one hundred dollars ($100.00).

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

CHAPTER 2-4
LIVESTOCK

2-4-1 LIVESTOCK DEFINED

The term "livestock" shall mean any animal which is raised for normal agricultural purpose. The term does not include rabbits, but does include, although not exclusively, hogs, cattle, sheep, horses, chickens, etc.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 40-28 generally; See Also § 2-14-4

2-4-2 LIVESTOCK EXCLUDED FROM CITY LIMITS

No person shall be permitted to keep livestock of any kind within city limits except temporarily or in connection with the buying or selling of the same.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 40-28 generally

2-4-3 LIVESTOCK PREMISES

Under the exception which is laid out in § 14-4-2 above, if a person does keep livestock within city limits, he or she shall maintain the premises in a healthful manner, keeping the area sanitary by controlling noxious odors, files and other pests therein.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-1 and Chapter 40-28 generally

Collateral References:
Running at large defined, See SDCL § 40-28-3
Legal fence, See SDCL Chapter 43-23, 43-24.

2-4-4 LIVESTOCK CONFINEMENT

Anyone having livestock under the Java City Code § 14-4-2 exception must keep the same from running at large.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-32-1, 9-29-12, 9-29-3 and Chapter 40-28 generally

Collateral References:
Running at large defined, See SDCL § 40-28-3.
Legal fence, See SDCL Chapter 43-23, 43-24.
Castration of animals running at large, See SDCL § 40-28-2.
Liability for personal injury or death caused by trespassing or intruding livestock, 88 ALR2d 709.
Liability of owner for damages from escape of animals, 23 ALR 265.
Liability as a result of a motor vehicle collision with a domestic animal at large, 29 ALR4th 431.
What constitutes willful trespass by stock on land not enclosed by legal fence, 158 ALR 375.

Case Law:
Till v. Bennett, 281 NW2d 276 (1979) (This was decided prior to the 1978 amendment, see SDCL § 40-28-4); Strict liability for trespassing livestock, no contributory negligence.
Hall V. Umiker, 87 SD 362, 209 NW2d 361 (1973); Measure of damages strict liability
Moore v. Persson, 21 SD 290, 111 NW 633 (1907); In animal trespassing, plaintiff need not prove his lands were enclosed by a lawful fence.

TITLE THREE
AUDITORIUM AND MUNICIPAL LIQUOR STORE,

Chapter 3-1 **City Auditorium**
Chapter 3-2 **Municipal Liquor Store**

CHAPTER 3-1
CITY AUDITORIUM

3-1-1 CITY AUDITORIUM IN GENERAL

The city auditorium shall be under the direct charge of the Chief of Police subject to the control and direction by the Board of Trustees; it may be used for all public purposes including patriotic meetings, funerals when desired and meetings of community organizations and farmers not for profit without charge. It may be used by the school authorities for basketball and otherwise upon such terms as may be agreed upon by the Board of Trustees and the Board of Education but a reasonable charge shall be made to all persons desiring to use the same for dances and all other purposes for profit and for such purposes the City Auditor is hereby designated as booking agent.

Legislative History:
1990 Revisions.

Authority:
SDCL § 42-1-1

CHAPTER 3-2
MUNICIPAL LIQUOR STORE

3-2-1 MUNICIPAL LIQUOR STORE IN GENERAL

The municipal liquor store shall be operated by a manager to be appointed by the mayor with the approval of the Board of Trustees at such compensation as may be fixed by the Board of Trustees.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 35-3 generally

Collateral References:
Intoxicating liquors; 45 Am Jur 2d, §§ 79-113.
Intoxicating liquors; 48 CJS, §§ 58-98.

3-2-2 BOND AND MANAGER

The manager of the municipal liquor store shall furnish a bond in the sum of one thousand dollars conditioned for the faithful and prompt discharge of all duties in connection with the operation of said municipal liquor store.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 35-3 generally

Opinions of the Attorney General
City ordinance specifying closing time for liquor stores, validity of, Report 1937-38, p. 344.
Club license not subject to municipal control as to closing hours, Report 1951-52, p. 229.
Municipality has jurisdiction to prohibit Sunday liquor sales by licenses within one mile of city limits although licensees not licensed by city, Report 1951-52, p. 230.
Municipality's authority to regulate alcoholic beverage licenses hours, Report 1963-64, p. 84; 1967-68, p. 424.

Package dealer licenses cannot be required to close place of business on Sunday, Report 1949-50, p. 94.
Municipality may prohibit Sunday sale of low point beer within one mile of territorial limits of such municipality, Opinion No. 81-43.

3-2-3 HOURS OF OPERATION

The municipal liquor store shall be open from 10:00 am until 12:00 pm. However, an option is granted for the store to stay open until 2:00 pm for sale of malt beverages only, on Sunday's the hours shall be from 1:00 pm to 10:00 pm only.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 35-3 generally

3-2-4 ORDERING LIQUOR

It shall be the duty of the manager of the municipal liquor store to order liquor from time to time to the end that the stock on hand may be kept as nearly uniform as possible and he shall, at the time or ordering liquors provide that copies of the invoice be prepared in duplicate and one copy mailed to him as manager of the liquor store and one certified copy mailed to the City Auditor.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 35-3 generally

Case Law:
Snow Land Incorporated v. City of Brookings, 282 NW2d 607 (1979); Municipality has authority pursuant to § 9-29-7 of the SDCL to enact an ordinance prohibiting the sale of low point beer on Sunday's - such an ordinance does not conflict with SDCL § 35-3-7.

3-2-5 REPORTS TO THE CITY

It shall be the duty of the manager of the municipal liquor store to make reports to the city Board of Trustees to be filed with the City Auditor on the first day of each calendar month showing value of liquor on hand at wholesale prices at the beginning of the preceding month, the amount purchased at wholesale prices during the preceding month, and the mounts on hand at the end of the preceding month at wholesale prices which report shall also show the value of all liquors sold during the preceding month at the wholesale prices and the amount received therefor at retail.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 35-3 generally

Collateral References:
Municipal police power over alcoholic beverages trade, See SDCL § 9-29-7.
Municipal restrictions on number of retail licenses, SDCL § 35-4-11.

TITLE FOUR
BOARD OF HEALTH, HEALTH REGULATIONS AND NUISANCES

Chapter 4-1	**Board of Health and Health Department**
Chapter 4-2	**Nuisances Dangerous to Health**
Chapter 4-3	**Food**

CHAPTER 4-1
BOARD OF HEALTH AND HEALTH DEPARTMENT

4-1-1 BOARD OF HEALTH DEFINED

The mayor , City Auditor and a reputable physician to be appointed by the mayor and confirmed by the common Board of Trustees shall constitute the Board of Health of the City of Java; the mayor shall be the President, the City Auditor shall be the Clerk and the physician, so appointed, shall be the Superintendent of the City Board of Health; the President and Clerk of the Board shall serve without additional compensation and the Superintendent shall receive for his services, the usual charge of like services performed by the Superintendent of the County Board of Health.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-2

4-1-2 AUTHORITY

The City Board of Health shall have power to establish such sanitary regulations as will, in their judgement, prevent the spread of disease; to establish pest houses or temporary hospitals and to provide for the removal of persons afflicted with contagious or infectious diseases to such pest houses or temporary hospitals.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-2

Opinions of the Attorney General:
Compensation of health officers,
Report 1919-20, p. 251.

4-1-3 BOARD OF HEALTH REGULATIONS

It shall be the duty of the City Board of Health to keep a record to be known as Board of Health regulations and it shall be the duty of the Clerk of the Board to record in said book, all sanitary regulations of a permanent character.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-2

4-1-4 DUTY TO REPORT DISEASE

It shall be the duty of every physician, hotel keeper, keeper of any boarding or rooming house, restaurant or public resort within the City of Java, to report to the Superintendent of the City Board of Health each and every case of contagious or infectious diseases coming to their knowledge or attention.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

4-1-5 CARE OF INDIVIDUALS

Whenever it shall come to the knowledge of the City Board of Health or any member thereof, from report or otherwise, that any person is afflicted with any contagious or infectious disease at any of the places mentioned in the preceding section, or elsewhere within the City of Java, it shall be the duty of said Board to ascertain whether such person so afflicted can, with safety, be removed to the pest house or temporary hospital, and if, in the judgement of said Board, it shall not be deemed property to remove such person, it shall be the duty of the Superintendent of said board to post an appropriate sign or notice at the entrance of the room or house in which such patient shall be.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

4-1-6 NOTICE TO PUBLIC

It shall be the duty of the head of any family in the City of Java, whenever it shall come to his notice, that any member of his family or any person lodging within his dwelling is afflicted with any contagious or infectious disease, to immediately procure and post an appropriate sign or notice of such fact.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

4-1-7 QUARANTINE REGULATIONS

It shall be the duty of the Superintendent of the City Board of Health to impose quarantine regulations whenever the same are authorized or justified under the rules and regulations of the State Board of Health.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

4-1-8 REMOVAL OF NOTICE SIGNS

It shall be unlawful for any person to remove any sign or notice provided for herein, except upon the order or under the direction of the Superintendent of the City Board of Health.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

4-1-9 INTERFERENCE WITH BOARD OF HEALTH

It shall be unlawful for any person to interfere with the City Board of Health or any member thereof, or any person acting under their direction while in the discharge of any duties devolving upon them under this chapter.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

4-1-10 EXPENSE

All lawful and necessary expenses under the provisions of this chapter shall be a charge against the general fund of the city and shall be audited and paid as other bills.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

4-1-11 QUARANTINE VIOLATIONS

Any person having been quarantined by the board of Health who has violated the quarantine by showing himself in public, upon the streets or other public places, or has violated such quarantine by leaving the place wherein he was directed to keep himself by the Board, shall be deemed guilty of a misdemeanor.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

Opinions of the Attorney General:
Private hospitals; tax funds unauthorized, Report 1931-32, p. 526.

4-1-12 PENALTY

Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not to exceed $100.00.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

CHAPTER 4-2
NUISANCES DANGEROUS TO HEALTH

4-2-1 PROHIBITED ACTS

The commission of each and every one of the acts prohibited in this title, is hereby declared to be a public nuisance:

A. Privies and Cess Pools: No person shall erect or maintain any privy or cess pool within twenty (20) feet of any street or dwelling within the corporate limits of the City of Java nor maintain within said city limits, any privy or cess pool that emits any foul or offensive odor.

B. Manure: No person shall between the first day of April and the first day of November of any year, deposit or permit to be deposited or thrown in or upon any alley or lot within said city, any manure which shall be permitted to remain so deposited for a period exceeding twenty (20) days, at any one time and each and every such deposit shall be removed entirely once in every twenty (2) days during said time.

C. Hogs and Other Livestock: No person owning, keeping or having in possession or control, any hogs, sheep, cows, poultry, horses or other animals at any place within the corporate limits of said city limits shall permit or suffer the premises around or the place in which such animal or animals are kept to be or remain offensive nor shall any person keep any such animal or animals within fifty feet of any dwelling house, and no person shall keep any hogs within two hundred (200) feet of any dwelling house except that of the owner of any such hogs within the limits of the City of Java.

D. Rat Control: No person shall permit his premises or property to get into a condition whereby it becomes a natural harbor or inducement for rats or other rodents. When such condition is found to exist, such person shall be notified and given a reasonable time to abate such condition and in the event he shall refuse or fail to do so, that the same may be abated by the City at the expense of such person.

E. Offensive Substances in Public Places: No person shall throw, drop or deposit or leave any dead carcass or portion thereof of any chicken, or animal or other offensive or unwholesome substance upon any public street, alley or other public ground of the City of Java.

F. Removal of Dead Chickens, Animals Etc.: No occupant of any building or lot in said City of Java shall permit any dead chickens, animals or other offensive or unwholesome substances whatever to remain in such building or upon such lot for a period exceeding twenty-four (24) hours nor shall any person permit any such dead chickens, animals or other unwholesome substances to remain in or upon any lot or tenement, or between the same and the center of the street or alley adjoining.

G. Swill and House Offal: All keepers of hotels, restaurants and others accumulating garbage are hereby required to keep and maintain a proper covered receptacle for such garbage and to cause the contents thereof to be regularly removed at least twice each week between the first day of April and the first day of November of each year.

H. No owner of any premises within the corporate limits of the city shall knowingly permit any of his premises therein to go unkept to the extent that unhealthy growths of weeds or other herbage shall develop there, or that stagnant water should develop into a breeding habitat for mosquitoes.

I. Should an owner of premises within the city permit such unhealthy and unsightly nuisances to develop thereon, either the Board of Health, Board of Trustees or the mayor may, after giving the owner of such premises due notice of his obligation to

keep such premises in a clean and healthy condition and allowing him a reasonable time to remedy the condition, cause city employees to enter upon such premises and, at the expense of the owner, correct the same.

J. No person living within the corporate limits of the City shall permit any outdoor toilet facilities or outhouses of that nature, to remain on his premises.

K. It shall be unlawful for any person to permit any offal, garbage or other such offensive matter to be deposited or to accumulate to unhealthy proportions upon any of his premises within the corporate limit of the city.

L. The occupants of every dwelling house or apartment shall provide a suitable and sanitary receptacle in which such occupants shall cause to be deposited all garbage accumulating upon the premises. The immediate vicinity of such garbage cans shall be kept free of garbage and other matter which may become putrid and attract flies.

M. No person shall throw or deposit any ashes, offal, dirt, garbage, junk or other such offensive matter into the streets, alleys, avenues or public grounds within the city.

N. No person shall throw or deposit any feathers, offal, dirt, garbage or other substance which might tend to clog or obstruct the sewage, into any sewage, pipe, drain or manhole in the city.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

Opinions of the Attorney General:
Sewers, cesspools or privies as nuisances, Report 1947-48, p. 88.

4-2-2 POLICE INSPECTIONS: NOTICE TO ABATE NUISANCES

It is hereby made the duty of the Chief of Police of the City of Java, either on personal knowledge or upon receipt of notice of the existence of any nuisance within the city mentioned in the preceding title, to forthwith give notice in writing to the person or persons keeping, maintaining or permitting such nuisances or to the person or persons owning, occupying or having control or possession of the premises where such nuisance is kept, maintained or permitted, to at once abate the same, and if such nuisance is not abated within twenty-four (24) hours after the service of such notice, it shall be the duty of said officer to forthwith abate and remove the same at the expense of the city and for the expenses so incurred, the city may recover either by special tax assessment against any property owned by any such person, the same to be collected at the time and in the manner as provided for collection of other taxes or such expenses may be recovered by a civil action for that purpose.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

4-2-3 ANIMALS MAY BE IMPOUNDED

Whenever the Chief of Police of said city shall find it necessary to remove from any place any hogs, cattle, mules, horses or other animals in the performance of his duties under this title, he may impound the same as in the case of impounded animals and the owner or person in charge shall not be entitled to the possession thereof until he shall pay to the said Chief of Police as costs, expenses, and charges for taking and caring for said animals, together with the fees allowed in case of impounded animals.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-12

4-2-4 ABATEMENT WITHOUT NOTICE IN CERTAIN CASES

Whenever any of the premises, lots, lands, buildings or places mentioned or referred to in this title shall be unoccupied and the owner thereof is a non-resident of the City of Java or can not, after due diligence be found the said Chief of Police may proceed as in the preceding section provided without giving the notice required under this chapter and recovery of expenses and costs therefor may be had as in other cases of nuisances.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

Opinions of the Attorney General:
County property as nuisance, Report 1967-68, p.220.
Land held by county under tax deed, nuisance abatement, Report 1967-68, p.260.

CHAPTER 4-3
FOOD

4-3-1 INSPECTION OF FOOD

The City Board of Health, either by its Superintendent or other duly authorized representative, shall have the right to inspect all articles of food offered or intended for sale by stores, bakeries, meat markets, dealers in milk and cream, vegetables and other food or foods relative to the condition of such foods and the place or places where the same are kept.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-3

Collateral Reference:
127 ALR 322.

4-3-2 PERSONS HANDLING FOOD

No person who is effected with any communicable disease in transmittable stage shall be employed as a handler of food in any restaurant, hotel, lunch counter, ice cream parlor, tea room, soda fountain, or other place where food or drink is served or in any dairy, milk or cream station in the City of Java.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-4

4-3-3 CLEANING OF EATING AND DRINKING UTENSILS

It shall be the duty of the owner, proprietor or person in charge of any restaurant, hotel, tea room, lunch counter, ice cream parlor, soda fountain or any other place where food or drink is sold or served, to thoroughly cleanse all dishes, cups, drinking glasses and eating utensils immediately after being used by washing them in a strong solution of washing soda or soap in hot water and rinsing in clear hot water or by thorough sterilization by some other equally effective method approved by the Board of Health.

Nothing in this section shall prohibit the use of paper cups, dishes, or other single service containers provided that they be used once only and immediately destroyed.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally

4-3-4 PROTECTION OF FOOD AGAINST CONTAMINATION

Every person, firm or corporation engaged in the sale of any of the food stuffs enumerated in this title shall cause the same to be properly protected by screens, refrigeration or otherwise against contamination by flies, streets dust or any other agency.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-4

4-3-5 DISPOSAL OF FOOD UNFIT FOR HUMAN USE

Whenever any articles intended as food or drink for human use is found being offered or exposed for sale or in possession of any dealer with intent to sell, which is unfit for human use the Department of Health and its Superintendent or other authorized agent, shall order its removal and disposal. In case the owner or person in charge shall fail to immediately observe said order, the health department shall proceed to enforce it at the expense of the owner or person in charge.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-4

TITLE FIVE
DEFINITIONS

CHAPTER 5-1
WORDS DEFINED

5-1-1 DEFINITIONS IN GENERAL

As used in this Code, the following words or phrases shall be construed as follows:

City or Municipality: That political subdivision of the state of South Dakota known as the City of Java, a municipal corporation.

Code: The 1990 Municipal Code of the City of Java.

Council or Governing Body: The Board of Trustees of the City of Java.

Curb: The term "curb" shall apply to the curb on such streets as are fitted with curbs and on such streets as are not fitted, it shall be construed to mean the outside edge of the parking as defined by ordinances.

Food: The word "food" also includes the term(s) milk and dairy.

Gender: Words used in the masculine gender include the feminine and neutral genders.

May: A permissive term allowing the actor discretion as to whether or not he will undertake to either perform or refrain from doing an act.

Number: Words used in the singular number include the plural and the plural of the singular except where a contrary intention plainly appears.

Ordinance: This 1990 Municipal Code, Ordinance No. One in revision of the Ordinances of the City of Java.

Person: Any natural person or persons, non-profit or for-profit business, venture, firm, corporation, or any other legal entity.

Police: Any law enforcement official required by law to enforce state statutes and local ordinances.

Right and Left Side of Street: The right hand and the left hand side of a street as used in this ordinance shall mean the side of the street at the left hand side or the right hand side of the street of the driver of the vehicle, when seated in the proper position to drive, use or operate the vehicle.

SDCL: The South Dakota Codified Laws (SDCL).

Section: A particular part of this 1990 Municipal Code.

Shall: A mandatory term requiring any act to be performed or to refrain from performing an act.

State: The state of South Dakota.

Street: The word "street" shall also be construed to include the word(s) alley, avenue and thorough fares whenever it is used in the general sense.

Vehicle: The term "vehicle" shall apply to any conveyance, cycle or motorcycle, except road rollers, fire wagons and engines, police patrol wagons and ambulances, intended for use on the streets and thoroughfares and shall include equestrians and led and driven horses.

Legislative History:
1990 Revisions.

Cross-Reference:
("Person") § 5-3-2(1), ("Municipality") § 3-2-3 Municipal Code

TITLE SIX
FIRE, FIREWORKS, FIREARMS AND BUILDING REGULATIONS

Chapter 6-1	**Fire Department and Regulations**
Chapter 6-2	**Fire Limits**
Chapter 6-3	**Fireworks and Firearms**
Chapter 6-4	**The County Fire Protection District**

CHAPTER 6-1
FIRE DEPARTMENT AND REGULATIONS

6-1-1 VOLUNTEER FIRE DEPARTMENT ESTABLISHED

There is hereby established a volunteer fire department for the City of Java to be composed of not less than fifteen (15) members, including officers.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-33-13

Opinions of the Attorney General:
Mayor of city may also be a member, Opinion No. 73-38.
Tax levy for support, Report 1937-38, p. 428.

Cross References:
SDCL Chapter 34-31, §§ 10-44-15, 3-6-17

6-1-2 RULES AND REGULATIONS

Said fire department shall have power to formulate and adopt by-laws for its government not inconsistent with the provisions of this chapter and may amend the same or add to the same at will under such rules and procedures as it shall in such by laws provide.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-23 generally

Opinions of the Attorney General:
Mayor of city may also be a member, Opinion No. 73-38.
Tax levy for support, Report 1937-38, p. 428.

6-1-3 OFFICERS AND THEIR TERMS

The officers of the said Fire Department shall be the Chief, Assistant Chief, Secretary and a Treasurer who shall be elected or appointed as hereinafter provided, on the second Monday in May of each year and shall assume office at such meeting.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-4 VACANCIES

A vacancy in any elective office shall be filled for the unexpired portion of the term at a special election of the department called for that purpose by the Chief or Assistant Chief, notice of which special election shall be given in the same manner as notices of other meetings of the department.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-5 REMOVAL OF OFFICERS

The Board of Trustees may at any time that they shall deem it for the best interests of the city, by a majority vote, remove any elected officer of the department but any such removal vote shall be taken only after a hearing before the Board of Trustees upon written charges signed by at least ten (10) legal freeholder voters of the city at which the accused shall have the right to appear and show cause why he should not be removed and any such hearing may be adjourned or continued from day to day until its decision is made without need of any further notice to anyone.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-6 CHARGES MUST SPECIFY REMOVAL CAUSE: NOTICE OF HEARING

Said charges must specify the exact cause for which the removal is sought and shall be filed with the city auditor whose duty it shall be to present the same to the Board of Trustees at its next regular meeting after the same is filed, at which time the Board of Trustees shall fix a time and place of said hearing. A copy of the charges and a notice of the time and place of said hearing shall be provided by the city auditor and personally served upon the officer against whom the charges are made not less than three (3) nor more than twelve (12) days before the day set for said hearing.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-7 DUTIES OF CHIEF - EXPENDITURES

It shall be the duty of the Chief to exercise, supervision and command over the department. He shall have general charge of the property of the city used by the department and shall see that the same is kept in repair and ready for use. He shall order such repairs for the equipment and apparatus as may be necessary and shall not incur any expense without the consent of the Board of Trustees entered upon its minutes. He shall attend all fires which may occur in the city and all orders given him at any fire to any member of the department shall be promptly obeyed. He shall also see that the provisions of this title are strictly enforced. The Chief shall make annual reports to the Board of Trustees, in the months of January and July in which he shall give an inventory of the property of the city used and devoted to the department, the condition of the same and shall recommend such alterations, changes or additions as he may think best. He shall certify all bills presented to the Board of Trustees for expenses on his order.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

Opinions of the Attorney General:
Chief of fire department as interested person in sale of fire equipment, Report 1931-32, p. 523.

6-1-8 DUTIES OF CHIEF

The Fire Chief shall in all cases of fire, have charge of all the members of the Fire Department and of all persons present at the fire, and shall take the proper means of extinguishing the fire protecting the property endangered as a result of fire. It shall also be the Fire Chief's duty to help secure the observance of all City ordinances and regulations respecting fires. After the fire trucks have been withdrawn from the fire, he shall see that all precautions reasonable necessary to keep the fire from flaring up again, are taken.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-33 generally*

6-1-9 CONTROL BY THE BOARD OF TRUSTEES

The Fire Chief shall, at all times, be subject to the control and direction of the Board of Trustees in matters pertaining to the Fire Department.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-33 generally*

6-1-10 DUTIES OF ASSISTANT CHIEF

The Assistant Fire Chief shall in the absence of the Chief, or his inability to act, assume the duties of the Chief.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-33 generally*

6-1-11 QUORUM - ELECTIONS

A majority of the members of the department shall constitute a quorum for the transaction of the business at all annual and special meetings. The officers of the department shall be elected by ballot. A majority vote only of those present shall be necessary to accomplish an election.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-33 generally*

6-1-12 FIRE HAZARD PROGRAM

It shall be the duty of the Fire Chief, along with the Board of Trustees, and the other fire department members, to promote a yearly program to eliminate any fire hazards within the City, and the Fire Chief himself may notify the owner or occupant of any building which he deems unsafe and a fire hazard, of such condition and order him to repair the same or remove it from the City within one week from the time of receiving the notice, and if the owner or occupant shall refuse to comply with said notice, then the Fire Chief shall report

the same to the Board of Trustees, and if the said order be approved by the Board of Trustees, he shall proceed to carry out the same to be done and the expense thereof shall be paid by the person or persons so failing to comply.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-13 CARE OF EQUIPMENT

It shall be the duty of all members of the City Fire Department to keep the Fire Department equipment in a serviceable, clean condition and to go with due haste to all fires and remain there until dismissed by order of the Fire Chief.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-14 INCREASE AND DECREASE OF MEMBERS

The Board of Trustees may, at will, increase or decrease the membership of the department by resolution. The secretary of the department shall file a list of the members with the City Auditor and in the event of changes in the membership of the department, a corrected list of members shall be filed with the City Auditor.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-15 DUTIES OF THE SECRETARY

It shall be the duty of the Secretary to keep an accurate record and minutes of all transactions of the department. He shall keep in a book known as the "Book of Membership", a list of all the members of the department showing their names, date of birth, and date they became members. He shall attend all regular and special meetings of the department and shall be its clerical officer. He shall draw all orders on the Treasury of the department, countersign the same and submit the same to the Chief or Assistant as necessity may require, for signature and he shall draw no order on the Treasury of the department until the same has been authorized by the department, entered upon the records and he shall, at each annual meeting of the department, render a statement of all orders drawn by him upon the Treasury of the department.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-16 DUTIES OF THE TREASURER

It shall be the duty of the Treasurer of the department to receive and safely keep all the moneys of the department. He shall, at each annual meeting, present to the department, an itemized statement of all receipts and expenditures to be approved by the department and such approvals shall be noted in appropriate language upon said reports.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-17 COMPENSATION OF MEMBERS

The members of the department shall receive no compensation from the city for services rendered except such as the city may voluntarily provide for paying.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-18 AGE OF MEMBERS

No person shall be a member of the department who shall not have attained the age of eighteen (18) years and when any member of the department reaches the age of fifty (50) years, he shall be automatically removed from the service and the secretary shall write after his name on the lists of membership "Honorably retired on account of age".

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-19 FIRE APPARATUS

No fire apparatus of the city shall be taken out of the city limits except upon the order of the Chief and none of the equipment of the department shall be applied to private use.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-20 MAINTENANCE

There shall be paid by the city of the Treasurer of the fire department in annual payments, such sums as the Board of Trustees may, from quarter to quarter, determine for keeping the apparatus in repair. There shall also be paid to the Treasurer of the fire department annually upon receipt of same, the premium tax received from the State Auditor on insurance premiums written by non-resident companies and by companies organized in this state as provided by the South Dakota Codified Law, the said premium tax to be used for maintenance and repairs of the hose, apparatus, etc., and for such other expenses as may be determined by the department.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter § 9-33-11

6-1-21 WILLFUL INJURY TO FIRE APPARATUS, FIRE HYDRANTS

Any person who shall willfully, maliciously or negligently break, deface or destroy or in any manner injure any fire apparatus belonging to the city or who shall, in any way, injure or interfere with any of the public hydrants of the city or any structure used by the department or who shall in any manner, obstruct or incumber any public hydrant of the city, shall be guilty of a misdemeanor and shall be punished by a fine of not more than twenty-five ($25.00) dollars or by imprisonment in the county jail not more than te (10) days or both such fine and imprisonment.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally, § 22-11-6

6-1-22 REMOVAL OF PROPERTY OF DEPARTMENT

Any person who shall take, use or carry away for private use or otherwise, any of the apparatus, appliances or equipment under the control of the City Fire Department without the consent of the Fire Chief, shall be guilty of a misdemeanor and upon conviction, shall be punished as provided in the preceding section.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally, § 22-11-6

6-1-23 HAZARDS OF MEMBERS

Each member by joining the department, voluntarily assumes the hazards of injury or accident in the service with no liability therefore on the part of the City.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

Opinion of the Attorney General:
Workman's comp act, city liability, Report 1919-20, p. 663.
Use of fire truck outside of city limits, Report 1931-32, p. 527.

6-1-24 MEETINGS

In addition to the annual meetings, the department shall hold such regular and special meetings for the transaction of business as it may deem necessary and as may be provided for in its by-laws. It shall be in entire control of its own membership and may remove or discharge any member except such officers as are herein provided for under such conditions and for such cause, and by such procedure as it may provide in its by-laws and shall have power to fix membership fees and fines, and provide for the collection thereof.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-25 GAMBLING

All species of gambling is strictly prohibited in any building used as an engine or hosehouse and no spirituous liquors shall be drank therein.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-5

Cross References:
SDCL Chapter 22-25

6-1-26 OBSTRUCTING FIRE FIGHTERS ON DUTY

It shall be unlawful for any person to willfully offer any hindrance to any officer or fireman in the performance of his duty at a fire, or injure willfully, any fire engine or fire fighting

apparatus while going to or at a fire, or to remove any part of said apparatus, or shall give any false alarms, or shall willingly drive any vehicle over any hose or other fire equipment command of the Fire Chief relating to the righting of any fire.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally; § 22-11-6

6-1-27 FORCE OF DEPARTMENT RULES

All rules and regulations concerning the Fire Department, when adopted by the Board of Trustees, shall have the same force and effect as ordinances.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-1-28 POWERS DURING FIRE

The Fire Chief and Assistant Fire Chief shall, at and during the time of all fires, have the powers of the Chief of Police and any person who shall resist any such officer in the lawful discharge of his duty at such time, shall be subject to like penalty as for resisting a peace officer.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

CHAPTER 6-2
FIRE LIMITS

6-2-1 FIRE LIMITS; DEFINITION OF

The fire limits of the City of Java shall embrace all that which has been platted over time, now the city of Java, Walworth County, South Dakota.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

Opinions of the Attorney General:
Municipal powers within one mile of corporate limits, Opinion No. 81-4.
Exception to territorial jurisdictional limits, Opinion No. 87-23.
Airports within three miles of corporate limits, Opinion No. 87-23.

Collateral References:
Fire department as pertaining to the governmental or to the proprietary branch of municipality, 9 ALR 688; 84 ALR 514.

6-2-2 NEW BUILDINGS WITHIN FIRE LIMIT

It shall be unlawful for any person, firm or corporation to erect any new building or structure within the fire limits within the city of Java as above designated, without first having obtained a permit authorizing such construction and no new building or structures of any character, or additions to existing buildings, shall be erected or placed within said fire limits, that is not of approved, fire proof construction and it shall be unlawful to repair any frame building now within the fire limits that may have been damaged by fire or otherwise to the extent of fifty percent of its value.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

Opinions of the Attorney General:
Building construction within one mile of corporate limits, Opinion No. 81-4.
Exception to jurisdictional limitations, Opinion No. 87-23.

Airports within three miles of corporate limits, Opinion No. 87-23.

6-2-3 FIRE OUTSIDE OF BUILDINGS

It shall be unlawful for any person to make or cause to be made, any fire outside of the building owned or operated by them when the same may endanger the property of others, or their safety, and the Fire Chief or Chief of Police shall have the power to suppress the same.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

6-2-4 CONSTRUCTION MATERIALS

It shall be unlawful to construct chimneys on any building within the City of anything other than durable and fire proof materials, and the construction of the same shall be subject to the inspection and approval of City authorities.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

Opinions of the Attorney General:
Building construction within one mile of corporate limits, Opinion No. 81-4.
Exception to jurisdictional limitations, Opinion No. 87-23.

Airports within three miles of corporate limits, Opinion No. 87-23.

6-2-5 BUILDING PERMITS

Application for permits to erect buildings within the fire limits of the city ofJava shall be in writing describing the lot and block where said proposed improvement is contemplated and the character of material proposed to be used in said construction together with the dimensions of said proposed structure or addition to existing buidings and the character of the roof, which application shall be filed with the City Auditor and presented to the common Board of Trustees, at the next regular or special meetings and if the same is granted, a permit in writing shall be issued to the applicant describing the character of the proposed structure or addition to existing structures substantially as set forth in the application.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally.

Cross References:
SDCL Chapter 11-4 and the Java City Code Titles 13 and 9.

Opinions of the Attorney General:
Building construction within one mile of corporate limits, Opinion No. 81-4.
Exception to jurisdictional limitations, Opinion No. 87-23.
Airports within three miles of corporate limits, Opinion No. 87-23.

6-2-6 EXPLOSIVES

It shall be unlawful for any person firm or corporation to pile, stack or cause to be piled or stacked, any hay, straw or other inflammable material within the fire limits of the City of Java; or to keep gun powder, giant powder, dynamite or other high explosive except for immediate use and only then when the same is to be used by persons experienced in the use of such explosives, within the City of Java; provided that nothing in this section contained shall prohibit the keeping of reasonable supplies of gun powder or giant powder for sale.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-33-1

6-2-7 INFLAMMABLE MATERIALS

It shall be unlawful for any person, firm or corporation to deposit or keep within the fire limits of the City of Java, outside of a proper building or enclosure, any paper, paper boxes or cases, packing cases or other inflammable materials.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-33 generally

Opinions of the Attorney General:
Building construction within one mile of corporate limits, Opinion No. 81-4.
Exception to jurisdictional limitations, Opinion No. 87-23.

Opinions of the Attorney General (continued. . .):
Airports within three miles corporate limits, Opinion No. 87-23.

6-2-8 PENALTY

Any person violating the provisions of the three preceding sections and failing to remove any such materials as are described in said sections within forty-eight (48) hours after being notified so to do by the Chief of Police, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not more than twenty-five dollars ($25.00).

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

CHAPTER 6-3
FIREWORKS AND FIREARMS

6-3-1 FIREWORK SALES AND/OR GIFTS

It shall be unlawful for any person, firm or corporation to sell or offer for sale or gift, within the City of Jav? any fireworks, firecrackers, torpedoes, roman candles, skyrockets, caps in any form for cap pistols, or any other form or manner of fireworks, earlier than two days before, or later than two days after the 4th of July of any year, or to discharge the same within the city except during the days limited for the sale thereof.

Legislative History:
1990 Revisions.

Authority:
SDCL § 34-37-4

6-3-2 DISCHARGING FIREWORKS

It shall be unlawful for any person, firm or corporation to discharge any fireworks, torpedoes, roman candles, skyrockets, caps in any form used for cap pistols, or any other kind or character of fireworks, upon any street, sidewalk, alley or other public ground, within the fire limits of the City of Java.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-33-1; Compare SDCL § 34-37-16.1

Collateral References:
Public place defined: Ellis v. Archer, 38 SD 285 161 NW 192 (1917).

6-3-3 PENALTY

That any person, firm or corporation violating any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding ten dollars ($10.00) for the first offense and for any subsequent offense, by a fine of not exceeding one hundred dollars ($100.00) or thirty days in the city jail, or both such fine and imprisonment in the discretion of the court.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

CHAPTER 6-4
THE COUNTY FIRE PROTECTION DISTRICT

6-4-1 DISTRICT DEFINED

The County Commissioners of Walworth County, State of South Dakota are hereby authorized to include the City of Java in a county fire protection district.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 34-31 generally

6-4-2 FIRE PROTECTION TAX

The County Commissioners are hereby authorized to levy up to 1 mill tax within the City of Java for fire protection services as provided for in SDCL 34-31.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 34-31 generally

Opinions of the Attorney General:
County financing of municipal fire equipment, Report 1947-48, p. 222.

TITLE SEVEN
LICENSES

Chapter 7-1	**General Provisions with Regard to Licenses**
Chapter 7-2	**Animal Licensing**
Chapter 7-3	**Solicitors and Peddlers**
Chapter 7-4	**Liquor Licenses**

CHAPTER 7:1
GENERAL PROVISIONS WITH REGARD TO LICENSES

7-1-1 LICENSES REQUIRED

It shall be unlawful within the city of Java to engage in, pursue or transact in any business, trade, calling, profession, occupation or avocation or to do any act or carry on any business therefore without complying with the regulations herein after provided in this title.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-34-1

Collateral References:
Illegal business, occupation or license tax upon business or activities that are in violation of law, 118 ALR 827.

7-1-2 PROCEDURES FOR OBTAINING LICENSES

Any person required to obtain a license under and by virtue of this title, unless otherwise specified, shall make application to the Board of Trustees in writing by filing the same with the City Auditor and tendering with said application, the amount specified for such license; upon receipt of the application and license fee, the City Auditor shall give the applicant a receipt for the license fee and shall place the application before the Board of Trustees at its next regular or special meeting; if such application is granted by the Board of Trustees a record thereof shall be made in its minutes and thereafter, the City Auditor shall issue the license applied for; however, the Board of Trustees shall use discretion in the granting of licenses and may refuse to do so, in which case the license fee received by the City Auditor shall be returned to the applicant upon his return of the receipt issued therefor and the fact that an applicant may have the City Auditor's receipt for the license fee shall not be sufficient to authorize him to operate until a license is granted and delivered to him.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-34-1

Collateral References:
Change in law pending application for permit or license, 169 ALR 584.
"Grandfather Clause" of statute or ordinance regulating or licensing business or occupation, 4 ALR2d 667.
Retroactive law, constitutionality of retroactive statute imposing excise, license or privilege tax, 146 ALR 1011.
Right or person wrongfully refused license upon proper application therefore to do act for which license is required, 30 ALR2d 1006.

Collateral References (continued)
Municipality's liability in damages for its refusal to grant permit, license or franchise, 37 ALR2d 694.
Notice, applicability of license regulations as affected by motive other than that of commercial gain on advantage, 69 ALR 1102.
Single or isolated transactions falling within the licensing requirements, 93 ALR2d 90.
Refusal of license because of suspected intention to violate conditions, 27 ALR 325.
Right to attack validity of licensing statutes, 65 ALR2d 660.

7-1-3 TERMS OF LICENSE

Unless otherwise specified, any license issued pursuant to this title shall be for the terms specified, within the document itself. Such terms shall take effect on July 1st, or whenever issued and terminate on June 30th of any particular year at end.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-34-1

7-1-4 LICENSE FEES

License fees are determined by the Board of Trustees according to an annual or occupationally based definition, which may cover either one payment or several, depending upon the circumstances involved.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-34-1

7-1-5 LICENSES TO BE POSTED

All occupational licenses issued under this title shall be posted in a conspicuous place at the business premises involved, or if no such place exists, they shall be kept upon the licenses person, available for inspection by the proper authority.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-43-1

CHAPTER 7-2
ANIMAL LICENSING

7-2-1 DOG LICENSES AND COLLARS: RABIES VACCINATIONS REQUIRED

Every household within the corporate limits of the city owning or possessing a dog of the age of six months or more shall pay the City Finance Officer an annual license fee in the sum of $5.00. Any household with more than one dog shall pay the City Finance Officer annually, $7.50 for the next or second dog and $25.00 for every additional dog thereafter. Such annual license fees shall be paid on or before the first day of May of each year, and the City Finance Officer shall, upon payment and upon sufficient proof of the required rabies vaccination issue the owner thereof a license tag. Such license tags shall be immediately attached to such dog by means of a collar or other reasonable permanent method.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-12

Collateral References:
Damage by animals running at large, SDCL Chapter 40-28.
Dog licenses and regulations generally, SDCL Chapter 40-34.
Stray animals, SDCL Chapter 40-29.
Constitutionality of dog laws, 49 ALR 847.
Construction and application of ordinances relating to unrestrained dogs, cats or other domesticated animals, 1 ALR4th 994.

Case Law:
Rapid City v. Tuning, 82 SD 442 147 NW2d 604 (1967); Statute authorizes city to license dogs as well as to prohibit their running at large. The city can do either or both without the enactment of one ordinance excluding the other.

7-2-2 CATS AND LICENSES: RABIES VACCINATIONS

Every household within the corporate limits of the city owning or possessing a cat of the age of six (6) months or more shall pay the City Finance Officer an annual license fee in the sum of $5.00. Such license fees shall be paid according to the time frame set out in section § 13-2-1 of this title, and a license shall be issued upon sufficient proof to the Finance Officer, that said animal has been properly vaccinated for rabies.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-34-1

Cross References:
Java City Code, Title Fourteen, Animals, Chapter Three

Collateral References:
Constitutionality of dog laws, 49 ALR 847.
Construction and application of ordinances relating to unrestrained dogs, cats or other domesticated animals, 1 ALR4th 994.

Law Reviews:
The nuisance of nuisances: Forty cats are too many; Four, just enough, 5 SD LRev 86 (1960).

CHAPTER 7-3
SOLICITORS AND PEDDLERS

7-3-1 DEFINITIONS

The following terms as used in this chapter are defined as follows:

Peddler: Is a person engaged in the selling of personal property by going about from place to place or house to house to sell the same and who carries such property with him for delivery at the time of sale.

Solicitor: Is a person engaged in going about from place to place or house to house to solicit orders for or to offer to sell personal property for future delivery.

Transient Merchant: Is any person, firm or corporation or association and agents of any of them transacting a temporary business where goods and merchandise are exposed for sale where such business is established for temporary operation only.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-34-1, 2-14-4

7-3-2 LICENSING SOLICITORS AND PEDDLERS

It shall be unlawful for any person, firm or corporation to pursue the occupation of a peddler, solicitor or transient merchant, as hereinafter defined, without first having procured a license therefor. License for such purposes may be procured from the City Auditor upon payment of the fees therefor as follows:

For a peddler's license, the fee shall be $25.00 per day.
For a transient merchant's license, the fee shall be $100.00 per month.
For a solicitor's license, the fee shall be $25.00 per day.

A solicitor, in addition to procuring a license from the City Auditor, upon payment of the fee specified herein, shall register with the City Auditor, his or her name and address and file with said auditor, a bond in the penal sum of one thousand dollars ($1000.00) to be approved by the City Attorney, for the protection of residents of the city of Java, when advancing money for personal property for future delivery.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-34-8

Collateral References:
Peddlers and solicitors, SDCL Chapter 37-13.
House to house sales, application of municipal ordinance prohibitory, 77 ALR 1216, 35 ALR2d 355.
Reasonableness of license fees exacted of peddlers and merchants, 39 ALR 1385.
Regulation of priv... employment agencies, 20 ALR3d 599.

Case Law:
City of Gregory v. Clausen, 78 SD 208, 99 NW2d 883, 77 ALR2d 1212 (1959).

Opinions of the Attorney General:
Agricultural products, licensing sale by out of state trucker, Report 1941-42, p. 106.
Solicitation of orders, licensing of as violative of commerce clause, reasonableness of fees, Report 1931-32, p. 529.

7-3-3 EXEMPTIONS TO LICENSING

The provisions of this chapter shall not apply to traveling salesmen doing business exclusively with retail merchants, nor to persons who market their own fruits, garden or agricultural products.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-34 in general

7-3-4 VIOLATIONS DECLARED A NUISANCE: PREVENTION OF

Any and all violations of the provisions of this chapter are hereby declared to be a public nuisance and the Chief of Police, or his assistants, are hereby directed and required to prevent such nuisance, or to arrest persons engaged in committing the same, and to take them before the City Justice of the Peace for prosecution.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

Case Law:
Incorporated Town or Wessington v. Matejka, 34 SD 408, 148 NW 847 (1914).

Collateral References:
Venue of suit to enjoin nuisance, 7 ALR2d 481.
Liability of municipality for damages or compensation for abating as a nuisance what is not in fact such, 46 ALR 362.

7-3-5 PENALTY

Any person guilty of violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars ($100.00), together with the costs of prosecution and in default of payment of such fine, he or she can be committed to the city jail for a period of not exceeding thirty (30) days.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

CHAPTER 7-4
LIQUOR LICENSES

7-4-1 LICENSE IN GENERAL

No person shall sell, exchange, barter, distribute or keep for sale any intoxicating liquor as hereinafter defined without having obtained a license therefore pursuant to the provisions of the SDCL Chapter 9-34 and of this chapter.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-34 in general

Case Law:
Incorporated Town of Wessington v. Matejka, 34 SD 408, 148 NW 847 (1914); City's power to license, regulate or restrain sale of intoxicating liquor, ordinances must operate uniformly, cannot be exercised arbitrarily, action to enjoin cannot succeed if there is no violation.

Collateral References:
Reasonableness of license fees exacted of peddlers and merchants, 39 ALR 1385.
Regulation of private employment agencies, 20 ALR3d, 599.

7-4-2 DEFINITION OF TERMS

For the purpose of this chapter and for its construction the terms *"intoxicating liquor", "liquor", "intoxicating beverages"* and *"alcoholic beverages"* shall be synonymous and interchangeable and shall be construed to mean distilled, fermented, spirituous, vinous and malt beverages, patented or not containing in excess of 3.2% of alcohol by weight except sacramental wine.

The terms *"sale"* and *"sell"* shall mean and include the transfer of title of any intoxicating liquor or high point beer as above defined for a consideration or by trade, exchange or gift.

The word *"person"* when used in this chapter shall include persons, associations of persons, firm, co-partnerships or corporations.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-34-1, 2-14-4

7-4-3 APPLICATIONS FOR LICENSE

Any person desiring to enter into the liquor business within the city of Java shall make application for a license as provided in the SDCL Title 35. Such application shall be presented to the City Auditor of the city of Java, and should the license applied for be granted, such licensee shall furnish a surety bond if the same be required for the purpose provided for, and in the amounts specified.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-7 and Title 35 generally

Collateral References:
Licensing procedures for alcoholic beverages, SDCL §§ 35-2-1.2, 35-2-3 to 35-2-5.2.
Police powers with respect to alcoholic beverages, SDCL §§ 35-3-1 to 35-3-11.

Case Law:
Snow Land Incorporated v. City of Brookings, 282 NW2d 607 (1979).

Collateral References (continued)
Intoxicating liquors, 45 AmJur 2d, § 118.
Intoxicating liquors, 48 CJS, §§ 38, 100-1-3.

Opinions of the Attorney General:
Regulation of licenses hours and days of operation authority of municipalities as to, Report 1967-68, p. 424.
Pharmacist and druggist may keep for sale and sell whiskey only if he has proper liquor license, Report 1937-38, p. 334; 1949-50, p. 16.
Sale of malt extract unlawful, Report 1925-26, p. 215.

7-4-4 CITY POWER TO REGULATE SALE AND USE OF ALCOHOLIC BEVERAGES

The city of Java shall have the power to engage in retailing alcoholic beverages. They shall have the power to regulate the transaction of business in alcoholic beverages, the use and consumption thereof, and to establish the number of on and off sale licenses which may be issued, and the fees to be charged therefor, provide for reasonable classification of on-sale and off-sale licenses and for the issuance of high-point beer on and off sale licenses to licenses holding high-point beer licenses for which the fees to be charged for the various classifications shall be uniform within each class, consistent with the provisions of the SCL Title 35.

Legislative History:
1990 Revisions

Authority:
SDCL Title 35 generally and § 9-29-7

Collateral References:
Cumulative statutory penalties for intoxicating liquor offenses; recovery of, 71 ALR2d 1012.

7-4-5 LIQUOR SALE LIMITATIONS

The Board of Trustees of the city of Java shall not approve any on sale or off sale applications unless said applicant's place of business is situated within the then existing business district of the city of Java.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-7

7-4-6 UNOBSTRUCTED VIEW

The place of business of an on sale liquor dealer shall be a room situated upon the street level and the windows of said room shall be unobstructed so that a clear view of the interior thereof may be had from the front of said building and it shall not have any exit therefrom except from the front and rear of said building and the rear entrance shall not enter into any other room or building.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

Points of Interest:
Unlawful assembly, generally. See SDCL Chapter 22-10.

7-4-7 LIQUOR SALES TO BE IN THE OPEN

It shall be unlawful for any on sale dealers to sell liquor to any person who is not in complete view of every other person in the licensed premises and also observable from any and all points thereof.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

7-4-8 GAMBLING, DANCES, SLOT MACHINES, ETC.

It shall be lawful for any on sale liquor dealer to permit or allow to be played in his licensed premises, any games of chance pertaining to the video lottery or any other form of amusements or recreation permitted under South Dakota's video lottery law.

Legislative History:
1990 Revisions.

Authority:
At the time of this writing the video lottery law has not yet been signed by the governor, but he is expected to do so. Therefore, a title, chapter and section number has not yet been asigned.

Collateral References:
Gambling and lotteries generally, SDCL Chapter 22-25.
Constitutionality of statutes providing for destruction of gambling devices, 14 ALR3d 366.
Police power as authorizing anti-gambling laws applicable to coin operated pinball machines or similar devices, played to amusement only or confining reward to free replays, 89 ARL2d 815.

7-4-9 INTOXICATED PERSONS

It shall be unlawful for any on sale or off sale license to permit any intoxicated person to enter or remain on his said premises and it shall be unlawful for any on sale licensee to permit any person to become intoxicated on his licensed premises.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-29-7

7-4-10 ON SALE BY DRINK ONLY

It shall be unlawful for any on sale dealer to sell any intoxicating liquor except by the drink and he shall not sell any original package whether the same be sealed or unsealed or whether the same be full or partly full.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-7

Case Law:
City of Sioux Falls v. Smith, 49 SD 392, 207 NW 160 (1926); Charge that defendant was upon public streets of city in "drunken and disorderly condition" in violation of city ordinance came within authority of city to prohibit even though statute might not confer express authority to prohibit mere intoxication.

7-4-11 OFF SALE DRINKING ON PREMISES PROHIBITED

It shall be unlawful for any off sale dealer as defined by this title to permit any intoxicating liquor to be drank in or about said licensed premises and said off sale dealer shall not be permitted to make any deliveries of intoxicating liquors outside of his licensed place of business.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-7

7-4-12 UNSEALED LIQUOR OR BEER PROHIBITED IN CERTAIN PLACES

It shall be unlawful for any person to have in his possession in a public place within the city of Java, any intoxicating liquor or high point beer except that contained in a sealed, original package with the United States government and State of South Dakota liquor stamp tax seal unbroken, provided, however, that this section shall not be applied to on sale dealers or to hospitals.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-7

TITLE EIGHT
LOCAL TAXATION

Chapter 8-1 **Municipal Sales, Service and Use Tax**
Chapter 8-2 **Special Tax Classifications**

CHAPTER 8-1
MUNICIPAL SALES, SERVICE AND USE TAX

8-1-1 PURPOSE OF

The purpose of this chapter is to provide additional needed revenue for street improvements for the city of Java, Walworth 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 by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 10-52, § 9-12-2

Opinions of the Attorney General:
A city may use an additional one percent sales tax for the purchase, construction and maintenance of city parking in order to promote the town and business located therein, Opinion No. 88-07.

A city may use non-ad valorem tax proceeds for loans or grants to industries, Opinion No. 84-46.
Use of a museum can promote the city. Hence, taxes raised pursuit to this title may be used, Opinion No. 86-16.

8-1-2 EFFECTIVE DATE AND ENACTMENT OF TAX

This title shall take effect immediately upon its passage by the Board of Trustees. After that date, and upon the removal of the one percent (1%) State Economic Development Tax by the State of South Dakota, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by one percent (1%) on the gross receipts of all persons engaged in business within the jurisdiction of the city of Java, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45, and acts amendatory thereto.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 10-45,10-52 § 9-12-2

8-1-3 COLLECTION

Taxes which are levied pursuant to authorization granted by South Dakota Codified Law Chapter 10-52 and acts amendatory thereto. shall be collected by the South Dakota Department of Revenue in accordance with the same rules and regulations applicable to the State Sales Tax and under additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 10-52 § 9-12-2

8-1-4 CITY USE TAX

An excise tax on the privilege of use, storage and consumption within the jurisdiction of the city of Java, of tangible personal property or services purchased upon the removal of the one percent (1%) State Economic Development Tax by the State of South Dakota, is hereby imposed 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 User Tax Act, SDCL 10-46, and acts amendatory thereto. This tax will conform in all respects to the state tax laws on such items, with the exception of the rate.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 10-52 § 9-12-2

Amendments:
The 1983 amendment increased the maximum levy from one percent to two percent.

8-1-5 EXEMPTIONS

In accordance to gross receipts exempted by State Law and therefor from tax imposed hereunder, the following are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it: *Farm machinery or equipment taxed pursuant to SDCL § 10-45-3.*

This exemption includes such parts or repairs which are clearly identifiable as sued primarily for agricultural purposes if the part replaces a farm machinery part assigned a specific or generic part number by the manufacturer of the farm machinery, farm machinery or equipment taxed pursuant to § 10-45-3 and agricultural animal health products and medicines.

Legislative History:
1990 Revisions.

Authority:
SDCL § 10-52-2

8-1-6 INTERPRETATION

This chapter is to be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto. Any inconsistent provisions in this chapter shall not prevail when in comparison, these taxes shall be considered similar to those mentioned in this statute when referring to South Dakota Codified Laws.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 10-52

8-1-7 PENALTY

Any person failing or refusing to make reports or payments prescribed by this title, and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars ($100.00) or imprisoned in the city jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and

acts amendatory thereto, and SDCL 10-46 and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 10-45, 10-46 in part.

8-1-8 USE OF REVENUE

All revenue received under this title is to be used for street capital improvements.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 10-52

Opinions of the Attorney General:
A city may use non-ad valorem tax proceeds for loans or grants to industries, Opinion No. 84-46.
Use of a museum can promote the city. Hence taxes raised pursuit to this title may be used, Opinion No. 86-16.

CHAPTER 8-2
SPECIAL TAX CLASSIFICATIONS

8-2-1 PURPOSE

The city of Java, in Walworth County, South Dakota will work closely with any organization seeking to establish industry within city limits. Java will aid any such person or organization in any way possible to help accomplish that person's or organization's objectives. This chapter is favorable, by granting a special tax classification, to all new industrial or commercial structures, or structure additions which have an assessed value of thirty thousand dollars ($30,000.00) or more. In order for the classification to take effect, such structures must be located within three (3) miles of Java's corporate limits or within city limits itself.

Legislative History:
1990 Revisions.

Collateral References:
Appropriations and levies, SDCL Chapter 9-21.
Debt limit, Const., Art. XIII, §4
Tax levy limitations, SDCL §§ 10-12-32, 10-12-33

Authority:
SDCL § 9-12-2

Opinions of the Attorney General:
A city may use non-ad valorem tax proceeds for loans or grants to industries, Opinion No. 84-46.
Use of a museum can promote the city. Hence taxes raised pursuit to this title may be used, Opinion No. 86-16.

8-2-2 TAXABLE VALUES

Pursuant to the statement made in the Java City Code, section § 12-2-1, the following formulas for taxable values are:

A. Twenty five percent (25%) or less of the total property value for the first year following construction on such property; and
B. For the second year following construction, not more than fifty percent (50%) of the usual taxable value shall be used for tax purposes on such property; and
C. For the third, fourth and fifth years following construction, not more than seventy five percent (75%) of the usual taxable value shall be used for tax purposes on such property.

These amounts are subject to change based on specific city contracts, on changes made by the Board of Trustees within prior specific notice.

Legislative History:
1990 Revisions.

Collateral References:
Criteria for determination of true and full values, See SDCL § 10-6-33
Mobile homes valuation, see SDCL § 10-9-7
True and full value defined, see SDCL § 10-6-1

Remedies to Taxpayers:
Webster v. Cressler, 65 SD 571, 276 NW 263 (1937); Taxpayer may not question the evaluation of property and the tax thereon in court where he did not avail himself of his right to complain to the board of equalization.

Authority:
SDCL § 9-12-2, Chapter 10-6 generally

Case Law:
Tidball v. Miller, 72 SD 243, 32 NW2d 683 (1948); Sales of similar property does not matter.
Hansen v. Wilder, 76 SD 438, 80 NW2d 306 (1957); True and full value defined.
In re Jepsen, 76 SD 421, 80 NW2d 76 (1956); Reduction of property values for tax purposes.
Baker v. Wilder, 76 SD 438, 80 NW2d 306 (1957); Proving discrimination in assessment, taxpayer may use similar properties.
Willow Incorporated v. Yankton County, 89 SD 643, 237 NW2d 660 (1975); Property value of motels.
Yadco Incorporated v. Yankton County, 89 SD 651, 237 NW2d 665 (1975); Capitalization of actual income to determine true

Remedies to Taxpayers (continued. . .)
Baker Park Incorporated v. Pennington County, 79 SD 156, 109 NW2d 898 (1961); Where evidence disclosed discrimination in assessment, the remedy of the taxpayer is the reduction of his valuation.
Knodel v. Board of County Commissioners Of Pennington County, 269 NW2d 386 (1978) Taxpayer not entitled to relief from assessments based on non-compliance with mandatory statutes.

Substantial Compliance:
Mortenson v. Stanley County, 303 NW2d 107 (1981); Substantial compliance with the statutory duties in assessing property is sufficient.

Interesting Law Reviews:
Taxation of water rights, 25 SD LRev 475 (1980).

Case Law (continued . . .)
and full value was inappropriate with regards to a long term uneconomical lease.
Sheraton Midcontenent Corporation v. Pennington County, 77 SD 554, 95 NW2d 892 (1959); See Also Rau v. Fritz, 81 SD 311, 134 NW2d, 773 (1965); Hotel property.
Mortenson v. Stanley County, 303 NW2d 107 (1981); Presumption of correctness of valuations or agricultural property exists even if the assessor does not actually view the property.

Opinions of the Attorney General:
Acreage is not a relevant factor in assessment, Report 1919-20, p. 608.
Basis for valuation, Report 1967-68, p. 25.
Increasing assessed valuation to raise more money unauthorized, Report 1933-34, p. 696.
Industrial sites, manner of assessment, Report 1945-46, p. 369.
Taxability of instrument payable in another state, Report 1917-18, p. 89.
County assessor correctly considered value of irrigation to real irrigation to real property in determining value of property for taxation, Opinion No. 80-36.
Taxpayers who involve themselves in the equalization program do not prejudice their rights and options to challenge the valuations arrived at by the director for thief properties, Opinion No. 80-11.

TITLE NINE
MISCELLANEOUS CATEGORIES

Chapter 9-1	**Ice and Snow Removal**
Chapter 9-2	**Junk Yards and Junk Dealers**
Chapter 9-3	**Building Removal**
Chapter 9-4	**Bonds**
Chapter 9-5	**General Penalty**
Chapter 9-6	**Amendments**
Chapter 9-7	**Repeal Clause and General Provisions**

CHAPTER 9-1
ICE AND SNOW REMOVAL

9-1-1 SNOW ON SIDEWALKS - REMOVAL OF

It shall be the duty of the lessee or occupant of first or ground floor or person having charge, or if there be no lessee, occupant or person having charge, then the owner of each and every parcel of real estate in the city of Java, abutting or bordering upon any street, avenue, highway or other public place, to remove or cause to be removed, all snow and ice from the sidewalk in front of or adjacent to such premises to the full paved width of such sidewalk, within twelve (12) hours of daylight after such snow or ice shall have fallen or accumulated thereon, unless because of excessive accumulation, the time for removal is extended by the proper authority. Snow accumulation upon sidewalks within city limits is hereby declared to be a nuisance.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

Opinions of the Attorney General
County property as public nuisance, Report 1967-68, p. 220.

9-1-2 WHEN TO USE ASHES, SAND ETC.

In case the snow and ice on the sidewalk shall be frozen so hard that it cannot be removed without injury to the pavement, the lessee, occupant, person having charge, or owner of every parcel of real estate shall, within the time specified in the preceding statute, cause the sidewalk abutting or adjacent to such premises to be strewn and to be kept strewn with ashes, sand, salt, sawdust or some other suitable material and shall, as soon thereafter as the weather shall permit, thoroughly clean such sidewalk.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

9-1-3 SNOW MUST BE BROKEN UP

It shall be unlawful for any person to throw or put, or cause to be thrown or put, any snow or ice into any street, avenue or other public place in the city unless the same shall be broken up and spread evenly over the surface of such street, avenue or other public place.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

9-1-4 DUTY OF POLICE

It shall be the duty of each police officer in case he finds that the snow and ice have not been removed from the sidewalks, or in case of neglect of the person charged with such duty by this chapter, to spread sand or other substance upon ice or snow when the same cannot be removed within the time required by this chapter, immediately to notify the Chief of Police thereof.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

9-1-5 WHEN CITY TO DO WORK

Whenever any owner, lessee, occupant or person having charge of any parcel of real estate, shall fail or neglect to remove snow and ice from any such sidewalk, as provided in this chapter, the Chief of Police, without notice, shall have the ice and snow removed therefrom. A bill for the expense incurred thereby shall be presented by the Chief of Police to the owner, personally, by leaving the same at his residence, or place of business, or if he is a non-resident, by mailing the same to his last known address, or, if the name of such owner or his place of residence cannot be determined or ascertained, after due diligence by posting the same in a conspicuous place on his premises; and if he shall fail to pay the same within thirty (30) days thereafter, the Chief of Police shall file each year immediately proceeding the time for the making of the annual assessment roll, his certificate of the actual cost of such work, together with a statement as to the property in front of or on which the cleaning was done, with the assessor of the city who shall, in the preparation of the assessment roll of general city taxes, assess such amount upon such property, and the same shall be levied, corrected, enforced and collected in the same manner, by the same proceedings, at the same time, under the same penalties, and having the same lien upon the property assessed as the general city tax and as a part thereof. The imposition and collection of any fine or penalty prescribed by this chapter shall not be a bar to the right of the city to collect the cost of removing and cleaning of snow and ice from the sidewalks as herein provided.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-13

Collateral References:
Liability of municipality for damage or compensation for abating as a nuisance what is not in fact such, 46 ALR 362.

9-1-6 UNREMOVED SNOW IS DECLARED A NUISANCE

Any snow which is not removed within the time frame set forth in this chapter is hereby specifically declared to be a nuisance, and the municipality shall have the authority to prevent, abate and remove the same.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-13

Collateral References:
Liability of municipality for damage or compensation for abating as a nuisance what is not in fact such, 46 ALR 362.

Opinions of the Attorney General:
County property as public nuisance, Report 1967-68, p. 220.

9-1-7 PENALTIES

Any owner, lessee, occupant or person in charge, who shall fail, neglect or refuse to remove snow and ice or strew the same with sand or other substances as directed in this chapter, or who shall violate any of the provisions of this chapter, or who shall resist or obstruct the Chief of Police or his employees, in the removal of snow and ice shall, upon conviction thereof, be subject to a fine of not more than twenty five dollars ($25.00) for each on which such violation continues. Each day constitutes a separate offense.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-13 and 9-19-3

CHAPTER 9-2
JUNK YARDS AND JUNK DEALERS

9-2-1 DEFINITIONS

Junk Dealer: Shall include any person who shall be engaged in the business of buying, selling, receiving, storing, collecting or dealing in scrap metals, secondhand parts of motor vehicles or machinery, or machinery which is being kept for the purpose of being dismantled or discarded, bottles, scrap rubber, rags, paper, bones or junk in general. In reference to used cars and secondhand parts of cars, this shall not be deemed to apply to bona-fide secondhand automobile dealers, but the mere fact that the owner or operator of said establishment reconditions or sells some secondhand cars shall not eliminate his establishment from the effects of this.

Residential District: Includes all those areas of the city which are used principally for personal living quarters and residences of persons and families.

Junk Yards: Include any area wherein junk is piled, stored or kept. It includes the areas within a person's yard, field, or place of business.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 2-14-4, 9-29-13

Cross References:
Java City Code, Title 9, Zoning; Se also § 16-2-2

9-2-2 JUNK YARDS DECLARED A NUISANCE

Junk yards which are not properly fenced in as stipulated within this chapter are hereby declared to be a nuisance, which the city of Java may abate accordingly.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-13

Collateral References:
Liability of municipality for damages or compensation for abating as a nuisance what is not in fact such, 46 ALR 362.

Opinions of the Attorney General:
County property as public nuisance, Report 1967-68, p. 220.

9-2-3 FENCES

Junk yards within the city shall be suitably fenced in by a sufficient wall of board, metal or masonry which is at least five (5) feet in height.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-13, 9-29-14

Collateral References:
Partition fences generally, SDCL Chapter 43-23.
Constitutionality of fencing laws, 6 ALR 212; 18 ALR 67.
Zoning regulations prohibiting or limiting fences, hedges or the like, 66 ALR2d 1294.

9-2-4 DUTIES OF OWNERS

Owners of property, where junk yards are located, shall insure that such areas do not become vermin infested. They shall also insure that any fires burning within said areas are attended to carefully, and allowed to burn only during daylight hours.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-1

Cross References:
The Java City Code, Title 5, Chapter 1.

Collateral References:
Health, 39A CJS, §5 et seq; Municipal corporations, §§265, 279-281, 298, 300, 303, 651 et seq.
Zoning powers, SDCL Chapter 11-4, 11-6.

9-2-5 LICENSING

No junk dealer shall establish or engage in the business without first acquiring a license granted by the Board of Trustees. The Board of Trustees may add stipulations after the license is approved and they may revoke said license at any time.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-34-1

Cross References:
The Java city Code, Title 13, Licenses.

CHAPTER 9-3
BUILDING REMOVAL

9-3-1 BUILDING REMOVAL IN GENERAL

It shall be unlawful for any person to move any building upon or over the streets or avenues of the city of Java, the removal of which will necessitate the interference with telephone or electric light wires without first securing a permit authorizing such moving. The permit must specify the methods to be used to avoid all unnecessary public disturbances and nuisances.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-29-13, 9-30-2

Case Law:
Evans v. King, 57 SD 109, 230 NW 848 (1930); Under ordinance requiring permit to move buildings on city streets city could refuse to issue such permit where properly applied for.
City of Huron v. Bank of Vulga, 8 SD 449 66 NW 815, 59 Am St Rep 769 (1896); Statutory power of city to restrain, prohibit and suppress nuisances at common law authorized municipal corporation to maintain action against private corporation directing latter to remove dilapidated building located in densely population portion of city.

9-3-2 APPLICATION FOR PERMIT

Application for such permit shall be filed with the City Auditor and shall describe the building desired to be moved, the lot and lock of its present location, if already within the city of Java, and the lot and block to which it is desired to be removed if within the city of Java and the route of travel proposed to be used for such removal and such application for permit shall contain an agreement of the party desiring such removal that he will pay any and all damage to sidewalks or streets incident of such removal and that he will pay reasonable compensation to the city for the removal of such electric wires as may be necessary and as a guarantee for the payment of such damage, and such compensation for such removal, the applicant shall deposit with the City Auditor the sum of Five hundred DB dollars ($500.00) or in lieu thereof, will furnish a bond to guarantee the payment of such damage and compensation for removal of wires in the sum of one thousand dollars ($1,000.00) with sureties acceptable to the City Auditor.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-30-2; SDCL Chapter 9-29 generally

9-3-3 PERMIT REFUNDS

In the event that a cash deposit is made for the purposes provided in the preceding statute any amount of such deposit in excess of the cost of repairing such damage to sidewalks or streets, together with compensation for removal of wires shall be returned to the applicant.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-30-2; SDCL Chapter 9-29 generally

CHAPTER 9-3
BUILDING REMOVAL

9-3-1 BUILDING REMOVAL IN GENERAL

It shall be unlawful for any person to move any building upon or over the streets or avenues of the town of Java without first securing a permit authorizing such moving. The permit must specify the methods to be used to avoid all unnecessary public disturbances and nuisances.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-29-13, 9-30-2

Case Law:
Evans v. King, 57 SD 109, 230 NW 848 (1930); Under ordinance requiring permit to move buildings on city streets city could refuse to issue such permit where properly applied for.
City of Huron v. Bank of Vulga, 8 SD 449 66 NW 815, 59 Am St Rep 769 (1896); Statutory power of city to restrain, prohibit and suppress nuisances at common law authorized municipal corporation to maintain action against private corporation directing latter to remove dilapidated building located in densely population portion of city.

9-3-2 APPLICATION FOR PERMIT

Application for such permit shall be filed with the Finance Officer and shall describe the building desired to be moved, the lot and block of its present location, if already within the town of Java, and the lot and block to which it is desired to be removed if within the town of Java and the route of travel proposed to be used for such removal and such application for permit shall contain an agreement of the party desiring such removal that he will pay any and all damage to sidewalks or streets incident of such removal and that he will pay reasonable compensation to the town for the removal of such electric wires as may be necessary, and that any hole left in the lot, including any basements or cellars, will be fenced until they are closed, said hole to be closed within 30 days of the building's removal, and as a guarantee for the payment of such damage, and such compensation for such removal, the applicant shall deposit with the Finance Officer the sum of five hundred dollars ($500.00) plus a deposit, based on the size of any hole left in the lot, of seven dollars and fifty cents per cubic yard, or in lieu thereof, will furnish a bond to guarantee the payment of such damage and compensation for removal of wires or closure of any hole in the sum of one thousand dollars ($1,000.00) with sureties acceptable to the Finance Officer.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-30-2; SDCL Chapter 9-29 generally

9-3-3 PERMIT REFUNDS

In the event that a cash deposit is made for the purposes provided in the preceding statute any amount of such deposit in excess of the cost of repairing such damage to sidewalks or streets, or to close such hole as may be left in a lot, together with compensation for removal of wires shall be returned to the applicant.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-30-2; SDCL Chapter 9-29 generally

CHAPTER 9-4
BONDS

9-4-1 CITY TO PAY PREMIUMS

It shall be the duty of the city of Java to pay the premium on all bonds required to be furnished by the city officer and employees.

Legislative History:
1990 Revisions.

Collateral References:
Records of bonds maintained by auditor or clerk, SDCL § 9-22-22.
Replacement of lost or destroyed state bond, SDCL §§ 4-12-14 to 4-12-18.
Constitutionality, construction and effect of statutes in relation to issuance by public body of duplicates of mutilated, lost or destroyed bonds or warrants, 39 ALR 1246; 63 ALR 388.
Printing, lithographing, or other mechanical signature on public bonds, coupons or other public pecuniary obligations, 94 ALR 768.
Right to call governmental bonds in advance of their maturity, 109 ALR 988.

Authority:
SDCL Chapter 9-25 and 9-26 generally

Opinions of the Attorney General:
Surplus of bond fund, disposition of, Report 1957-58, p. 189.
Improvement bonds as general obligations of municipality, Report 1929-30, p. 57; 1931-32, p. 89.
Notice requirements for bond election, Report 1919-20, p. 62.
Partial bond issuance followed by addition issuance a "reasonable time" later is permitted without another vote, Opinion No. 76-60.
Valid ballots counted in determining percentage of "legal voters voting", Report 1955-56, p. 67.
Authorization procedures for general obligation and utility revenue bonds compared, Opinion No. 81-27.

CHAPTER 9-5
GENERAL PENALTY

9-5-1 PENALTY

Except as this code and/or ordinance otherwise specifically provides, any person or persons, firm or corporation, violating any of its provisions or failing to comply with any of the provisions thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not exceeding one hundred dollars ($100.00) or by imprisonment in the city jail for a period not exceeding thirty days (30) or both such fine and imprisonment.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

Cross References:
Disposition of fines, penalties and forfeitures, SDCL § 16-2-34.
Injunction against legislative act by municipal corporation prohibited, SDCL § 21-8-2.
Violation of ordinances, prosecution by city attorney, SDCL § 9-14-22.

Collateral References:
Delegating authority to municipal corporation to make violation of ordinance crime or to provide criminal punishment, 174 ALR 1343.

Opinions of the Attorney General:
Accident report issuance by city police department for charge or fee, municipality has authority to provide by ordinance for, Opinion No. 77-40.
Compensation to attorney defending indigent charged with violation of city ordinance, nature of action, Report 1965-66, p. 147.
Imprisonment for failure to pay fine, Report 1967-68, p. 105.
Municipal action on low point beer application is referable, Opinion No. 77-2.
Yield sign ordinances, Report 1959-60, p. 36.

Case Law:
City of Sioux Falls, v. Peterson (1946) 71 SD 446, 25 NW2d 556; Statute reflects legislative intention to clothe municipalities with broad powers; courts will not interfere with city ordinances until convinced that measure is inappropriate and unreasonable;Legislature is competent to confer power upon municipality to make act an offense against municipal authority notwithstanding that same act has been made public offense by statute.
City of Aberdeen v. Forkel (1949) 72 SD 536, 37 NW2d 407; City had authority to enact drunken driving ordinance applicable only within jurisdiction of city commission even though same conduct was proscribed by state statute.
City of Deadwood v. Allen (1896) 8 SD 618, 67 NW 835; Complaint charging violation of city ordinance which stated day upon which ordinances was violated and charged offense substantially in language of such ordinance was sufficient sufficiency of complaint based upon ordinance is not determined by stricter rules applicable to indictments and information.

9-5-2 GUILTY PARTIES

Whenever any person, clerk, servant, agent or employee of any other person, firm or corporation shall violate any of the provisions of this code, he shall be deemed guilty as a principal and shall be punished as provided in the preceding section.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

9-5-3 SEPARATE OFFENSES

Each and every violation of the provisions of this code shall constitute a separate offense and may be so charged and prosecuted.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

CHAPTER 9-6
AMENDMENTS

9-6-1 AMENDMENT IN GENERAL

This ordinance or any section, title or chapter thereof, may be amended as provided by law, but any such amendment shall specifically define and describe the section, chapter or title so amended and such amendment shall cover and embody the entire portion so amended and such portion so amended shall be entirely rewritten.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

9-6-2 THIS CODE AND/OR ORDINANCE

This code and/or ordinance being a complete revision of the ordinances of the city of Java shall be known as Ordinance Number One and any ordinance to be hereafter adopted shall be numbered consecutively above that number.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

CHAPTER 9-7
REPEAL CLAUSE AND GENERAL PROVISIONS

9-7-1 REPEAL CLAUSE

All ordinances and parts or ordinances in conflict with the provisions of this ordinance are hereby repealed.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

9-7-2 UNCONSTITUTIONAL CLAUSE

Should any section, paragraph, chapter or title of this ordinance be declared unconstitutional or invalid, for any reason, the remainder of this ordinance shall not be affected thereby.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

TITLE TEN
PARKS

Chapter 10-1 Rules in General

CHAPTER 10-1
RULES IN GENERAL

10-1-1 PARK SUPERVISORS

The mayor and the aldermen of the City of Java shall be and are hereby constituted the board of Park Supervisors for the City of Java.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-38 generally; Compare § 42-2-10

Opinions of the Attorney General:
Creation of park boards, Report 1949-50, p. 89.

10-1-2 PROTECTION OF PARK PROPERTY

Any person who shall deface, mar, injure, break into or in any way interfere with any house, building, or other property situated in any park belonging to the City of Java shall be guilty of a misdemeanor.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-38 generally; Compare § 42-2-10

Opinions of the Attorney General:
Sale of park land to private individuals, Report 1955-56, p. 102.

Establishing public highway in city park, Report 1941-42, p. 234.

10-1-3 PROTECTION OF TREES AND SHRUBS

Any person who shall climb any tree, cut, break, pluck, root up or in any way disturb any trees, flowers, shrubs, plants or bulbs planted or growing in any public park or other public ground of said city shall be guilty of a misdemeanor.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-38 generally; Compare § 42-2-10 for county specifics.

10-1-4 AUTHORITY OF POLICE

The authority of the Chief of Police and other police officers of the City of Java shall extend to and cover the property described as a public park in the preceding section and the said

police officers shall have the same jurisdiction to enforce the ordinances of the City of Java within the said park or within one mile of the outer boundary of said park for the purpose of promoting the health, safety, morals and general welfare of the community and of enforcing the ordinances and resolutions of the City of Java relating thereto.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-38 generally; Compare § 42-2-10 for county specifics.

10-1-5 RUBBISH

It shall be unlawful for any person to throw or deposit or cause to be thrown or deposited, any paper, tin cans, rubbish, or offal of any kind in any such park or in or about any place set apart for swimming, or body of water or stream within or adjoining any park under the control of the Board of Park Supervisors of said city.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-38 generally; Compare § 42-2-10 for county specifics.

10-1-6 DRIVING ON PLOTS AND PLANTING SPACES

It shall be unlawful for any person to lead or drive any horses or other animals or any vehicle or motor vehicle over or upon any of the grass plots or planting space of any public park except at such places as may be provided for the parking of vehicles.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-38 generally; Compare § 42-2-10 for county specifics.

10-1-7 SELLING MERCHANDISE

It shall be unlawful for any person to do any peddling or to sell or offer for sale any goods, wares or merchandise in any of the public parks of the City of Java unless such person has been granted permission for such purpose by the Board of Park Supervisors.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-38 generally; Compare § 42-2-10 for county specifics.

Opinions of the Attorney General:
Vending stands for park purposes, Opinion No. 76-54.

10-1-8 DISORDERLY CONDUCT

Any person who shall be guilty of disorderly, unchaste or lewd conduct or habitual loafing or sleeping on the ground or benches or who shall engage in any quarrel or fight, or make or assist in making any disorderly noise or riot or disturbance of the peace within the limits of any park under the control of the Board of Park Supervisors of the City of Java shall be

guilty of a misdemeanor and upon conviction, shall be punished by a fine of not more than one hundred dollars ($100.00) or by confinement in the city jail not more than thirty (30) days or by both such fine and imprisonment.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-38 generally; See also § 9-29-3

TITLE ELEVEN
PUBLIC OFFENSES

Chapter 11-1	**Offenses Against The Public Nature**
Chapter 11-2	**Offenses Against Property**

CHAPTER 11-1
OFFENSES AGAINST THE PUBLIC NATURE

11-1-1 PUBLIC INTOXICATION

It shall be unlawful for any person to remain in a state of intoxication, drunkenness or under the influence of intoxicating liquor or narcotics in any public place in the city of Java, which includes its public parks, streets, alleys, or buildings open to the public.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

Collateral References:
Breach of peace and disorderly conduct, SDCL Chapter 22-13
Riots and unlawful assembly generally, SDCL Chapter 22-10

Case Law:
City of Sioux Falls v. Smith 49 DF 392 207 NW 160 (1926)

11-1-2 DISORDERLY CONDUCT - DEFINITION AND VIOLATION

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

A. Commits an act in a violent and tumultuous manner towards another whereby the other person is placed in danger of his, limb or health.
B. Commits an act in a violent and tumultuous manner towards another whereby the property of another is placed in danger of being damaged or destroyed.
C. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, health or property of another.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3; Compare SDCL § 22-13-1

Collateral References:
Breach of peace and disorderly conduct, SDCL Chapter 22-13
Riots and unlawful assembly generally, SDCL Chapter 22-10
Disorderly houses, SDCL Chapter 22-23

11-1-3 UNLAWFUL ASSEMBLAGE

It shall be unlawful for any two or more persons to assemble together within the limits of the city of Java for the purpose of doing or conspiring to do any unlawful act with force or violence against the person or property of another or against the peace and dignity of the city or in any manner for the purpose of terrorizing or frightening any person, family or neighborhood within said city.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

Collateral References:
Riots and unlawful assembly generally, SDCL Chapter 22-10

11-1-4 FAILURE OR REFUSAL TO DISBURSE

Any person or persons who shall fail or refuse to leave any unlawful assemblage as prescribed in the preceding section, or any assemblage calculated to or which might disturb the peace or excite the public after having been ordered to leave by a police officer or any person lawfully assisting such officer, shall be deemed guilty of a misdemeanor.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

Collateral References:
Failure or refusal to obey police officer's order to move on, 65 ALR2d 1152.

Opinions of the Attorney General:
Power to arrest for violation of municipal ordinance committed in presence of office, Report 1967-68, p. 105

11-1-5 DISTURBING THE PEACE

It shall be unlawful for any person or persons to disturb the peace and order of the city of Java or any part thereof by making any loud or unusual noise or disturbance around or near any dwelling or other buildings to the annoyance of the occupants. It shall be unlawful for any person to threaten any person for the purpose of intimidation or to inspire fear or in any manner disturb the peace of any person, family or neighborhood.

No person shall use any profane, vulgar or obscene language which tends to incite the person to whom it is directed to violence, upon any street or other public place.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

Collateral References:
Breach of peace and disorderly conduct, SDCL Chapter 22-23
Riots and unlawful assembly generally, SDCL Chapter 22-10

11-1-6 INDECENT CONDUCT - PROFANITY

It shall be unlawful for any person to appear in any public place in a state of nudity or to indulge in any indecent, lewd or lascivious conduct or behavior or to commit any indecent, wanton or filthy act in the presence or hearing of any person or to use, vile, profane or vulgar language in any public place in the presence or hearing of any other person.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

Collateral References:
Modern concept of obscenity, 5 ALR3d 1158
Validity of procedures designed to protect the public against obscenity, 5 ALR3d 1214; 93 ALR3d 297

11-1-7 CARRYING CONCEALED WEAPONS

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

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3; Compare SDCL § 22-1-4-8

11-1-8 RESISTING, ESCAPING FROM OR ASSAULTING AN OFFICER

No person shall resist or obstruct any police officer while he is in the performance of any official duty, nor in any way aid or assist any person to resist or escape from any such officer, nor assist any person to escape from any lawful confinement. No person shall assault or strike any police officer, nor in any way interfere with a police officer in the discharge of his duty.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-19; Compare SDCL § 9-29-3 and Chapter 22-14 generally

Collateral References:
Failure or refusal to obey police officer's order to move on, 65 ALR2d 1152

Opinions of the Attorney General:
Power to arrest for violation of municipal ordinance committed in presence of officer, Report 1967-68, p. 105

11-1-9 IMPERSONATING OFFICER

No person who is unauthorized shall exercise the duties conferred by law upon a policeman; wear a policeman's badge or represent himself as being a policeman or peace officer, or attempt to exercise the duties of a policeman or peace officer.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3; Compare SDCL §§ 22-11-8, 9-29-19

Opinions of the Attorney General:
Power to arrest for violation of municipal ordinance committed in presence of officer, Report 1967-68, p. 105

11-1-10 VAGRANCY

It shall be unlawful for any vagrant to remain within the limits. A vagrant is an idle person, having no legitimate means of support, who does not seek or desire lawful employment and who subsists through charity of others or by unlawful means. Whenever it can be shown in a prosecution under this section, that any person who is able to work either:

A. Wanders about in idleness or lives in idleness without property sufficient for his support;
B. Leads an idle, immoral or profligate life and does not work;
C. Loafs, loiters or idles in the city, upon a public highway, or about any public place without any regular employment and without sufficient property for his support;
D. Trades or barters stolen property;
E. Unlawfully sells or barters any spirituous, vinous, malt or other intoxicating liquors.
F. Attends or operates any gambling device or apparatus;
G. Engages in practicing any trick or device to procure money or other things of value.
H. Engages in any unlawful calling;
I. If an able bodied married man, neglects or refuses, without lawful excuse, to provide support for his family;
J. Begs in any public place or from house to house, or induces children or others to do so;
K. Falsely represents himself as a collector of alms for a charitable institution or purpose;

. . .it shall constitute a prima facia presumption that such person is a vagrant as defined in this section.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3; Compare SDCL § 22-11-8, 9-29-19

11-1-11 GARBAGE IN STREETS

It shall be unlawful for any person, firm or corporation to throw or deposit in any of the streets, avenues, alleys, or public grounds of the city of Java, any offal, dead or decaying animals, fruit or vegetable matter, manure, garbage, glass, nails, tacks, tin cans or any matter or materials offensive to the public or liable to cause injury to persons or vehicles in the lawful use of such streets, avenues, alleys or public grounds.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-32-11 and 9-45-4

Collateral References:
Collection and disposal of garbage and rubbish as governmental or private function as regards municipal immunity from tort liability, 156 ALR 714.

Opinions of the Attorney General:
Contract with private individual for garbage collection billing, mandatory participation by city residents and liability on contract if referendum fails, Opinion No. 75-68, 75-100, 75-110

Case Law:
Greer v. City of Lennox, 79 SD 28 107 NW2d 337 (1961); Municipal dump as nuisance.

11-1-12 DEAD ANIMALS

It shall be unlawful for any person, firm or corporation having dead chickens, dogs, cats or animals of any description on or about his, her or their premises, to dispose of the same in any manner or other form than burning or burial; it shall be unlawful for any person, firm or corporation to remove any such dead chicken, dog, cat or animal from the place where the same may be found dead other than for the purpose of destruction by burning or burial.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-32-11 and 9-45-4

Collateral References:
As a point of interest, try cruelty to animals generally, SDCL Chapter 40-1.

11-1-13 RULES AND REGULATIONS OF CHILD CURFEW

It shall be unlawful for the parent or any person having custody and control of any child under the age of sixteen years to permit such child to remain or be upon any public street, sidewalk or alley of the city of Java, after the hour of 10:00 p.m. and until the daylight of the following day, unless such child be accompanied by his or her parent, guardian or an adult person having custody or control of said child, provided that: in the event of urgent necessity, any parent, guardian, or other adult person then having custody and control of such child may send such child upon any necessary errand which requires the presence of such child on the public streets, sidewalks and alleys of the city of Java, during the hours above mentioned, and in such case shall provide such child with a written statement signed by his or her parent, guardian or other adult person then having custody and control of such child showing where such child has been sent and for what purpose.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3 generally

CHAPTER 11-2
OFFENSES AGAINST PROPERTY

11-2-1 WILLFUL INJURY TO PUBLIC OR PRIVATE PROPERTY

It shall be unlawful for any person to carry away or remove or to willfully, maliciously or negligently break or deface, destroy or otherwise injure any article or thing belonging to the city of Java or belonging to any private person therein.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

11-2-2 INJURING SIGNS

No person shall deface, remove, change mar or in any way interfere with or obliterate either wholly or in part any sign, signboard or card placed, posted, extended or erected by the city.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3

11-2-3 TRAFFIC SIGNS - INJURING OR PLACING UNAUTHORIZED PROHIBITED

No person shall deface, injure, move, obstruct or interfere with any official sign or signal, or street sign or parking meter. No person shall place, maintain or display upon or in view of any street an unofficial sign, signal or device which purports to be, or is an imitation of, or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic. Every such prohibited sign, signal or device is hereby declared to be a public nuisance, and the Chief of Police is hereby empowered to remove the same or cause the same to be removed without notice.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3

11-2-4 INTERFERENCE WITH ELECTRIC LIGHT POSTS AND APPARATUS

No person shall interfere with, injure, break or jar any electric light, telephone, telegraph or fire alarm system, post or pose or apparatus in any manner or climb any telegraph, telephone, electric light or fire alarm pole without being properly authorized to do so.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3

11-2-5 UNAUTHORIZED CONNECTION WITH GAS, WATER OR ELECTRICAL PIPE OR WIRE

No person shall without lawful authority, connect or cause to be connected with any main service pipe, wire or other conductor of any gas, water or electrical energy, any pipe, wire or other device for the purpose of obtaining gas, water or electrical current therefrom; nor shall they with intent to defraud, connect or cause to be connected with any meter installed

for the purpose of registering the amount of gas, water or electricity supplied to any customer, any pipe, wire or other device or disconnect, change or in any manner so interfere with any such meter or any pipe, wire or appliance connected therewith, that such meter will not measure or register the full amount of gas, water or electricity supplied to any customer.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3

11-2-6 INTERFERENCE WITH CITY PROPERTY

No person shall climb on or in any manner interfere with any building, water tower, bridge or structure belonging to the city, without being authorized so to do by the city; and no person shall in any manner injure or deface any such structure.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-3

11-2-7 LARCENY

It shall be unlawful for any person to take or attempt to take from any other person or any store, building or other place within the city of Java by fraud or stealth, or by an manner any money, property or anything of value, tangible or intangible, with the intent to deprive the owner of such property.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

11-2-8 FENCES

No person shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the city, any fence of any character or material, exceeding seven feet in height, above the sidewalk or the surface of any lot or parcel of land. The fence so constructed, erected or maintained shall not exceed five feet in height when the same is within forty feet of the street line; and provided further, no fence or any part thereof shall be constructed of barbed wire.

The five feet height limitation only applies when the fence in question is within forty feet from the street line and the fence runs parallel to the street.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-14

Collateral References:
Partition fences generally, SDCL Chapter 43-23
Constitutionality of fencing laws, 6 ALR 212; 18 ALR 67
Zoning regulations prohibiting or limiting fences, hedges or the like (Also in the Java City Code, Title 9) 66 ALR2d 1294

11-2-9 OBSTRUCTION OF STREETS

It shall be unlawful for any person to obstruct any public highway, street or alley or to make or cause to be made, any structure, enclosure, fence, cellar, door, stairway or building encroaching in or in part on any such street, alley or sidewalk within the city of Java without having first obtained written permission to do so from the Board of Trustees and a record of such permission must be recorded in the Board of Trustee minutes.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3

TITLE TWELVE
SIDEWALKS, ROADS, ALLEYS AND PUBLIC GROUNDS

Chapter 12-1	**General Provisions About Public Areas**
Chapter 12-2	**Snow Removal**
Chapter 12-3	**Excavations in Public Areas**
Chapter 12-4	**Public Grounds in General**

CHAPTER 12-1
GENERAL PROVISIONS ABOUT PUBLIC AREAS

12-1-1 ANIMALS RUNNING AT LARGE

No person, company or corporation shall allow any horse, mule, ass, cattle, swine, sheep, goat or other animal to run at large within the town of Java.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-30-2

Cross Reference:
The Java City code, Title Two.

12-1-2 CLEANING SIDEWALKS, STREETS AND ALLEYS

It shall be the duty of the occupant of any lot or parcel of land in this city, abutting on any alley, street or sidewalk, to keep such sidewalk, and also to keep such street and alley to the center thereof free from all filth, unwholesome matter, manure, straw, paper or rubbish of any kind whatsoever. A twenty-four hours notice, given by the marshall or board of health, which is either written or oral, shall be deemed sufficient notice for the purpose of this section. Failure to comply with the provisions of this section within said time limit shall subject said occupant or owner to the penalties hereinafter provided.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-30-2

12-1-3 DUTY OF OWNERS

It shall be the duty of all non-resident owners to have all lots, or parts of lots owned by them, and all sidewalks, streets and alleys abutting on said lots kept free from all rubbish and in case of failure or refusal upon their part so to do, upon notice as aforesaid, then, and in that case, the town board of trustees may order the marshall to remove said rubbish, and have the costs of such removal assessed to the owner of said lot or lots as other taxes, or recovered by a civil action against said owner or owners prosecuted on behalf and in the name of, the town of Java.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-30-2

12-1-4 BICYCLE RIDING

No person shall ride any bicycle on any sidewalk of this town.

Legislative History:
1990 Revisions

Authority:
SDCL Ch. 9-30 generally, and § 32-36-21.1.

12-1-5 OBSTRUCTING SIDEWALKS

No person shall place any goods or merchandise for sale or exhibition upon any sidewalk, or suspend any goods over the same for show, or cause or suffer to be deposited thereon any cask, barrel, case, box or package, except as provided for the next sections.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-30 generally

Opinions of the Attorney General:
Removal of gas pumps from sidewalks, Report 1931-32, p. 528.

12-1-6 GOODS ON SIDEWALKS

It shall be lawful for any person to place on three feet width of the outer edge of the sidewalk in front of his premises, for a period not exceeding ten hours, any goods or merchandise which he may be in the act of receiving or delivering. It shall also be lawful for any person to display on or over the sidewalk in front of his premises, and within two feet of the building by him used as a place of business, any goods, ware or merchandise, not of any unsafe or nauseous nature.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-30 generally

Opinions of the Attorney General:
Removal of gas pumps from sidewalks, Report 1931-32, p. 528.

12-1-7 REBUILDING AND REPAIR

Whenever the Board of Trustees of the town of Java shall deem it necessary to construct, rebuild or repair (except as hereinafter provided) any sidewalks in said town, they shall notify all owners and occupants of any lots adjoining such sidewalks requiring the construction and repair, within a time limit at the said owner's expense. the notice shall contain what work is to be done, and the character, and it may be general as to the owner or occupants, but must be specific as to the descriptions of the lots or parcels or land in front of which sidewalks are to be built, rebuilt or repaired. The time specified in such notice shall be not less than fifteen (15) days from the time of first publication.

If such work is not done and the sidewalks not built, repaired or rebuilt in the manner and with the time prescribed above in said notice, the Board of Trustees may order the same to be done by any such person they contract with and under the direction of the town marshal. The said expenses shall be assessed upon the lots or parcels of land chargeable by the town marshal, the bill delivered by him to the Board of Trustees. The town clerk shall then publish the amount, together with a notice of time and place where the Board of Trustees will meet to approve. The publication in each newspaper, shall occur at least ten days prior

to the meeting of the Board of Trustees. Said assessments, if so made and approved, shall be a lien upon said lots and parcel of land, on and after such approval is given.
Within ten days after such assessments shall have been approved, the town clerk shall file a certified copy of the same in the office of the town treasurer, and thereupon said assessment shall be payable to the said town of Java. If they are not paid within thirty days, a penalty of ten (10) percent shall be added.

The Board of Trustees may provide by ordinance provisions for the repairing of sidewalks. Any owner of real property who shall fail to keep in repair their sidewalks when notified, shall be held liable to the town of Java for any damage caused by such neglect.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-30 generally

Case Law:
See Strait v. City of Eureka, 17 SD 326; 96 NW 695 (1903).

CHAPTER 12-2
SNOW REMOVAL

12-2-1 REQUIRED

It shall be the duty of the owner or occupant of any lot or parcel of land in the city abutting on any sidewalk to keep such sidewalk free from snow within twenty-four (24) hours after any fall of snow before 9:00 a.m. of the next day if it occurs after 12:00 midnight of that day. If such fall of snow should occur the preceding day, he shall remove the snow from so much thereof as adjoins the premises owned or occupied by him.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-30-5.

Opinions of the Attorney General:
Statute on ordinance requiring abutting owner or occupant to remove snow and ice from sidewalk as affecting liability for injuries, 82 ALR2d 998.

12-2-2 NOTICE; REMOVAL BY CITY

It shall be the duty of the mayor to notify all owners or person in possession of property abutting on sidewalks in the city to keep such sidewalks free from snow and to remove the same within twenty-four (24) hours after every fall of snow or prior to 9:00 a.m. of the succeeding day. Such notice need not be given personally, but may be given generally through the official newspaper of the city.

The notice shall provide that each owner or person in possession is required to keep the sidewalks in front of his premises free and clear from snow between the fifteenth day of October and the first of April of each year.

The notice shall provide that, if the owner or person in charge fails to remove the snow within twenty-four (24) hours of the falling thereof, the city will cause the snow to be removed and charge the costs thereof to the abutting property.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-30-5.

12-2-3 CITY TO REMOVE; COSTS

If the owner or person in charge of the lot fails or refuses to remove the snow from the sidewalks, the city shall have the snow removed and charge the costs thereof against the abutting property the sum established by the Board of Trustees and on file in the finance officer's office for all sidewalks from which the snow is each time removed by the city.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-30-5.

12-2-4 ASSESSMENT ESTIMATE

The mayor shall cause an account to be kept against each lot or parcel of land from which the snow is removed by the city from the fifteen of October to the first of April of each year.

The finance officer shall prepare an estimate of the assessment against each lot or parcel of land from which the snow was removed during the preceding winter and fall, and submit the same to the Board of Trustees for its approval on or before the first day of May of each year. The finance officer shall publish in the official newspaper of the city a notice to property owners of the time and place when the Board of Trustees will meet for the purpose of approving such estimate.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-30-5.*

12-2-5 HEARING; LIEN

Upon the date so named, the Board of Trustees shall meet and, if it finds the estimate correct, it shall approve the same, or if not correct it shall correct or modify the same, and approve the same as modified or corrected and file such assessment with the city finance officer. From the date of such approval and filing, the same shall be and become a special lien against and upon the different pieces or parcels of property described in said assessment, and shall be collected in like manner that special assessments are now collected for public improvements.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-30-5.*

12-2-6 DEFINITION OF "STREET"

"Street" shall mean the entire width of any public roadway within the city and it shall not be limited to those roadways designated as a street but include avenues and all other names by which public roadways are designated, but shall not include alleys or alleyways.

Legislative History: *1990 Revisions.*

Authority: *When this is combined with other sections try SDCL § 9-29-3; See Also SDCL § 2-14-4.*

12-2-7 SNOW REMOVAL EMERGENCY

There shall be a snow removal emergency whenever this is a snow accumulation on the public streets of the city of two (2) inches or more and provisions of this division in regard to parking on public streets during snow removal operations shall be effective and will be enforced.

Legislative History: *1990 Revisions.*

Authority: *SDCL §§ 9-29-3, 9-31-1.*

12-2-8 PROHIBITED PARKING ON STREETS

In the event of a snow removal emergency as defined in section § 12-2-7, no person shall park or allow to remain parked any motor vehicle or trailer on any public street in the city until such time as the street has been cleared of snow.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-31-1.*

12-2-9 RESTRICTED PARKING IN ALLEYS

In the event of a snow removal emergency as defined by section § 12-2-7, parking in alleys shall be permitted; provided, however, no person shall park or allow to remain parked any motor vehicle or trailer on any public alley in the city so as to obstruct emergency through traffic.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1.

12-2-10 NO AUTHORIZATION FOR OTHERWISE PROHIBITED OR RESTRICTED PARKING

Nothing in this chapter authorizes parking of a vehicle where otherwise prohibited or restricted by signs or otherwise.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-31-1, 9-29-3.

12-2-11 FINES AND REMOVAL OF VEHICLES IN VIOLATION

The fine for prohibited or restricted parking as set forth in section § 12-2-8 and section § 12-2-9 in a street or alley shall be twenty-five dollars ($25.00).

All fines for prohibited or restricted parking shall be payable at the police department within ten (10) days from issuance. In the event of a failure to pay a prohibited or restricted parking fine within ten (10) days or in the event of a not guilty plea the matter shall be heard by the magistrate court of the Judicial Circuit which shall impose a fine of not more than one hundred dollars ($100.00) upon a guilty verdict.

In addition to any fine or fines provided herein, any vehicle or trailer parked in violation of section § 12-2-8 or section § 12-2-9 is hereby declared to be a public nuisance and may be removed the owner's expense.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-3, 9-31-1, 9-29-13.

CHAPTER 12-3
EXCAVATIONS IN PUBLIC AREAS

12-3-1 WATER MAINS PRIOR TO STREET CONSTRUCTION

It shall be the duty of the owner of any real property fronting or abutting on any street or avenue in the City of Java, South Dakota, to lay and construct sewer and water mains in said street or avenue to the curb line of their respective property before the street or avenue upon which said property fronts or abuts is graded or paved or within fifteen days after passage of a resolution by the Board of Trustees declaring that the construction of the sewer and water connections on said street or avenue or portions of same is necessary, as a preliminary to the construction and maintenance of a tar, bituminous or concrete paved street surface on said street or a portion thereof.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-45-1; See Also §§ 9-45-35, 9-45-39 and 9-29-3.

12-3-2 FORCED CONSTRUCTION OF MAINS; PROPERTY ASSESSMENTS

In case of the owner of any property fronting or abutting on any street or avenue adjacent to a sanitary or combined sewer shall fail, neglect or refuse to lay and construct sewer and water connections from the sewer and water mains on said street or avenue to the curb line as provided in section § 12-3-1, before said street or avenue is graded and paved or within fifteen (15) days after passage of a resolution or necessity providing for said grading and paving, then the Board of Trustees shall have the option of causing said sewer and water connections to be constructed and installed and to assess the cost thereof against the property to be served.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-45-1; See Also §§ 9-45-35, 9-45-39 and 9-29-3.

12-3-3 MONEY DEPOSIT PRIOR TO EXCAVATION

At any time that a property owner or person other than a contractor operating under terms of a construction contract with the city and related bond, who desires to make a new sewer or water connection or to repair, enlarge or alter an existing connection, shall before making an excavation in said street or avenue either by tunnelling or open cut secure a permit from the City Auditor and make a money deposit with the City Treasurer in an amount which is agreeable to the Board of Trustees.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-45-1; See Also §§ 9-45-35, 9-45-39 and 9-29-3.

12-3-4 EXCAVATIONS DURING WINTER

It shall be unlawful to make any excavations in any street or highway within six (6) feet of any laid water pipes while the ground is frozen, or to dig up or uncover so as to expose to frost any of the water pipes or sewers of the City, except by special permission of the Board of Trustees.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-47-2; See Also SDCL § 9-30-1.

12-3-5 EXCAVATION SAFETY

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

Legislative History:
1990 Revisions.

Authority:
SDCL Ch. 9-30 generally.

12-3-6 EXCAVATION PERMITS, DEPOSITS AND LIABILITIES

Any person desiring to open the surface or tunnel under any street, avenue, alley or public roadway in the City of Java shall secure a permit from the City Auditor and make financial deposit with the City Treasurer as herein required. The amount of the deposit or fee charged for the connection and the service or privileges pertaining to same are cumulative and computed as follows:

If a street that has been surfaced with tar, bituminous material or concrete is to be opened or tunnelled under a permit must be obtained from the City. The applicant or permit holder shall be responsible for lights and guards around the opening and for all damage claimed or accruing to persons or property as a result of the desired street opening. The expense of opening the pavement and backfilling the ditch to original compaction, including supervision and inspection thereof, will be paid by the applicant. A deposit in the amount of five hundred dollars ($500.00) shall be deposited with the City Treasurer and shall be returned to the applicant upon satisfactory completion of the work.

All sewer or water service lines constructed under the provisions of this statute shall comply with all rules and regulations of the City and of the State Board of Health with respect to sewer and water main construction or use of same.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-32-1, 9-32-10; See Also §§ 9-45-35, 9-45-39 and 9-29-3.

Cross Reference:
The Java City Code, Title Seven.

CHAPTER 12-4
PUBLIC GROUNDS IN GENERAL

12-4-1 HINDERING STREET COMMISSIONER IN MAKING IMPROVEMENTS

No person shall hinder or obstruct the street commissioner or any employee of the town in lawfully making any improvement in any public street, alley or public ground in the town.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-30 generally

12-4-2 MOTOR VEHICLES

A. **Vehicles Stopping on Streets**
No vehicle shall be left standing on Main Street near the sidewalk longer than fifteen minutes unless a longer time be necessary for loading or unloading. Under these circumstances, the vehicle shall be left standing until after the process is completed.

B. **Parking Automobiles**
All automobiles left standing on Main Street shall be parked between the lamp posts in the center of the street, facing east or west, but not on any street intersection.

C. **Prohibiting Automobile Repairs on Main Street**
No person shall repair any motor vehicle on Main Street except as may be necessary in order to remove such vehicle to some other place.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-30 generally

Opinions of the Attorney General:
Go cart races, Report 1963-64, p. 164.
Receipts from parking meters, Report 1919-20,p. 332.
Yield right of way signs, Report 1959-60, p. 36.

12-4-3 POSTS AND AWNINGS IN STREET

No person shall set any awning post so as to obstruct any street or alley of this town, nor shall any person drop any awning of any material, or suffer the same to approach nearer to the surface of the sidewalk than seven feet.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-30 generally

12-4-4 EAVE PIPES

No person shall on any streets or place maintain any pipe leading from the eaves of any building in such a manner that the water therefrom shall be discharged upon or over any sidewalk.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-30 generally

12-4-5 TRIMMING TREES

The occupant or owner of any private premises abutting any public street or alley shall keep all trees standing upon such premises or between the same and the center of the adjoining street or alley so trimmed that no bough of branch thereof shall hang lower than eight feet above the sidewalk level.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-30-2

Opinions of the Attorney General:
Removal of diseased trees, Opinion, No. 81-17.

Analogy:
Removal of gas pumps from sidewalks, Report 1931-32, p. 528.

TITLE THIRTEEN
TRAFFIC

Chapter 13-1	**General Traffic Regulations**
Chapter 13-2	**Weight Damage and Turning**
Chapter 13-3	**Parking**

CHAPTER 13-1
GENERAL TRAFFIC REGULATIONS

13-1-1 VEHICLE

The term "vehicle" shall apply to any conveyance, cycle or motorcycle, except road rollers, fire wagons and engines, or police patrol wagons and ambulances, intended for use on the streets and on thoroughfares and shall include equestrians and sled and driven horses.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally; Compare SDCL Chapter 32-30

13-1-2 RIGHT AND LEFT SIDE OF STREET DEFINED

The right hand and the left hand side of a street as used in this ordinance shall mean the side of the street at the left hand side or the right hand side of the street of the driver of the vehicle, when seated in the proper position to drive, use or operate the vehicle.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally; Compare SDCL Chapter 32-30

13-1-3 CURB DEFINED

The curb shall apply to the curb on such streets as are fitted with curbs and on such streets as have not fitted, it shall be construed to mean the outside edge of the parking as defined by ordinance.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-32 generally; Compare SDCL Chapter 32-30

13-1-4 TRUCKS

The term trucks as herein used, shall include all vehicles larger than a one-half ton pickup truck including tractors, trailers, semi-trucks and semi-trailers.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-32 generally

13-1-5 BRAKES, HORNS, LIGHTS

Every motor vehicle operated or driven upon the public streets, alleys or public grounds of the City of Java shall be provided with adequate brakes in good working order and shall be provided with a suitable bell or horn or other device for signaling, and shall, during the period from one half an hour after sunset to one half an hour before sunrise, display at least two lighted lamps on the front of such motor vehicle and a red light at the rear thereof. Provided that each bicycle or motorcycle shall display but one lighted lamp in front.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-31 generally*

13-1-6 HEAD LIGHTS REQUIRED

Glaring headlights prohibited. Every driver of an electrically lighted motor vehicle shall equip the same with two head lights and one red light at the rear and such mechanical device as shall properly deflect or diffuse the light so as not to permit a glare to be thrown into the eyes of any person approaching the same or being approached by it.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-31 generally*

13-1-7 SPOT LIGHTS

Spot lights shall not be used anywhere within the limits of the City of Java.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-31 generally*

13-1-8 MUFFLERS

Every motor vehicle shall be equipped with a good muffler to muffle the exhaust of the engine thereof and the operator of such vehicle shall at all times while operating the same within the City of Java keep the said muffler closed.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-31 generally*

13-1-9 MOTOR VEHICLES MUST BE DRIVEN CAREFULLY

Every person operating a motor vehicle or any vehicle on any of the public streets, alleys or public grounds in the City of Java shall drive the same in a careful and prudent manner so as not to endanger the property of another or the life or limb of any person.

Legislative History: *1990 Revisions.*

Authority: *SDCL Chapter 9-31 generally*

13-1-10 RACING PROHIBITED

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

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-11 DRIVERS MUST KEEP TO RIGHT SIDE OF STREET

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

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

-1-12 VEHICLES MUST STOP AT CERTAIN PLACES

All vehicles entering upon Main street shall before entering come to a full stop.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-13 DRIVING ACROSS SIDEWALKS AND CROSSINGS - REGULATIONS

No person shall drive any vehicle across any sidewalk except where a driveway is provided, and no person driving any vehicle across any sidewalk to or from any lot or building, alley or roadway, shall drive or operate the same at a greater rate of speed than ten (10) miles per hour, and no motor vehicle shall be driven out of any building across any sidewalk unless the person driving the same shall first sound his horn or bell, or other proper sound apparatus as a warning to any pedestrian who may be on the sidewalk.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-14 VEHICLES MEETING AND PASSING

Any vehicle meeting another vehicle shall pass to the right, and any vehicle overtaking another shall pass to the left and shall not pull over to the right until entirely clear of it, the overtaking vehicle shall again pull over as close to the right hand side of the street as practicable and no vehicle shall overtake and pass another vehicle where the conditions of traffic are such that the overtaking vehicle, in order to pass the overtaken vehicle, will have to turn to the left so much as to cause it to be upon the left hand side of the center of the street.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-15 PASSING AT INTERSECTIONS

It shall be unlawful for the driver of any vehicle overtaking another vehicle to pass, or attempt to pass the same at any intersection.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-16 VEHICLES BACKING UP

No vehicle shall be moved backward for a greater distance on any street or alley, than is necessary to turn or move away from the curb and ample warning shall be given to avoid injury to other traffic.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-17 RIGHT OF WAY AT INTERSECTIONS

Every driver of a motor vehicle, approaching the intersection of a street, shall grant the right of way at such intersection to any vehicle approaching such intersection from his right hand, however, Main street is designated as a through street. Vehicles traveling on Main street have the right of way.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-18 POLICE DEPARTMENT AND AMBULANCE TO HAVE RIGHT OF WAY

The Police Department, Fire Department and all ambulances shall have the right of way on any street. On the approach of any fire apparatus, police patrol or ambulance, all other vehicles on the street shall draw up as near as possible to the right hand curb of the street and remain there at a standstill until any such fire apparatus, police patrol or ambulance shall have passed, and shall at no time follow any such fire apparatus within three hundred (300) feet while the same is responding to an alarm.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-19 CONGREGATING NEAR FIRE PROHIBITED

No person vehicle or person operating or driving the same shall congregate or stand in or near any public street or streets or alleys of the City of Java within one hundred (100) feet of any fire within the limits of the City of Java or drive over any fire hose stretched out on the ground.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-20 POLICE REGULATIONS, DRIVERS, LOADING, CROSSWALKS

All drivers and operators of vehicles shall at all times comply with any direction of voice, hand, whistle or any signaling device given by any policeman as to slowing down, stopping, starting, backing, approaching or departing from any place, the manner of taking on or letting off of passengers, the loading or unloading of any commodities, or any reasonable regulations of traffic upon the streets of the City of Java and pedestrians shall not cross any street of said city at any other place than at the regularly provided crossings at the intersections of streets, and in crossing streets, pedestrians shall at all times be subject to obey all policemen or other proper officers authorized to direct or regulate traffic.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-21 VEHICLES PROHIBITED ON SIDEWALKS OTHER THAN PRIVATE OR PUBLIC CROSSINGS

It shall be unlawful for any person to operate or drive any vehicle upon or over any sidewalk in the City of Java other than at a public or private crossing.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-22 HIT AND RUN DRIVERS - COLLISIONS AND INJURIES MUST BE REPORTED

In case of any injury to the property or the person of another by any driver of any motor or other vehicle, it shall be the duty of such driver to immediately notify the police department of such accident or injury.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-23 CITY AUTHORITY

The governing body of the City may be resolution, designate through streets, safety zones, quiet zones, limited parking areas, speed zones, truck routes and the character and placement of all official traffic signs and signations.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

13-1-24 SPEED LIMITS

No person shall operate any vehicle upon the public streets or alleys in the City in a manner which, under the circumstances, tends to endanger life or property. The speed limit within the City, except upon the highways under State Control, or in special speed zones, shall be twenty (20) miles per hour.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-25 STOPPING AT INTERSECTIONS

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

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-31 generally

13-1-26 SPECIAL LOAD LIMITS

The City reserves authority to fix special temporary or permanent load limits upon streets, avenues, alleys and public right of ways within the City of Java whenever good cause appears therefore. Upon the posting of such special load limits, it shall be unlawful for any motor vehicle or combination of motor vehicles to travel upon said streets, avenues, alleys, or public rights of way in excess of the load limits posted.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-31 generally

13-1-27 EXHIBITION DRIVING

Any person who drives a vehicle within the city limits of the City of Java in such a manner that creates or causes unnecessary engine noise, or tire squeals, or skids or slides upon acceleration or stopping; or that simulates a temporary race; or that causes a vehicle to unnecessarily turn abruptly or sway, or unnecessarily block or hinder the free travel of other vehicles, shall be guilty of exhibition driving.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Case Law:
See City of Brookings v. Thomsen 84 SD 651 176 NW2d 46, overruled on other grounds in City of Brookings v Roberts 88 SD 623, 226 NW2d 380.

13-1-28 MINIMUM SPEED

It shall be unlawful for any person to operate a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic at the point of operation thereof, or in compliance with any law, rule or regulation.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

13-1-29 RECKLESS DRIVING

Any person who drives any vehicle upon the streets carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger any person or property shall be guilty of reckless driving.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

13-1-30 DRIVING WHILE INTOXICATED

It shall be unlawful for any person to drive or operate, or attempt to drive or operate any motor vehicle upon any of the public streets, alleys or public grounds of the City of Java, while such person is in an intoxicated or drunken condition or under the influence of intoxicating liquors.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Opinions of the Attorney General:
Arrest without a warrant, Report 1967-68, p. 105.

Collateral References:
See City of Aberdeen v. Forkel 72 SD 536 37 NW 2d 407.

Case Law:
City of Aberdeen v. Forkel 72 SD 536 37 NW2d 612 (1962)

Anderson v. Adamson 79 SD 429, 112 NW2d 612 (1962)

13-1-31 MINORS UNDER FIFTEEN YEARS NOT TO DRIVE UNLESS ACCOMPANIED

It shall be unlawful for any person, whether the owner, hirer, lessee, or any person in charge of or under whose control any motor vehicle is, to permit the same to be driven or operated on any of the streets or alleys of the City of Java by any person under the age of fifteen (15) years, unless the infant driving or operating said motor vehicle shall be accompanied by a competent motor vehicle operator in the front seat of the same.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

13-1-32 GENERAL PENALTIES

Any person or persons, firm or corporation violating any of the provisions of this chapter or failing to comply with any of the provisions thereof, shall upon conviction thereof be punished by a fine not to exceed one hundred dollars ($100.00).

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3

CHAPTER 13-2
WEIGHT DAMAGE AND TURNING

13-2-1 TRACTION ENGINES

It shall be unlawful for the owner or operator of any type of traction engine, whether the same be operated by gasoline, or other power to permit the same to be upon or across any pavement, concrete, or bituminous; or concrete sidewalk in the City of Java without having adequately protected the same from injury therefrom by planking. Any person who shall cause any damage to any premises herein shall be liable to the City of Java or the owner of the property therefor.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Case Law:
Anderson v. Adamson 79 SD 429, 112 NW2d 612 (1962)

13-2-2 HEAVY MACHINERY

It shall be unlawful for any person to drive any machinery or vehicle of such a size or nature as to injure any street crossings, culverts or pavement inside the City.

Should anyone violate this statute, they shall be deemed guilty of a misdemeanor and shall also be liable to the amount of damage caused.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

13-2-3 TURNING

The following rules and regulations shall govern turning:

A. "U" turns are prohibited upon all the streets and alleys within the City except at intersections, and such "U" turns are further prohibited at any intersection on Main Street .
B. Upon making proper signals, cross-land turns may be made at all streets of the city except those where center parking is permitted.
C. Every driver of a motor vehicle turning into another street or alley to the right shall turn the corner as near to the right hand boundary of the road as possible.
D. Every driver of a motor vehicle turning into another street or alley to the left of him shall, before turning, pass to the right and beyond the center of the intersection of the streets or alleys.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

13-2-4 PENALTY

Any person or persons violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not to exceed one hundred ($100.00) dollars.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-31-1

CHAPTER 13-3
PARKING

13-3-1 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, or in obedience to traffic regulations or traffic signs or signals.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-2 STOPPING, STANDING AND PARKING

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

A. Within an intersection
B. On a crosswalk
C. Outside the first line of cars parked next to the curb, otherwise than temporarily for the purpose of any while actually engaged in loading or unloading.
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
H. On a sidewalk
I. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-3 UNLIMITED PARKING CERTAIN PLACES

Motor vehicles may be parked for any length of time upon residential streets not in conflict with other provisions of this chapter.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-4 PARKING NEAR HYDRANT OR CROSSINGS

No vehicle shall be stopped or left within fifteen feet of a fire hydrant nor in such a position to obstruct a crossing, unless to allow another vehicle or pedestrian to cross its path and no vehicle shall be allowed to stand upon any street within fifteen feet of the property line of any intersection street.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-5 VEHICLES NOT TO BE PARKED OR DISPLAYED ON STREETS EXCEPT WHEN IS USE

No person shall place, leave or keep on any public street, road, alley, sidewalk or public grounds in the City of Java, any automobile, truck, wagon or other vehicle, except when the same shall be in actual use, nor shall any person place, leave or keep thereon, any automobile, implements or other vehicle inactive or not, in actual use, for the purpose of display, sale, barter or exchange.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-6 DUTY OF POLICE

It shall be the duty of the police of the city of Java to notify any person so encumbering or obstructing, as aforesaid, in the preceding section, any street, road, alley, sidewalk, or other public grounds to remove any such vehicle therefrom forthwith.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-7 PARKING TRUCKS

It shall be unlawful for any person to park any truck on Main street.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-8 DOUBLE PARKING

Double parking upon any of the streets of the city of Java shall be unlawful.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-9 CENTER PARKING

Center parking upon any of the city streets shall be unlawful except on Main street on which parking parallel to the curb shall be permitted.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-10 OBSTRUCTION OF ALLEYS

It shall be unlawful to park in any alley in such a manner to obstruct, in any way.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-11 RIGHT OF WAY TO ORDINARY TRAFFIC

The driver of a vehicle that is parked either at the side or in the middle of any city street shall, in leaving its place of parking, give the right of way to the ordinary traffic upon such streets.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-12 RIGHT OF WAY TO PARKED VEHICLES

The drivers of vehicles parked in the center of the street, where such parking is permitted, shall give the right of way to vehicles parked at the curb when such vehicles are in the act of leaving their place of parking.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-13 CONTINUOUS PARKING

It shall be unlawful for any person to leave any vehicle continuously parked upon the streets of what has been defined as the business district of the City for more than forty-eight (48) hours.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-14 PUBLIC WALKS

It shall be unlawful for any person to park any vehicle upon the public sidewalks of the city or in such a manner s to obstruct the crosswalks in any city street.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-15 PROPER ANGLE OF PARKING

All cars parked within the business district of the city shall be parked at the proper angle between the lines drawn on the pavement for such purposes.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-16 PROHIBITED PARKING

No cars or trucks shall be parked at any place within the city where the curb is painted red or within twenty five (25) feet of any fire hydrant which is painted rad, nor at any place where they might tend to obstruct any intersection between any of the streets and alleys of the City.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

Collateral References:
Conflict between statutes and local regulations, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Case Law:
City of Rapid City v. Rensch 77 SD 242, 90 NW2d 380 (1958).

13-3-17 BACKING VEHICLES AT INTERSECTIONS

It shall be unlawful to back a vehicle around a corner at an intersection. No vehicle shall be backed without ample warning first being given.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-31-1

13-3-18 DUTY OF POLICE

It shall be the duty of the police of the City of Java to notify any person so encumbering or obstructing or parking any motor vehicle illegally as this chapter defines, upon any streets, to remove any such vehicle therefrom forthwith.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 23-3 and SDCL Title 9

13-3-19 PENALTY

Any person or persons violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall upon conviction thereof, be punished by a fine not to exceed one hundred ($100.00) dollars.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-19-3

TITLE FOURTEEN
TREES, WEEDS AND NOXIOUS VEGETATION

Chapter 14-1	**Municipal Tree Regulations**
Chapter 14-2	**Prevention Of Weeds In The Streets And Alleys**

CHAPTER 14-1
MUNICIPAL TREES REGULATIONS

14-1-1 TITLE

This chapter shall be known and may be cited as the Municipal Tree Regulations of the City of Java, Walworth County, South Dakota.

Legislative History:
1990 Revisions

14-1-2 DEFINITIONS

Street Trees: Are herein defined as the trees and all other wood vegetation on land lying between the right of way lines of all streets, avenues, alleys or other public right of way within the city.

Park Trees: Are herein defined as trees and all other wood vegetation in public parks, playgrounds, cemeteries and all other areas owned by the city, or to which the public has free access as a park, playground or cemetery.

Legislative History:
1990 Revisions

Authority:
SDCL § 2-1-4-1; See Also SDCL § 50-10-1 for application of statutory definitions.

14-1-3 GENERAL AUTHORITY OF CITY

The city of Java is to provide for the necessary attention or action insofar as trees, brush, wood, shrubbery or debris infected with dutch elm disease, as well as any other infestations or infectious diseases are concerned.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1

14-1-4 AUTHORITY ADMINISTRATION: PLANTING MAINTENANCE AND REMOVAL OF TREES; PUBLIC SAFETY

The mayor and Board of Trustees of the city of Java, through its Superintendent of Parks, will hereafter have authority to administer the provisions of this chapter, unless otherwise specifically provided; that they will have the authority to study the problems and determine the needs of the city of Java also referred to hereinafter as the Municipality. They shall

have the authority to determine the type and kind of trees to be placed upon all municipal public street or parts of public streets or in parks. they may assist in the dissemination of news and information regarding the selection, planting and maintenance of trees, shrubs and bushes within the corporate limits or within the area over which the municipal officials have jurisdiction, whether the same be on private or public property. The Board of Trustees and Superintendent of Parks shall have the authority and jurisdiction or regulating the planting, maintenance and removal of trees on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1

Collateral References:
City park board, street improvements within jurisdiction of, SDCL §§ 9-38-49 to 9-38-52
Use of streets and alleys, regulation by municipality, SDCL § 9-30-2

14-1-5 PRUNING TREES, THE MINIMUM CLEARANCE

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection, except where such services are provided for by utility firms.

The minimum clearance for any overhanging portion thereof over a sidewalk shall be eight feet whenever practicable, and shall be fourteen feet over all streets except truck thoroughfares when the clearance shall be from fourteen to sixteen feet, unless otherwise designated by the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1

Case Law:
Herrmann v. Board of Commissioners of City of Aberdeen, 285 NW2d 855 (1979); Alleys obstructed by property owners.

14-1-6 HARMFUL ACTIVITIES TO TREES PROHIBITED

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

Legislative History:
1990 Revisions

Authority:
SDCL § 22-34-1 or 9-45-1

Collateral References:
Definition of "intentionally", See SDCL § 22-1-2 (1)(b)
Definition of "Person", See SDCL

Case Law:
Rohweder v. Aberdeen Production Credit Association, 765 F2d 109 (1985); Conviction as a prerequisite to treble damages.

Collateral References (continued)
§ 22-1-2 (31)
Definition of "Property", See SDCL § 22-1-2 (35)
Malicious Mischief, 52 AmJur 2d, § 1 et seq.
Malicious Mischief, 54 CJS, § 1 et. seq

Case Law (continued)
State v. Larson, 294 NW2d 801 (1980); Information on the indictment.

14-1-7 SAFETY HAZARDS TO THE PUBLIC - TREE DISEASES

No tree shall be allowed to harbor any safety hazard to the general public; whether that tree be public or private, or to harbor any insect, disease or other pest that would be injurious or fatal to any tree in the city. Such trees include those injurious to sewer, water, electrical, telephone or gas lines, and those interfering with traffic and traffic control devices and signs, those obstructing light from any street light and those that are dead or have broken or dead limbs that are unsafe.

Any elm wood or elm tree, living or dead, within the city found to have dutch elm disease, fungus, Ceratocystic Ulmi, or which would harbor the european elm bark beetle, Scolytus Multistratus, and or the native elm bark beetle, Hylurgopinus Rufipes, shall be declared a nuisance.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-45-1 and 9-32-1

14-1-8 NUISANCES - NOTICE TO OWNERS - NOTICE CONTENT - PREMISES INSPECTIONS

Any hazard as described in Section § 14-1-7 shall be declared a nuisance by the Board of Trustees and within fifteen days of written notice of said nuisance, the same shall be corrected by the responsible owner or person in possession of said tree.

The Park Superintendent of Board of Trustees shall inspect or cause to be inspected all premises and places within the city at least twice each year to determine whether any public nuisance as defined in this section exists thereon, and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with the dutch elm disease or any elm bark bearing material reported or suspected to be infested with either species of the above named elm bark beetles. The Finance Officer shall notify owners as to location of the dutch elm infested trees. The Park Superintendent will make inspection after fifteen days to make certain of compliance with this section.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-29-13, 34-26-19 and 34-16-20

Opinions of the Attorney General:
Land held by county under tax deed proceedings, abatement of nuisances on, Report 1967-68, p. 260
County property as public nuisance, Report 1967-68, p. 220.

Law Reviews:
The nuisances of nuisance: Forty cats are too many - four just enough; 5 SD LRev 86 (1960).

14-1-9 REMOVAL COSTS - COLLECTION OF

The entire cost of any abatement of a public nuisance as defined in this section on trees on any public street, alley, park or other public place, except boulevards, shall be borne by the

city. The cost of removing elm trees infected with the dutch elm disease fungus on private property and on boulevards shall be borne by the property owner.

In the event owner, occupant or person fails to comply with the resolution and order of the Board of Trustees of the city of Java to remove said nuisances, the city of Java shall cause said nuisance to be removed and shall either submit the costs incident to said service and removal to the Finance Officer for certification to the Walworth County Auditor for collection with and in the same manner as general property taxes or shall recover said costs in an action in Magistrate Court.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 21-10

Collateral References:
Liability of municipality for damages on compensation when abating a nuisance. what is not in fact such, 46 ALR 362
Venue of suit to enjoin nuisance, 7 ALR2d 481.
Punitive damages based on nuisances, 31 ALR3d 1346

Case Law:
Kelley v. Chicago, M & St. P.R.Co., 53 SD 405 220 NW 921 (1928); Abatement and damages. A party cannot have both abatement and permanent damages.

14-1-10 ELM WOOD

On or after September 1, 1989, no elm wood of any kind may be stored in a wood pile or in any other place within the city, and no elm wood amy be used as firewood. No elm wood may be hauled into or through the city, except on its way from the city to a designated disposal area, where it must be immediately shredded, buried or burned.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-32-1, 9-29-3

14-1-11 COST ASSESSMENTS - RECORDS

The Finance Officer shall keep a strict account of all costs of tree removals and other nuisances abated under his ordinance in the event assessments are necessary.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 21-10 generally

14-1-12 PURPOSE OF

The contents of this chapter shall be construed to mean any attention or action necessary resulting from the removal of any tree, brush, wood or debris or any part thereof as deemed necessary by the Board of Trustees of the city of Java or its designated representative whomsoever they may be.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-29-31, 9-45-1

14-1-13 INTERFERENCE BY INDIVIDUALS

It shall be unlawful for any person to hinder, prevent, delay or interfere with the Board of Trustees or any member thereof or the Park Superintendent or any other representative of said city Board of Trustees whomsoever that might be, while engaged in carrying out the

execution or enforcement of this chapter, provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Municipality.

Legislative History:
1990 Revisions

Authority:
SDCL § 22-11-6

Collateral References:
Physical assault upon an officer not required, see State v. Dale, 379 NW2d 811 (1985), cert. denied 475 US 1126 (1986), 90 LEd 2d 195 106 Sup. Ct. 1651.

Case Law:
State v. Wiedeman, 321 NW2d 539 (1982); Assault upon police officer.

14 BUILDING BESIDE TREES

No person shall deposit, place, store or maintain upon any public place of the Municipality any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, except by written permit of the Board of Trustees of Park Superintendent.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1

Collateral References:
Location determined by location of trunk; See SDCL § 43-16-4

CHAPTER 14-2
PREVENTION OF WEEDS IN THE STREETS AND ALLEYS

14-2-1 DEFINITION OF NOXIOUS WEEDS

The following weeds and plants are hereby declared to be noxious weeds and are hereby declared to be nuisances, to wit: rag weed, thistles of any kind, wild sunflower, goldenrod, cockleburr, sandburr, wild oats, wild mustard, wild lettuce, wild salify, pig weed, wild firebush and all other useless weeds suffered or allowed to grow during the growing season.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-30-5

14-2-2 DUTY OF OCCUPANTS

It shall be the duty of the occupant, person in charge or the owner of any lot or parcel of land in the city of Java to keep such lot or parcel free from any noxious vegetation and particularly as to the weeds and plants mentioned in the first section of this title and to cut such noxious vegetation at such time or times as may be necessary to prohibit growth and the bearing of seed. Occupants are, hereby required to cut or otherwise destroy the weeds growing between the first day of June and the fifteenth day of June of each year, and again between the first day of July and the fifteenth day of July of each year, and in case of failure, the Board of Trustees may order the same to be done by any person or persons with whom them contract and in such case the Board of Trustees shall assess a special tax against the lot for the amount expended in the destruction of such weeds. This tax shall become due as soon as said work is completed.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-30-5

Collateral References:
Destruction of weeds and the like, tort liability of municipality or other governmental unit in connection with, 34 ALR2d 1210
Analogy: Statues requiring abutting owners to remove snow, 82 ALR2d 998.
Abutting owners right to use street and sidewalk, 6 ALR 1314

14-2-3 STREETS AND ALLEYS BORDERING TOWN LOTS

The owners of all town lots or outlots within the corporate limits of the town of Java shall keep all streets and alleys bordering upon such lots or outlots free from weeds to the center line of such streets and alleys.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-30-5

Collateral References:
Destruction of weeds and the like, tort liability of municipality or other governmental unit in connection with, 34 ALR2d 1210

Collateral References (continued):
Analogy: Statues requiring abutting owners to remove snow, 82 ALR2d 998.
Abutting owners right to use street and sidewalk, 6 ALR 1314

14-2-4 NEGLECT OF PROPERTY OWNERS

When the owner of any such town lot or outlot shall refuse or neglect to destroy any weeds growing in any street or alley bordering thereon, on his side of the center line, the Board of Trustees may order the same to be done by any person or persons with whom said Board may contract, and in such case the Board of Trustees shall assess a special tax against said town lot or outlot for the amount necessary in the destruction of such weeds, such a tax shall become due as soon as the work is completed, provided that if the owner of such town lot or outlot can be found, he is to be given five days notice to destroy such weeds before any other person shall be employed to do so.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-30-5

Collateral References:
Destruction of weeds and the like, tort liability of municipality or other governmental unit in connection with, 34 ALR2d 1210
Analogy: Statues requiring abutting owners to remove snow, 82 ALR2d 998.
Abutting owners right to use street and sidewalk, 6 ALR 1314

TITLE FIFTEEN
UTILITIES AND FRANCHISES

Chapter 15-1	**Management and Operation**
Chapter 15-2	**Electricity Use**
Chapter 15-3	**Water Regulations**
Chapter 15-4	**Sewers - General Provisions**
Chapter 15-5	**Cable Television Franchise**

CHAPTER 15-1
MANAGEMENT AND OPERATION

15-1-1 CREATION OF THE OFFICE OF SUPERINTENDENT OF PUBLIC UTILITIES

The city owned public utilities of the city of Java are its water and sewer and electric distribution systems. Subject to the supervision of the Board of Trustees, the city owned public utilities shall be operated by a city employee to be known as Superintendent of Public Utilities to be employed by the mayor subject to the approval of the Board of Trustees at its first meeting in May of each year; no person shall be eligible to be employed as Superintendent of Public Utilities who is not a practical electrician; the salary of such Superintendent shall be paid monthly, and shall be such sum as shall be from time to time fixed by the city Board of Trustees.

The mayor, with the approval of the Board of Trustees, shall employ such assistant or assistants as may be necessary for the regular dispatch of the work and business of this department. Such assistant or assistants shall be under the direct supervision of the Superintendent of Public Utilities.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-35-1 and 9-14-1

Case Law:
Hoofer v. Hah 69 SD 275, 9 NW2d 502 (1943).

Cross References:
Oath and authority of the City Auditor, SDCL § 18-3-1

15-1-2 DUTIES OF SUPERINTENDENT OF PUBLIC UTILITIES

The duties of the Superintendent of Public Utilities shall be as follows:

A. He shall be responsible for the maintenance and operation of the municipal light plant, electrical transmission system and municipal water plant and its distribution system.
B. It shall be his duty to keep the said Public Utilities in a good state of repair to the end that service to consumers may be interrupted as little as possible.
C. He shall read water and electrical meters monthly between the 10th and 15th days of each month as may be conveniently done.
D. He shall collect all bills against consumers for electric current and water, together with bills for merchandise, repairs and labor performed for consumers.

E. He shall keep or cause to be kept, monthly log sheets on forms to be provided for that purpose on which shall be shown daily and hourly meter readings and such other facts as may be required to complete such forms.

F. He shall keep a ledger account of all bills payable and chargeable to either of the cities' public utilities; he shall keep a record of all outstanding service deposit certificates. The forms of all such records and books of account to be kept by the Superintendent shall be prepared by the City Auditor and approved by the city Board of Trustees.

G. The Superintendent shall make semi-annual reports immediately after June 30th and December 13st of each year showing a complete invoice of all material, tools, fuel, lubricants, and all articles and material of every kind and nature owned by the city, such reports shall be in two parts, one covering the electric light plant and distribution system and the other covering the municipal water plant and its distribution system. Such reports shall be made in duplicate, the original to be kept on file by the Superintendent and the duplicate to be filed with the City Auditor and by him submitted to the Board of Trustees at its next regular meeting following the filing of such report.

H. The Superintendent shall also as a part of the report provided for in the preceding subsection, show the following facts:

1. Total receipts and disbursements for preceding semi-annual periods.
2. The condition of the property of each utility.
3. Its requirements for proper maintenance.
4. As to the water utility, the number of gallons of water pumped for preceding semi-annual period and number of gallons of water sold for such period.
5. As to electric utility, number of kilowatts of electrical energy produced and number sold.

I. After the Superintendent of Public Utilities shall have read the light and water meters, he shall deliver the meter readings to the City Auditor who shall compute and prepare consumer's bills in triplicate, the original of which shall be mailed to the consumers and the duplicate and triplicate copies delivered to the Superintendent of Public Utilities immediately thereafter; upon payment of consumer's bills the Superintendent shall receipt the original, duplicate and triplicate copies returning the original to the consumer; as soon after the 21st of each month as may be done, the Superintendent shall deposit all sums collected, listing the same on duplicate deposit slips, one copy of which he shall retain in his office, and he shall deliver the other copy to the City Treasurer, taking his receipt therefor. He shall at the same time deliver the duplicate copy of the consumer's receipt to the City Auditor for his files.

J. The Superintendent of Public Utilities and his assistant or assistants shall be subject to removal and discharge at any time for cause by the Board of Trustees.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-14-1*

15-1-3 DUTIES OF CITY AUDITOR

The City Auditor shall prepare a report monthly in triplicate, showing the amount of each consumer's bill, the date of payment, account number, name of consumer and the amounts due from each consumer separately for light, power, tax, water and merchandise and he shall immediately after the preparation thereof, deliver one copy thereof to the City Auditor and one copy to the City Treasurer for their files, retaining the third copy in his own files. He shall also keep a record on a pad prepared for that purpose of the consumer's bills for

merchandise, labor, etc., such charges to be made in triplicate, the original and one copy of said bills to be delivered to the Finance Officer at the same time the meter reading books are delivered, retaining the triplicate copy in the pad for his files and the City Finance Officer shall mail the original of said bills to the consumers with his other bills and retain the other copy in his files.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-14-1

Cross References:
Oath and authority of the City Auditor, SDCL § 18-3-1.

15-1-4 DELINQUENT BILLS

It shall be the duty of the City Auditor and the city's collecting agent to reconcile their books each month as soon after the 21st day of each month as conveniently may be done, and the City Auditor, as soon thereafter as possible, shall send out notices of delinquent bills.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-14-1

Opinions of the Attorney General:
Exception to the rule, Opinion No. 73-44.
Town assessor is appointive office, Report 1947-48, p. 238.

15-1-5 ONE PERSON HOLDING MORE THAN ONE OFFICE

For purposes of convenience, the City of Java may employ one person to hold any of the following offices, at any given time: City Finance Officer, City Auditor, Superintendent of Public Utilities.

Legislative History:
1990 Revised Ordinances.

Authority:
SDCL § 9-14-1

15-1-6 DUPLICATE COPIES OF BILLS

The City Auditor shall have the duty of mailing a duplicate copy of delinquent consumer bills to the bank responsible for Java's accounts.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-14-1

Cross References:
Gas and electric utility service, SDCL Chapter 49-34.

5-1-7 CONSUMERS BILLS

All consumer's bills for electric current, water, labor and material shall be due on the 21st day of the month following the month when such electricity, water, labor or materials was furnished and the same shall become delinquent on and after the 21st day of the month in which the same becomes due. It shall be the duty of the Superintendent of Public Utilities

to shut off the water and disconnect the service wires of any and all consumers of electric current or water from the city's distribution systems on the 21st day of the month that the same becomes due without notice. No consideration shall be given to any consumers relative to the extending of time of payment of such bills except the same be granted by the Board of Trustees for cause at any regular or special meeting.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-35-1

CHAPTER 15-2
ELECTRICITY USE

15-2-1 DEPOSIT FOR ELECTRICAL USE

Electrical consumers of the city shall pay a deposit as determined by resolution of the city Board of Trustees as security for the use of electricity within the city of Java. They shall not be entitled to use of said electricity until such deposit is made. Upon the closing of any account, if such deposit or portion thereof exceeds the electrical bill owed, the money shall be refunded to said consumer when the consumption of electricity is discontinued.

Legislative History:
1990 Revisions.

Opinions of the Attorney General:
Rate base, determination, injunction by company, Report 1935-36, p. 437.
Resale of electrical energy to the U.S. government under joint program, Report 1949-50, p.453.

Authority:
SDCL Chapter 9-39 generally

Cross References:
Gas and electric utility service, SDCL Chapter 49-34.

Case Law:
Hurd v. Blomstrom, 72 SD 526 37 NW2d 247 (1949); Electric plants are a proprietary activity, under statutory authority, municipal acts are proprietary rather than governmental.

15-2-2 LANDLORD AND TENANT

Any person leasing property owned by another desiring to use electric current from the City's transmission system must either make the service deposit as herein provided for or secure from his landlord and file with the City Treasurer, a statement in writing to the effect that the landlord's service deposit may be used, if necessary, to pay the tenant's delinquencies for current, if any.

Legislative History:
1990 Revisions.

Opinions of the Attorney General:
Rate base, determination, injunction by company, Report 1935-36, p. 437.

Authority:
SDCL Chapter 9-39 generally

Cross References:
Gas and electric utility service, SDCL Chapter 49-34.

15-2-3 METERS

All meters for the measuring of electric current connected with the city's electric transmission system shall be owned by the city of Java and shall be installed by the city at its own expense, at in or upon the consumer's premises in such a way and such a place as will make the same easily accessible to be read, and as will not interfere in any way with the consumer's use and enjoyment of his property.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-39 generally

15-2-4 RIGHT TO READ METERS AND INSPECT WIRING

The city and the electric companies who are involved by their duly authorized officers and agents shall have the right to go upon and with in the premises of any consumer for the purpose of inspecting the wiring, the meters or any appliances or equipment of the consumer used in connection therewith.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-39 generally

15-2-5 CONFORMITY WITH NATIONAL CODE

All new wiring shall conform to the provisions of the National Electrical Code.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-39 generally

Opinions of the Attorney General:
Transmission lines exempt from taxation, Report 1921-22, p.351.

15-2-6 DISCONNECTING OR RECONNECTING WITHOUT AUTHORITY

Any consumer of electric current connected to the city's distribution system who shall willfully by a device known as a jumper or any other device or artifice, prevent the current so used by him from passing through his meter or meters and thereby deprives the city of its proper income for non payment of bills shall reconnect or cause to be reconnected, his service connection without having paid all delinquencies, together with the fees herein provided for disconnecting or reconnecting his services and without authority of the Superintendent of Public Utilities, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one hundred dollars ($100.00) and in addition thereto, the city shall have the right to discontinue the sale of electric current to such person and it shall be the duty of the Superintendent of Public Utilities to disconnect the service wires to the premises of any person.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3; See Also SDCL Chapter 9-39 generally

Case Law:
Hurd v. Blomstrom, 72 SD 526 37 NW2d 247 (1949); Electric plants are a proprietary activity under statutory authority, municipal acts are proprietary rather than governmental.

15-2-7 DAMAGE TO TRANSMISSION

It shall be unlawful for any person to willfully, in any way, damage any wire, bulb, globe, post, shade or other fixture or appliance connected with or attached to the transmission system of the city, and any person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, may be punished by a fine not exceeding one hundred dollars ($100.00).

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3; See Also SDCL Chapter 9-39 generally

15-2-8 SEALING OF METERS

All meters shall be sealed by the Superintendent and any person, other than the Superintendent, who breaks the seal or tampers with said meter, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding one hundred dollars ($100.00) and in addition thereto, the city shall have the right to discontinue the sale of electric current to such person.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-19-3; See Also SDCL Chapter 9-39 generally

15-2-9 WIRING AND INSTALLATION CONDEMNED

Whenever the Board of Trustees or any agent designated by them has reason to believe that the wiring or electrical installation in or about any building is unsafe or defective, they or he shall make an inspection thereof and if the same is found to be unsafe, defective or improperly installed, they or he shall condemn the same and immediately notify the owner or person in charge of such wiring or installation to correct any defect therein within then (10) days thereafter and unless such defects are corrected within the time specified it shall be the duty of the Board of Trustees or its agent as aforesaid to turn the current off to said building or buildings and not to again furnish current therefor until the proper certificate of inspection and approval by the said Board of Trustees or its agent has been furnished.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-3; See Also SDCL Chapter 9-39 generally

CHAPTER 15-3
WATER REGULATIONS

15-3-1 CONTROL BY CITY

The water works system shall be under the control of the Board of Trustees.

Legislative History:
1990 Revisions.

Authority
SDCL § 9-47-1

Case Law:
Huron Waterworks Company v. City of Huron, 7 SD 9, 62 NW 975 (1895); Sale of waterworks.
National Tube Works Company v. City of Chamberlain, 5 Dak 54, 37 NW 761 (1888); Passage of ordinances.

Collateral References:
Municipality as riparian owner, the right to public use of water, 141 ALR 639.

15-3-2 WATERWORKS FUND

The account known as "Waterworks Fund" kept by the City Finance officer, shall be continued and all money received from the collection of water rents, from taxation for the upkeep of the waterworks system, from the sale of property or material connected with the waterworks, from any appropriation made by the Board of Trustees for the purpose of construction or extension of waterworks or from any source whatever connected with the management and operation of the waterworks system shall be placed in said fund, and all salaries and disbursements connected with the management and operation of the waterworks systems shall be paid from this fund.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-22-6 and Chapter 9-19 generally

Case Law:
Huron Waterworks Company v. City of Huron, 7 SD 9, 62 NW 975 (1895); Sale of waterworks.
National Tube Works Company v. City of Chamberlain, 5 Dak 54, 37 NW 761 (1888); Passage of ordinances.

Collateral References:
Municipality as riparian owner, the right to public use of water, 141 ALR 639.

15-3-3 WATER SUPPLY

The city does not guarantee a constant supply of water to any consumer and shall not be liable for damages for any failure to supply the same, nor shall it be liable for any claim or damage by reason of the breaking of any service pipe, stop cock or other equipment or if for any reason, the supply of water shall be shut off to make repairs, connections or extensions, or for any other purpose that may be found necessary. The right is reserved to cut off the water supply to any person at any time.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

15-3-4 FIRE HYDRANTS IN GENERAL

All hydrants erected for the purpose of extinguishing fire are hereby declared to be public hydrants and no person or persons except members of the Fire Department, the City Police, or persons expressly authorized by the Board of Trustees and then only the exercise of authority delegated by the said Board of Trustees, shall open any of said hydrants or attempt to draw water from the same, or at any time attempt to remove or uncover any protection from or in any manner that interferes with any of the hydrants.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

5-3-5 INTERFERING WITH FIRE HYDRANTS

No person except any employee of the Water Department or Fire Department of the City of Java shall open, take any water from or in any way interfere with, injure, break or deface any fire hydrant belonging to the Municipal Water Plant of the city of Java.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-47-1, 9-33-11 and 22-11-6

5-3-6 UNAUTHORIZED USE

It shall be unlawful for any person authorized to open hydrants to delegate his authority to another, or let or suffer another person to take wrenches or tools furnished to him or suffer the same to be taken from any hose house except for the purpose strictly connected with the Fire Department or as they accompany carts or wagons on occasions of fire.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

Collateral References:
Extension of water system, right o compel municipality, 48 ALR2d 122.
Injunctive relief against diversion, 42 ALR3d 426.

15-3-7 INJURY TO SYSTEM

It shall be unlawful to break, injure, mar, deface, interfere with or disturb any building, machine, apparatus, fixtures, attachments or appurtenances of the waterworks, or any hydrant, stop cock box, meter, water supply or service pipe or any part thereof, or deposit anything in any stop cock box, or commit any act tending to obstruct or impair the intended use or any of the above property, without the permission of the Board of Trustees, excepting cases herein or otherwise provided by ordinance.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1; See Also SDCL § 9-12-1 generally

3-8 EXCAVATIONS

It shall be unlawful to make any excavations in any street or highway within six feet of the laid water pipes while the ground is frozen, or to dig up or uncover so as to expose to frost

any of the water pipes or sewers of the city, except by special permission of the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1; See Also SDCL § 9-30-1

15-3-9 RULES AND REGULATIONS

That the sections, rules and regulations hereinafter set out in this chapter shall be considered a part of the contract with every person which is supplied with water through the waterworks system and every person by taking water, shall be considered to express his or her assent to be bound thereby. When any of the same are violated, or such others as the Board of Trustees may adopt, the water shall be cut off from the building or place of such violation and shall not be turned on except by order of the City Finance Officer, and then only after the payment of ten ($10.00) dollars for shutting off and turning on the water and such other items as the Board of Trustees shall determine, and in case of such violations, the Board of Trustees or committee thereof, shall have the right to declare forfeited any payment made for water by the person committing such violation.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

15-3-10 APPLICATION FOR WATER USE

Every person desiring a supply of water must make application therefore to the City Finance Officer upon a form substantially as follows:

"The undersigned does hereby make application to the city for a permit to connect up with the Water Mains opposite Lot _____, Block _____, in _____ to the city, and the water taken from such connection will be used for the purpose of _____. The undersigned agrees that all of the provisions in the Waterworks chapter of the city together with this application shall constitute a contract with the city and further agrees to be bound by all provisions regulating the use of water and connection with the mains and all provisions pertaining to waterworks system the same as though such chapter or chapters were incorporated herein, and in case the water is cut off because of any fault of the undersigned, the said undersigned does hereby agree to pay such fee as provided when the city causes said water to be again turned on. Dated this _____ day of _____, 19_____."

_____
Signature of Applicant

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

15-3-11 APPLICATIONS IN GENERAL

Applications for water service shall be made by the owner or agent of the property to the Board of Trustees or Superintendent of Public Utilities, stating the lot and block where such water is desired. If such application is granted by the Board of Trustees or Superintendent

of Public Utilities, the applicant shall be granted a permit authorizing the connection to be made. The fee for making the tap shall be twenty-five dollars ($25.00) payable at the time of making said application. That all expenses in connection with the running of the water line from the main to the consumer's property shall be at the consumer's expense.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-47-1*

15-3-12 RECORD OF DEPOSITS FOR APPLICATIONS

A record of the deposit specified in the Java Code § 8-3-11 shall be kept by the Superintendent of Public Utilities and a receipt shall be issued for said deposit in triplicate, the original receipt to be given to the consumer and one copy thereof to be filed with the City Auditor and one copy to be delivered to the City Treasurer for his records, after which such water connection shall be made and service furnished to said applicant.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-47-1*

15-3-13 INSTALLATION

All service water pipes from the main to the point where the meter is installed shall be of copper. Such connections shall be wiped joints or brass fittings and an eighth of an inch larger than the taps that supply them. In addition there shall be installed a shut off valve and curb box at a point six inches inside the line of the sidewalk if such installation is possible, otherwise said installation shall be on the curb line. Meters recording the amount of water used and drain cock shall be installed by the applicant.

Legislative History: *1990 Revisions*

Authority: *SDCL § 9-47-1*

15-3-14 WATER SALES IN GENERAL

No water shall be sold or distributed unless the same is measured by a meter which shall be furnished by the water user and kept in repair by the city of Java.

A. The standard connection with the water main shall be copper pipes from main to curb stand. All other pipes may be galvanized pipes capable of standing a pressure of 150 pounds.

B. All excavations pertaining to water lines in any of the streets of the city shall be under the supervision of the Superintendent of Public Utilities.

C. All owners must at their own expense, keep the surface pipe from the city main to their property, in good working order and properly protected from frost and other danger.

D. Owners or consumers desiring to discontinue the use of water shall be required to give notice thereof to the water department and regular rates shall be continued until such notice is given. Owners must give notice of change of tenants.

E. If two or more premises, with separate owners, are supplied from the same service pipe, a minimum fee to each consumer must be paid, in addition to the metered water provided to consumers.

F. The Superintendent of Public Utilities or other officer or employee of the city shall be permitted at reasonable hours, to enter the premises or buildings or consumers for the purpose of reading meters and to examine water pipes and fixtures and the

manner in which water is used, and said officers or employees reserve the right to set or remove a meter, or change its location whenever it is deemed advisable to do so.

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

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-47-1 and 9-35-1

Cross References:
Java City Code § 8-3-3.

15-3-15 CONSTRUCTION

Construction from the property line to the main shall be made by the city under the supervision of the Superintendent of Public Utilities or other person especially authorized by the Board of Trustees, for which the applicant shall pay the actual cost of said construction, including labor and materials. The applicant shall pay a permit fee of five dollars ($5.00) payable to the Municipal Finance Officer, at the time the application is filed. Upon approval of the application and prior to any construction, the applicant shall pay into the City Treasury the estimated cost of construction, plus an inspection fee of ten dollars ($10.00). If the actual construction cost be greater than the estimated cost, the applicant shall immediately upon completion of construction pay the difference to the City Treasurer. The connection between the property line to the place where the water is used shall be done by the applicant subject to the inspection and approval of the Chief of Police or other persons specially authorized by the Board of Trustees before being covered. All pipes must be laid at least six feet underground.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-6

15-3-16 CONNECTIONS - ASSESSMENT OF COSTS

All extensions of the municipal water system and of the municipal sanitary sewer shall be made in accordance with applicable South Dakota state law and the cost thereof shall be assessed as provided by law against the property benefitted by such extension.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

15-3-17 METERS

All meters shall be cleaned and tested at least once a year and when deemed necessary by the Board of Trustees and all defective meters shall be repaired by the Superintendent of Public Utilities or any other person authorized by the Board of Trustees at the expense of the owner.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

15-3-18 ONLY ONE SERVICE TO TAP - EXCEPTIONS

Not more than one house or premise shall be supplied from one tap or upon one service pipe except by written permit issued by the Board of Trustees, and not then, in any case, unless provision is made so that such premises can be shut off independently of every other house or premises.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-47-1*

15-3-19 ONE FAMILY TO TAP - EXCEPTIONS

No consumer shall supply water to other families nor suffer them to take water off the premises, or after water is introduced to any premises shall any person make any taps or connections, extensions or attachments beyond the premises where first installed without first filing a regular application therefore and approved by the Board of Trustees.

Legislative History: *1990 Revisions*

Authority: *SDCL § 9-47-1*

15-3-20 CURB STANDS

A curb stand with cut off shall be placed at a uniform location, equidistant from place of tap, and in a direct line from tap toward the nearest point of lot lines, and inside of the curb line of the street with the top of the curb stand even with the grade of the sidewalk for controlling the supply of water to consumers.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-47-1*

15-3-21 STOP AND WASTE VALVES

All persons having connections with city water mains must have proper and sufficient stop and waste placed at accessible places, either outside the house or in the basement, for the purpose of shutting off water in case of leaks and repairs.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-47-1*

15-3-22 LIMITATIONS ON CITY LIABILITY

The city water department shall not be responsible for pipes and fixtures. All owners must at their own expense, keep the service pipe from the curb stand, and all other apparatus in good working order, and properly protected from frost and other danger. No claim shall be made against the city of Java by reason of the breaking of any of the service pipes or apparatus, or from any damage that may result from shutting off water for repairing or any other purpose, or for any variation of pressure. No reduction will be made from regular rates because of leaking pipes or fixtures.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-47-1*

15-3-23 HOUSE BOILERS

All house boilers shall be constructed with a vacuum valve at the top inlet pipe, and shall be sufficiently strong to bear the pressure of the atmosphere when under a vacuum. The top cocks and other appurtenances must be sufficiently strong to bear the pressure and ram of water in the mains.

Legislative History: *1990 Revisions*

Authority: *SDCL § 9-57-1*

15-3-24 RUNNING WATER

All persons using water shall keep the hydrants, taps, faucets, hose, closets, urinals, bath or other fixtures allotted to their use, closed except when obtaining water for use, and shall be responsible for any damage or injury that may result to other persons or property from improper use of water.

Legislative History: *1990 Revisions*

Authority: *SDCL § 9-57-1*

5-3-25 REMOVING METERS

In no case shall anyone remove a meter from its setting or interfere with its reading for any cause without first obtaining a permit from the Board of Trustees or Chief of Police.

Legislative History: *1990 Revisions*

Authority: *SDCL § 9-47-1*

5-3-26 INSPECTIONS AND READING METERS

Every person taking water supplied through the waterworks system shall permit the Superintendent of Public Utilities or any other authorized person at all reasonable hours of the day, to enter their premises or buildings to examine the pipes and fixtures and the manner in which the water is used or to read meters. They must frankly and without concealing, answer questions put them concerning and relative to the use of water on such premises.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-47-1*

5-3-27 WATERING YARDS

The use of hose for sprinkling yards, gardens and streets or for washing windows and sidewalks is prohibited in the case of fire, and in case of threatened shortage of water, may be prohibited altogether by action of the Board of Trustees during such emergency.

Legislative History: *1990 Revisions.*

Authority: *SDCL § 9-47-1*

15-3-28 METER READING

All water meters shall be read on the dates assigned by the Board of Trustees upon passage of a resolution.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

15-3-29 PORTABLE METER - SPECIAL WATER USERS PERMIT

The Superintendent of Public Utilities shall provide one or more portable water meters to be attached to the distribution system at any place where water is to be taken from it for building purposes or for any special or temporary use. Any person desiring to take water for any such use shall first obtain a permit from the said Superintendent in manner and form as provided for water users in general except that in addition thereto, such special permit shall specify the place from which such water is to be taken, the quantity to be taken and the purpose for which the same is to be used and if a charge is to be made for such water, the price to be paid. In the event that a charge is to be made for such water, a portable meter shall be attached to the tap from which such water is to be taken and shall be paid for at the regular meter rate provided herein or at such rate as may be fixed by the Superintendent with the consent of at least two members of the Board of Trustees plus a fee of twenty dollars ($20.00) payable in advance for the use of the meter. Such meter shall be read at the time that other meters are read or sooner if the use of such water is discontinued. Any officer or employee of the city or any other person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than twenty-five dollars ($25.00).

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-47 generally

15-3-30 PLAT OF WATER MAINS

The water department shall at all times keep and maintain a plat on which shall be shown a complete diagram of all the mains of the city, all taps and service pipes, the size of mains, and such other information as shall be deemed advisable by said department.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-47 generally

15-3-31 PLUMBERS

No person except a duly licensed or competent plumber, his employee or an employee of the Water Department shall be permitted to do any work on any pipes or connections with the mains of, or in any way connected with the water supply of the City of Java. All such plumbers shall be governed by the rules and regulations that are now in force, or that may hereafter be adopted by the Board of Trustees, or the Water Department of the city.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-47 generally

15-3-32 PLUMBING WORK

No plumbing work of any kind shall be done by any plumber in or upon any water pipes, fixtures or apparatus connected with the city water system, without permission first obtained from the Superintendent or other officer in charge of the Water Department.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-47 generally

15-3-33 PAYMENT OF WATER RATES AND METER DEPOSITS

The minimum charges for water rates and/or meter deposits are to be determined by a city Board of Trustees resolution, which shall also describe the methods by which such payments shall be made.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

15-3-34 WATER SERVICE TO RENTAL PROPERTIES - LATE PAYMENTS

Owners who rent or lease premises shall be responsible for having accessible curb stops per city specifications and in the case of apartments or other multiple family dwellings, a separate curb stop for each unit is required. Owners of such rental properties shall be ultimately liable to the city for any unpaid water bills of the owner's tenant, and if such bill remains due and unpaid after thirty days, said delinquent amounts owing the city shall then be billed to the owner of the premises in question.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-47

15-3-35 RECORDS

The City Finance Officer shall keep a correct and accurate record of all meter readings with each customer, and all payments and accounts for water used, or other supplies or labor furnished by the city and shall collect the same when due.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-47

15-3-36 WATER SHUT-OFF

Any person who shall violate any of the provisions herein contained for the government of consumers shall in addition to having the water shut off, be deemed guilty of a misdemeanor. Any plumber or other person who shall violate any of the provisions of this chapter, other than those governing consumers, shall be deemed guilty of a misdemeanor.

Legislative History:
1990 Revisions.

Authority:
SDCL Chapter 9-47

15-3-37 GOVERNING METERS AND BILLS

All water bills shall be governed under the same provisions provided in the Java City Code, and all water meters shall be read at the same time as provided in Chapter 8-1 of this code.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-47-1

CHAPTER 15-4
SEWERS - GENERAL PROVISIONS

15-4-1 DEFINITIONS

Sewage: Means any combination of water carried wastes from residences, business buildings, institutions and industrial establishments.

Sanitary Sewage: Means water carried wastes from toilets, sinks, baths, household laundries or tubs and similar facilities.

Garbage: Means solid wastes from the preparation, cooking and dispensing of food or from handling, storage and sale of foods or produce.

Properly Shred Garbage: Means wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be freely carried under flow conditions normally prevailing in municipal sewers, with no particle greater than ½ inch in dimension.

Industrial Waste: Means any liquid wastes from industrial processes as distinct from sanitary sewage and garbage.

Sewer: Means a pipe or conduit for carrying storm water, sanitary sewage or both.

Sanitary Sewer: Mean a sewer which carries sanitary sewage.

Sewage Disposal Plant: Means any arrangement of devices or structures for treating sewage in order to eliminate or reduce its odor or other harmful or obnoxious characteristics.

Municipal Sewer: Means a sewer operated by the municipality for the benefit of the citizens of the municipality generally.

Private Sewer: Means a sewer designed to serve a single user, provided that a special permit may be granted by the Superintendent for such use of such sewer by one or more additional users.

Building Drain: Means that part of the lowest horizontal piping of a drainage system which receives discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning outside the inner face of the building wall.

Building Sewer: Means the extension from the building drain to the municipal sewer or other place of disposal.

Sewer System: Means all facilities for collecting, pumping, treating and disposing of sewage.

Superintendent: Means the official charged with the duty of superintending the municipal sewer system or his authorized deputy, agent or representative.

Suspended Solids: Means solids that either float on the surface of, or are in suspension in water, sewage or other liquids; which are removable by laboratory filtering.

Sewer Outlet: Means any termination of a sewer system into a watercourse, pond, ditch, lake or other body of surface or ground water.

Watercourse: Means any natural or artificial channel in which a flow of surface water occurs, either continuously or intermittently.

Residential Premises: Includes all buildings or structures occupied and used exclusively as a home by not more than two families.

Commercial Premises: Includes all building or structures which are not residential premises as herein defined.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9 and Chapter 9-18

Opinions of the Attorney General:
Drain meaning the same as sewer, Report 1919-20, p. 57.

15-4-2 USE OF MUNICIPAL SEWER REQUIRED

Whenever a municipal sanitary sewer is constructed within one hundred feet (100) of the property line of any premises, the Superintendent shall notify the owner of any building sued for human occupancy, employment, recreation or similar uses on such premises of said fact and direct him to install a sewer to dispose of all sewage and wastes from the premises and to connect it with the municipal sewer in accordance with this ordinances, and the owner shall comply with said order within ninety (90) days after receipt of such notice. If such owner fails to provide for such sewer after notice to do so, the city may provide for the installation of such sewer and charge the cost against the property as a special assessment.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9 and Chapter 9-18

Case Law:
City of Bristol v. Horter, 73 SD 398 43 Nw2d 543 (1950); Board of Health regulations.
Horstad v. City of Bryant, 50 SD 199 208 NW 980 (1926); Draining into private property.
Parsons v. City of Sioux Falls, 65 SD 145 272 NW 288 (1937); Outlet into a river.

15-4-3 APPLICATIONS FOR CONNECTION

Applications for connecting to the main sewer line shall be made to the Board of Trustees or to the Superintendent of Public Utilities. A charge to be determined by resolution shall be made for tapping into the main sewer line where a "Y" is not provided. A charge of half that amount shall be made if connection is made to any existing "Y" in the main sewer line. It shall be the responsibility of the property owner to pay all expenses with regard to said connection and running a line to his property, all of which shall be under the direct supervision of the Superintendent of Public Utilities.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-9 and Chapter 9-48 generally

15-4-4 CONSTRUCTION OF PRIVATE SEWERS

Where a municipal sanitary sewer is not available, a private owner may construct and connect a private sewage disposal plant complying with the provisions of this article.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also Chapter 9-48 generally

Case Law:
City of Bristol v. Horter, 73 SD 398 43 Nw2d 543 (1950); Board of Health regulations.
Horstad v. City of Bryant, 50 SD 199 208 NW 980 (1926); Draining into private property.
Parsons v. City of Sioux Falls, 65 SD 145 272 NW 288 (1937); Outlet into a river.

15-4-5 MATERIALS USED IN PRIVATE SEWERS

It shall be unlawful for any person, persons or corporation to build or construct any cesspool either on private or public ground within the corporate limits of the city of Java unless the same is constructed and built so as to keep water and the contents of the same from soaking into the ground, and built of good concrete or other material equally durable. The Superintendent of Public Utilities shall have general supervision of all connections made to the City sewer and the excavations so related.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

Cross References:
See the Java City Code § 8-4-2

15-4-6 PERMIT FOR PRIVATE SEWER

Before commencement of construction of a private sewer or construction of a disposal plant, the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the municipality which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee shall be paid to the municipal Finance Officer at the time that the application is filed, the amount to be determined by resolution of the Board of Trustees.

Legislative History:
1990 Revised Ordinances

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

Case Law:
City of Bristol v. Horter, 73 SD 398 43 Nw2d 543 (1950); Board of Health regulations.
Horstad v. City of Bryant, 50 SD 199 208 NW 980 (1926); Draining into private property.
Parsons v. City of Sioux Falls, 65 SD 145 272 NW 288 (1937); Outlet into a river.

15-4-7 INSPECTION

A permit for a private sewer shall not be final until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction. The applicant shall notify the Superintendent that the work is ready for final inspection before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of the notice by the Superintendent.

Legislative History:
1990 Revised Ordinances

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

15-4-8 COMPLY WITH STATE REGULATIONS

The type, capacities, location and layout of a private sewage disposal plant shall comply with all recommendations of the Department of Public Health of the State of South Dakota. No permit shall be issued for any private sewage disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge into any municipal sewer or sewer outlet.

Legislative History:
1990 Revised Ordinances

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

Case Law:
City of Bristol v. Horter, 73 SD 398 43 Nw2d 543 (1950); Board of Health regulations.
Horstad v. City of Bryant, 50 SD 199 208 NW 980 (1926); Draining into private property.
Parsons v. City of Sioux Falls, 65 SD 145 272 NW 288 (1937); Outlet into a river.

15-4-9 CONNECTION WITH MUNICIPAL SEWER REQUIRED - WHEN

Whenever a municipal sewer becomes available to a property served by a private sewer, a connection shall be made to the municipal sewer in compliance with this chapter, and any septic tanks, cesspools or other private sewage system shall be filled with suitable materials.

Legislative History:
1990 Revised Ordinances

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

15-4-10 MAINTENANCE

The owner shall operate and maintain the private sewer and sewage disposal plant in a sanitary manner at all times at no expense to the municipality.

Legislative History:
1990 Revised Ordinances

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

-4-11 JURISDICTION OF STATE HEALTH OFFICER

Nothing herein shall be construed as limiting the jurisdiction and powers of any duly authorized health officer.

Legislative History:
1990 Revised Ordinances

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

Case Law:
City of Bristol v. Horter, 73 SD 398, 43 NW2d 543 (1950); Board of Health regulations.

15-4-12 CONNECTIONS, COSTS ASSESSED

All extensions of the municipal water system and of the municipal sanitary sewer shall be made in accordance with applicable South Dakota state law and the cost thereof shall be assessed as proved by law against the property benefitted by such extension.

Legislative History:
1990 Revised Ordinances

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

15-4-13 DEPOSIT OF GARBAGE

No person shall place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the municipality or any area under the jurisdiction of the municipality, any human or animal excrement, garbage or other similar waste.

Legislative History:
1990 Revised Ordinances

Authority:
SDCL § 9-32-10 and 9-32-11

Collateral References:
Ashes or other rubbish, statutory or municipal regulation of removal of, 15 ALR 309.

Opinions of the Attorney General:
Contracts with private individuals, mandatory participation in garbage collection, Opinion No. 75-68, 75-100, 75-110.
Disposal of garbage, municipal immunity from tort liability, 156 ALR 714.

15-4-14 DISCHARGE OF INDUSTRIAL WASTE

No person shall discharge into any sewer outlet within the municipality or any area under the jurisdiction of the municipality, any sanitary sewage, industrial wastes or other polluted waters, unless suitable treatment has been provided in accordance with this ordinance.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-8

15-4-15 PRIVIES PROHIBITED

Except as hereinafter provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-6

15-4-16 DISRUPTION OF FLOW

It shall be unlawful for any person to willfully dump any course garbage or waste material into the sewer, if such garbage and material would have a tendency to disrupt the flow of said sewer.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-9; See Also Chapter 9-48 generally

15-4-17 COMMERCIAL RUN OFF

Any run off from commercial establishments, such as vehicle washing racks, creamery buildings, etc., shall enter the sewer only through a suitable settling basin and/or grease trap. Each connection shall be approved by the Superintendent of Public Utilities.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-9

Collateral References:
Eminent domain power of municipal government, SDCL § 9-27-1

15-4-18 WHEY

That no whey shall be deposited into the city or private sewer systems, and in the event the whey is found in the sewer systems, or in the lagoons, then the Board of Trustees shall either have the sewer plugged so that no further use of said sewer may be used where there is any possibility of whey going into the sewer lagoons, or in the alternative, make a charge to the user of said establishment where whey is entering the sewer, an additional fee as deemed necessary to treat the city sewer lagoons so that proper chemical action man be maintained in the said sewer lagoons to assure the proper functional sue thereof, and to enable them to operate as normal sewer lagoons.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-32-9 and Chapter 9-48 generally

15-4-19 PERMIT REQUIRED BEFORE CONNECTION WITH THE MUNICIPAL SEWER

No unauthorized person shall uncover, make any connections with any opening or use or alter any municipal sewer without first obtaining a permit in writing from the Superintendent.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

Case Law:
Erickson v. City of Sioux Falls, 70 SD 40 14 NW2d 89 (1944); Discretion of city.

'5-4-20 APPLICATION FOR PERMIT, CONTENTS AND FEES FOR MUNICIPAL SEWER

Any person desiring sewage service from the municipal sewer for premises not heretofore connected shall apply to the Superintendent for a permit. There shall be separate forms of permits for residential and for commercial service. The owner, agent or person acting for the owner, may make application on a special form furnished by the municipality. The application shall be supplemented by any plans, specifications and other pertinent information. A permit and inspection fee of ten dollars ($10.00) shall be paid to the City

Finance Officer at the time the application is filed. Upon approval of the application, the applicant shall pay into the city treasury as and for an availability charge the sum of two dollars ($2.00) per front foot of the premises abutting the municipal sewer. Charges on a corner lot are not to exceed two hundred fifty dollars ($250.00).

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-21 COSTS

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner and the owner shall indemnify the municipality for any loss or damage that may be directly or indirectly occasioned by the installation or any building sewer.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-22 SEPARATE SEWER REQUIRED

A separate building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer to the front building may be extended to the rear building and the whole considered one building sewer. Under exceptional circumstances, the Superintendent may waive the requirements of this chapter.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-23 OLD SEWER REQUIREMENTS

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

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-24 CONSTRUCTION OF MUNICIPAL SEWERS; MATERIALS ETC.

A building sewer shall be constructed of caste iron soil pipe, ASTM specifications A74-42 or equal; vitrified clay sewer pipes, ASTM specifications C13-44T or equal; or other suitable material approved by the Superintendent. Joints shall be tight and waterproof. If installed in filled or unstable ground, a building sewer shall be constructed of caste iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle approved by the Superintendent.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

Collateral References:
Construction and Maintenance, 52 ALR2d 263.

15-4-25 SIZE OF SEWER

The size and slope of the building sewer shall be subject to the approval of the Superintendent and in no event shall the diameter be less than four inches and the slope less than 1/8th inch per running foot. The "Y" connection and the building drain shall be uncovered and the differential elevation determined before construction is begun. Where practical, the building sewer shall be laid on a uniform grade.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-26 ELEVATION AND SLOPE OF SEWER

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to and within three feet of any bearing wall which might be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid in straight alignment in so far as possible and changes in direction shall be made only with properly curved pipe and fittings.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

Collateral References:
Liability of abutting land owners for injury to municipal employee, 58 ALR3d 1085.
Negligence in construction or repair, liability of municipality, 61 ALR2d 874.

15-4-27 LIFT REQUIRED IN CERTAIN CASES

Whenever any building drain is too low to permit gravity flow to the municipal sewer, sewage carried by such drain shall be lifted by artificial means and discharged into the sewer.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

Collateral References:
Liability of abutting land owners for injury to municipal employee, 58 ALR3d 1085.
Negligence in construction or repair, liability of municipality, 61 ALR2d 874.

15-4-28 TRENCHES AND BACK FILL

All excavations required for the installation of a building sewer shall be open trench work unless other construction is authorized by the Superintendent. Pipe laying and back fill shall be performed in accordance with ASTM specification C12-19. All trenches or back fill are to be tamped and leveled and wherever blacktop surfacing is disturbed, said blacktop is to be restored. No back fill shall be placed until the work has been inspected and approved.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

Collateral References:

Collateral References:
Liability of abutting land owners for injury to municipal employee, 58 ALR3d 1085.
Negligence in construction or repair, liability of municipality, 61 ALR2d 874.

15-4-29 JOINTS

All joints and connections shall be made gas tight and water tight. Caste iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead according to Federal specifications QQ-L-156 and not less than one inch deep. Lead shall be run in one pouring and caulked tight. No point, varnish or other coating shall be permitted on jointing material until the joint has been tested and approved. All joints in vitrified clay pipe and metals shall be made with approved hot pouring joints. Material for hot poured joints shall not soften sufficiently to destroy the efficiency of the joint when subjected to a temperature of 160 degrees Fahrenheit, not to be soluble in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute or hemp or similar approved materials, Other joining materials and methods may be used with the approval of the Superintendent.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-30 INSPECTION

The applicant for a sewer permit shall notify the Superintendent when the building sewer is ready for inspection. The connection shall be made under the supervision of the Superintendent.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-31 GUARDING EXCAVATIONS

Excavations for building installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a satisfactory manner.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

Collateral References:
Liability of abutting land owners for injury to municipal employee, 58 ALR3d 1085.
Negligence in construction or repair, liability of municipality, 61 ALR2d 874.

15-4-32 STATE REGULATIONS TO GOVERN

All sewers hereinafter constructed shall comply with the standards set forth in the National Plumbing Code which has hereto fore been adopted by the State Department of Health, a copy of which said National Plumbing Code shall be on file in the office of the City Finance Officer of the city.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48; See Also § 36-25-10

Cross References
Employment of personnel by state agencies, SDCL Chapter 3-6A.

15-4-33 DISCHARGE - SANITARY SEWER - PERMIT REQUIRED

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof run off, subsurface drainage, cooling water or unpolluted process waters into any municipal sanitary sewer without the express permit of the Superintendent.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-34 COMBINED STORM AND SANITARY SEWER

Storm water or other unpolluted drainage including industrial cooling water or unpolluted process water may be discharged into such sewers as specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also SDCL Chapter 9-48

15-4-35 CERTAIN PRACTICES PROHIBITED

No person shall discharge or cause to be discharged any of the following described waters or wastes into any municipal sewer:

A. Any liquid or vapor having a temperature higher than 150 degrees F.
B. Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease.
C. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
D. Any garbage, except properly shredded garbage.
E. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch, manures or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interferences with the proper operation of the sewage system.
F. Any waters or wastes containing toxic or poisonous substances in sufficient quantities to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or to create any hazard in the waters of the sewage disposal plant.
G. Any waters or wastes containing solids or such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
H. Any noxious malodorous gas or substance capable of creating a public nuisance.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

Collateral References:
Liability of abutting land owners for injury to municipal employee, 58 ALR3d 1085.
Negligence in construction or repair, liability of municipality, 61 ALR2d 874.

15-4-36 GREASE, OIL AND SAND INTERCEPTORS

Grease, oil and sand interceptors shall be provided when in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarter or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials, capable of withstanding abrupt and extreme changes in temperature, with easily removable covers which when bolted in place shall be gas tight and water tight. All grease, oil and sand interceptors shall be maintained by the owner at his expense in a continuously efficient operation at all times.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

15-4-37 POWERS AND AUTHORITY OF INSPECTORS, RIGHT OF INSPECTION

The Superintendent or other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspecting, observation, measurement, sampling and testing in accordance with the provisions of this chapter.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-32-9; See Also Chapter 9-48

5-4-38 ESTABLISHMENT OF RATES

There is hereby established just and equitable rates, charges and rentals for treatment and disposal services and benefits as authorized by the statutes of the State of South Dakota. Said charges shall from time to time be at least sufficient to produce net revenues adequate to pay the principal of and interest on the bonds payable from revenues of the sewage disposal plant as such principal and interest become due, and to create and maintain required reserve therefore, and said rates and charges shall be revised whenever necessary for such purpose. Said rates, charges and rentals shall be based on minimum monthly charges.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-48-2

15-4-39 OWNER LIABLE FOR TENANTS

Owners who rent or lease premises shall be liable to the city for any and all unpaid sewage treatment and disposal services incurred by any tenant and any such delinquent bills shall, after the same have been due and unpaid for thirty (30) days, be billed to the owner of the premises.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-48-2

CHAPTER 15-5
CABLE TELEVISION FRANCHISE

15-5-1 DEFINITIONS

For convenience, the Town of Java is designated and referred to as "Town" and said Midcontinent Cable Systems Co. of South Dakota, P.O. Box 910, Aberdeen, South Dakota 57401 is designated and referred to as "Grantee". Any reference to either includes their respective successors and assigns.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-2 RIGHTS GRANTED GENERALLY

There is hereby granted to Grantee, its successors and assigns, subject to the limitations herein stated, the right and franchise to install, maintain and operate in said Town a cable television system for the purpose of offering audio, visual and data services, and to that end and for those purposes, said Grantee is hereby granted the right to occupy and use the streets, alleys, and public places of the Town as now or hereafter constituted and easements for compatible uses, for the purpose of constructing, operating and maintaining over, upon and under the same, said system.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-3 RIGHTS NOT EXCLUSIVE

This franchise shall not be exclusive and shall not be construed to prevent the Town from granting to any other party the right to use the streets, alleys and public grounds of the town for a like purpose.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-4 STREET REGULATION

The Town reserves the right it may have, under its police power to control or regulate the use of said streets, alleys and public grounds by Grantee.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-5 OCCUPATION TAX AS COMPENSATION; SUBSCRIPTIONS; COLLECTIONS AND SALES TAX

During the term of the rights granted hereunder, and so long as the Grantee operates said system, the Grantee shall pay as an annual occupation tax as compensation to the Town for the rights granted herein, a sum equal to three percent (3%) of the annual total gross receipts of the cable system, :Gross Receipts" shall consist of those revenues derived from

the monthly service charges paid by subscribers for basic cable service and premium pay services, such as HBO. Gross receipts shall not include revenues received as installation charges, and fees for reconnections, inspections, repairs or modifications of any installation, and all State and Federal taxes relating thereto.

In no event shall any of such payments be payable until the system is actually in operation with paying subscribers, but there shall be no minimum number of subscribers hereunder. The payments that Grantee makes to the Town shall be in lieu of any other occupation tax, license tax, or similar levy by the Town and shall be paid on a monthly basis based on the preceding years gross subscriber revenues. Upon completion of Grantee's audit, Grantee shall pay to the Town within fifteen (15) days the balance due, if any, for the operating year covered by the audit.

This amount payable by the Grantee to the Town shall be the sole amount payable for all of its rights under this chapter including, but not limited to, the use of the streets and other facilities of the Town in the operation of the Cable System and for the municipal supervision thereof and shall be in lieu of any other occupational tax or franchise tax.

Notwithstanding the annual gross receipts free or tax payable hereunder, if the Grantee is legally obligated to collect or pay any sales tax or other taxes, the Grantee shall have the right to charge the subscribers an additional amount equal to such tax.

Notwithstanding anything in the previous paragraphs of this Section, the Town agrees that the Grantee shall not be obligated to make the payment provided for in this section for a period of five (5) years from the effective date of this ordinance. The fee then shall be based on annual gross receipts received on and after the fifth anniversary of the effective date of this chapter's original passage before the city's recodification.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-6 MONTHLY RATES; AMOUNTS AND SCHEDULE OF

Grantee shall at all times maintain on file with Auditor a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including installation charges.

In consideration of Grantee building a cable television system in the Town, the Board hereby waives, for the term hereof, any right it may now or hereafter have to regulate the rates charged by Grantee. In the event a later governing body of the Town undertakes, by whatever method, the regulation of Grantee's rates, then Grantee may, at any time at its option, remove all of its facilities in the Town, including the cable and all equipment used to provide cable television service to the residents of the Town.

The monthly rates set forth in the schedule referred to in paragraph one of this section shall be payable in advance.

The Grantee shall not discriminate in rates between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984 and Federal Communications Commission regulations.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-7 FACILITIES USED BY GRANTEE

The facilities used by the Grantee shall have a minimum capacity of twelve (12) channels. The Town shall provide Grantee with suitable space, without cost, in an adjacent to a municipally owned building or in or adjacent to a privately owned building, to locate its headend facilities and satellite receive dish or dishes. Grantee shall have access to such space at all times.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-8 TEMPORARY REMOVAL OR RAISING AND LOWERING OF WIRES

The Grantee shall, on the request of any person wishing to remove a building or any person who wishes to remove trees or structures from their property, temporarily raise or lower its wires to permit the moving of buildings or tree removal. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-9 PROPERTY RIGHTS OF INSTALLED EQUIPMENT

All cable and passive equipment installed by Grantee at a subscriber's location shall remain the property of Grantee and Grantee shall have the right, but shall not be obligated, to remove said cable and equipment upon termination of service to the subscriber.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-10 ASSIGNMENT RIGHTS AND BINDING OBLIGATIONS

Grantee shall have the right to assign this franchise to any party, or corporation, subject to the approval of the Town, which approval will not be unreasonably withheld, but all obligations of Grantee hereunder shall be binding upon its successors and assigns.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-11 EFFECTIVE TIME PERIOD

This franchise shall continue and remain in full force and effect for a period of fifteen (15) years from the date on which this chapter becomes effective as provided by law, before the city's recodification. The Grantee shall have the right, upon giving thirty (30) days written notice to the Auditor, to terminate service in the Town in the event it is, in the opinion of Grantee, not economically feasible to continue such service. Upon such termination, Grantee shall have the right to remove its equipment and facilities.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

15-5-12 ACCEPTANCE MUST BE CONFIRMED

Within sixty (60) days after passage and final approval of this chapter, Grantee shall file with the Auditor its written acceptance of this franchise.

Legislative History:
Ordinance #35; date not available.

Authority:
SDCL §§ 9-35-16 through 9-35-23.

TITLE SIXTEEN
ZONING

Chapter 16-1	**Purpose and Intent**
Chapter 16-2	**Definitions**
Chapter 16-3	**Establishment of Zoning**
Chapter 16-4	**Single Family Residential District**
Chapter 16-5	**General Requirements**
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Chapter 16-8	**Permits**
Chapter 16-9	**Board of Adjustment**
Chapter 16-10	**Zoning Subdivisions**

CHAPTER 16-1
PURPOSE AND INTENT

16-1-1 PURPOSE

To promote the general welfare of the population through sound policies of land development and land management, to preserve natural beauty and ecological balance; to this end this title will prevent overcrowding of the land with population and structures, and provide for adequate sanitation, transportation, and other community facilities.

Legislative History:
1990 Revisions

Opinions of Attorney General:
Enforcement of powers within three miles of municipal corporate limits, Opinion No. 81-4.
Board of regents property not subject to local zoning ordinances, since the suit is prohibited by the State immunity doctrine, Opinion No. 77-13.

Authority:
SDCL § 11-4-1; Compare SDCL §§ 11-7-43, 9-12-13, 11-6-11 and 11-8-29

16-1-2 INTENT

To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the general land use plan.

Legislative History:
1990 Revisions

Collateral References:
82 Am Jur 2d, Zoning and Planning, §§7,8.
101A CJS, Zoning and Land Planning, §§10,29.

Authority:
SDCL § 9-12-13

CHAPTER 16-2
DEFINITIONS

16-2-1 GENERAL DEFINITIONS

For the purpose of this title, certain terms or words used herein shall be interpreted as follows, except where the context would plainly indicate a different intent:

The word **shall** is mandatory; the word **may** is permissive.

The words **used** or **occupied** include the words intended, designed, or arranged to be used or occupied.

The word **lot** includes the words plot or parcel.

Accessory Use or Structure is a use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.

Apartment House: An apartment house is a detached dwelling designed for, or occupied by, four or more family units.

Automobile Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail. This definition does not include storage, body repair or auto salvage operations.

Building: The word "building" includes the word "structure" and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.

District: A section of the municipality for which the regulations governing the construction and location of buildings and occupancy of buildings and premises are the same.

Dwelling, Single Family: A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Dwelling, Multiple Family: A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Two Family: A residential building designed for or occupied by two families. The number of families in residence shall not exceed the number of dwelling units provided.

Dwelling Unit: One room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Family: One or more individuals living, sleeping, cooking or eating on the premises as a single housekeeping unit, but it shall not include a group of more than three individuals not related by blood or marriage.

Farm Unit: An area of ten (10) acres or more on which is raised farm products of a value of one thousand dollars ($1,000.00) or more each year. For purposes of this title, all land in like ownership being operated as a single economic unit shall be considered to be part of a single farm unit.

Feed Lot: A feed lot is defined as a parcel of land whereon there is contained an operation of feeding or raising animals in excess of ten animal units per acre or in excess of 500 animal units per parcel of land.

Front Yard: A yard extending between side lot lines across the front of a lot adjoining a public street. In case of through lots, unless the prevailing front yard pattern of adjoining lots indicates otherwise, the front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirements for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the administrative official shall determine the front yard requirements, subject to the following limitations:

1. At least one front yard shall be provided having the full depth required generally in the districts;
2. No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

Height of Buildings: The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building lines, whichever is the highest, to the highest point of the building.

Junk Yard: The use of more than fifty (50) square feet of any land, building, or structure, whether for private or commercial purposes, or both, where waste discarded or salvaged materials such as scrap metals, used-building materials, used lumber, used glass, discarded vehicles, paper, rags, rubber, cordage, barrels, machinery, etc., or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

Lot: A lot is any plot or parcel of ground under one ownership, occupied by one principal building or unit group of buildings, and the accessory buildings customarily incidental to such principal building or buildings and including all open spaces required by this title.

1. Lot Area: The lot area is the land in square feet, within the lot line.

2. Lot Depth: The depth of a lot is the mean distance from the street line of the lot to its rear line, measured in the general direction of the side line of the lot.

3. Lot Width: The width of a lot is the mean distance between side lot lines measured at a point fifty (50) feet back from the street line thereof.

Mobile Home: A portable unit originally designed and built to be towed on its own chassis to point of use, and designed to be used without a permanent foundation for continuous year round occupancy as a dwelling; or two or more such units separately towable, but designed to be joined together at the point of use to form a single dwelling, and which is designed for removal to, and installation or erection on, other sites.

Mobile Home Park: A tract of land in single ownership which has been developed with all the necessary facilities and services in accordance with a site development plan meeting all the requirements of this title and which is intended for the express purpose of providing a satisfying living environment for residents of at least four (4) mobile homes on a long term occupancy basis.

Mobile Home, Permanent:

1. The running gear and hitch have been removed.
2. Has been anchored to a permanent footing and foundation.
3. The footing to be a minimum of eight inches thick by sixteen inches wide poured concrete with top of footing to be sixteen inches below grade.
4. The foundation shall be eight inches poured concrete or concrete block.
5. Prior to placement of home on the foundation must be inspected and approved by the county zoning officer.

Non-Conforming Buildings or Structures: A non-conforming building or structure is a building or structure, the use of which, in whole or part, does not conform to the regulations of the District in which the same is located.

Non-Conforming Use: The non-conforming use is the use of any building or structure which does not conform to the use regulations of the District in which the use exists.

Parking Space, Off Street: An off street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with related access to a public street or alley, and maneuvering room. For purposes of rough computation, an off street parking space may be estimated at three hundred (300) square feet.

Plat: The map, drawing or chart on which the subdivider's plan of subdivision is legally recorded.

Rear Yard: The yard across the whole width of the lot, extending from the rear line of the building to the rear line of the lot.

Set Back: The set back of a building is the minimum horizontal distance between the front lot line or street line and the nearest edge of any building or any projection thereof, except cornices and enclosed porches, and entrance vestibules and window bays projecting not more than three and one-half feet from the building and not more than fifty square feet in area, and which do not extend above the first story of the building.

Side Yard: A yard between the building and the adjacent side line of the lot which separates it from another lot, extending from the front lot line to the rear yard.

Street Line: A right of way line of a street.

Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to buildings, mobile homes, walls, fences, billboards, and poster panels.

Wetlands: Any area where ground water is at or near the surface at least six (6) months of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases and the surrounding upland vegetation begins.

Yard: An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1

CHAPTER 16-3
ESTABLISHMENT OF ZONING

16-3-1 ZONING DISTRICTS

For the purpose of this title, the incorporated areas of Java, South Dakota are hereby divided into the following Zoning Districts:

A. Agriculture Land District: Agricultural Land District is primarily for the preservation of open space, land currently used for agriculture and considered not to be yet ready for further development, and land subject to periodic flooding or land used for single family farming units of one or more acres.(GREEN)

R_1. Single Family Residential District: Single Family Residential District of comparatively low concentration of development together with certain public facilities and customary home occupations and professional offices.(YELLOW)

R_2. General Residential District: General Residential District of single family residences, mobile home and multiple family dwellings as well as other uses permitted in R_1 zone.(YELLOW)

R_3. Mobile Home Park: General Residential District for any type of mobile home residence allowable in the defined areas.(LIGHT BLUE)

C. Central Commercial District: Central Commercial District for business establishments oriented to the pedestrian shopper.(RED)

C_1. Commercial Industrial District: Commercial and Industrial District to accommodate industrial uses able to meet performance standards and commercial uses not compatible with the Central Commercial District.(DARK BLUE)

I. Industrial District: Industrial District for all types of manufacturing which cannot meet performance standards for the Commercial Industrial District.

FP. Flood Plain District: The intent of this district is to protect from encroachment, watershed areas, subject to flooding, backwater spreading and flood water or overflow of streams or rivers. Land use within the district shall be those of a type not endangered by periodic or occasional inundation, or shall not produce unsanitary or unsafe living conditions.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1

16-3-2 UNIFORM APPLICATION

The regulations set forth by this title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1

Law Reviews:
Zoning: Non-Conforming Uses and the "Amortization" Solution, 4 SD LRev

Collateral References:
Boundaries, 39 ALR2d 766.

Law Reviews (continued)
180 (1959).
Constitutional Implications, Restrictive Zoning, 17 SD LRev 203 (1972)

16-3-3 USE OF BUILDINGS

No building or any part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no premises shall be used for any purpose other than a purpose except as hereinafter provided.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1

Collateral References:
Architectural Restrictions, 47 ALR3d 1232; 41 ALR3d 1397.
Boundaries, 39 ALR2d 766.
Estoppel, Right of Municipality to Enforce, 119 ALR 1509.
Exclusionary Zoning, 48 ALR3d, 1210.
Height of Buildings, Validity of Regulations, 8 ALR2d, 963.

16-3-4 DISTRICTS

There may be one or more districts of each class and where more than one district of a class exists, such districts may be entirely separate and distant from other districts of the same class.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2

Collateral References:
Architectural Restrictions 47 ALR 3d 1232; 41 ALR3d 1397.
Boundaries, 39 ALR2d 766.
Estopped, right of municipality to enforce 119 ALR 1509.

Exclusionary zoning, 48 ALR 3d 1210.
Height of Buildings, validity of regulations, 8 ALR2d 963.

16-3-5 ZONING MAP

The City is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this title. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Auditor, and bearing the seal of the City together with the date of the adoption of this title.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Boundaries, 39 ALR2d 766.

16-3-6 SEWERS

All structures used for human habitation or commercial use must be connected to a sewage disposal system approved by the zoning commission. Minimum requirements include water tight septic tank connected to a drain field; drain field to be not closer than 80 feet to the shoreline of lakes and rivers and no drain area to be deeper than five (5) feet. If a public sewer is available within 100 feet, all such structures must be connected.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-1, 11-4-3

Cross References:
Java City Code, Title Eight, Chapter 4

CHAPTER 16-4
DISTRICT REQUIREMENTS

16-4-1 EXTENT OF THE REQUIREMENTS

The requirements as set forth below for each of the Use Districts listed as part of this title in Chapter Three shall govern the development within the said Districts as outlined on the Official Zoning Map for the incorporated areas of Java.

Legislative History: *1990 Revisions*

Authority: *SDCL §§ 9-12-13, 11-4-1*

16-4-2 AGRICULTURAL LAND DISTRICT

The following uses for the Agricultural Land District are defined as:

A. Uses Permitted

1. Animal husbandry services.
2. Field crops and grasslands.
3. Fisheries services.
4. Game propagation areas.
5. Government grain storage sites.
6. Horticultural services.
7. Institutional farms.
8. Orchards and tree farms.
9. Public parks and recreation areas.
10. Truck gardening.
11. Botanical gardens (nurseries and greenhouses).
12. Residential farms and estates of two or more acres with a minimum lot width of 165 feet.
13. Veterinarians offices and animal hospitals.
14. Schools and churches.
15. Governmental services.

B. Uses Permitted by Special Permit

1. Airports and airstrips.
2. Cemeteries.
3. Commercial public entertainment enterprises not normally accommodated in commercial areas.
4. Livestock and poultry farms.
5. Private clubs.
6. Stables.
7. Sewage treatment plants, but not within 80 rods of a residence.
8. Uses which in the opinion of the City Zoning Commission are not of a conflicting nature or will not be detrimental to the environment of the District.
9. Permanent mobile homes.
    a. Must have signatures by petition of all landowners within 300 feet.
    b. A permanent mobile home must contain a minimum of 600 square feet.

c. Must be placed on a lot with the minimum requirements the same as outlined under "R2" Zone.
d. All lots shall front on and have ingress and egress by means of public right of way.
e. Front, side and rear yard requirements shall be the same as outlined under "R1" Zone.
f. Must conform with the National Mobile Home Association Code and must show evidence thereof (Plaque of Affidavit).
g. Must be connected to sewer system approved by zoning officer. Minimum requirements include water tight septic tank connected to a drain field, drain field not to be closer than 80 feet to the shoreline of lakes or streams and no drain area to be deeper than five (5) feet.

10. Requests for permits covered under this Section shall be substantiated by architectural drawings of floor plans, elevations, plot plan showing building locations, parking facilities, ingress and egress and internal site circulation.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-1, 11-4-2, 11-4-3, 11-4-4, 9-12-13

Collateral References:
Limiting Fences, hedge or walls, 1 ALR4th 373.
Territory annexed to a municipality, what zoning regulations are applicable to, 41 ALR2d 1463.
Protest or petition by property owners, 4 ALR2d 335.
Application of statutes outside municipal limits, 131 ALR 1055.

16-4-3 AGRICULTURAL LAND USE LOT REQUIREMENTS

Minimum lot requirements for the Agricultural Land District are:

A. The minimum lot area for permitted uses shall be one acre.
B. The minimum lot width for permitted uses shall be 150 feet.
C. Uses permitted by special exception shall have a minimum lot area and width as determined by the City Zoning Commission.
D. The location of any structure contained in the permitted uses must be located seventy-five (75) feet from any public road or street right of way.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-1, 11-4-2, 11-4-3, 11-4-4, 9-12-13

Collateral References:
Limiting Fences, hedge or walls, 1 ALR4th 373.
Territory annexed to a municipality, what zoning regulations are applicable to, 41 ALR2d 1463.
Protest or petition by property owners, 4 ALR2d 335.
Application of statutes outside municipal limits, 131 ALR 1055.

16-4-4 STRUCTURAL HEIGHTS WITHIN THE AGRICULTURE LAND DISTRICT

Maximum height of all structures shall not exceed fifty (50) feet.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13-,11-4-1, 11-4-2, 11-4-3

16-4-5 R_1 SINGLE FAMILY RESIDENTIAL DISTRICT

The following uses for the Single Family Residential District are defined as:

A. Uses Permitted

1. One family dwelling and their normal accessory buildings, but not to include mobile homes.
2. Offices of recognized professions providing such profession is carried on in their respective residence, and there is no display carried on in their respective residence, and there is no display nor advertising excepting a small professional name plate.
3. Home occupations engaged in by the occupants of a dwelling provided there is no display of goods visible from the streets, and no exterior advertising other than a small announcement sign not lighted and not more than four hundred and thirty-two (432) square inches in area, and further provided that no more than twenty-five (25) percent of the total floor area, including basement area of the building, shall be used for this purpose.
4. A sign not more than four hundred and thirty-two (432) square inches in area, appertaining to the lease, hire or sale of a building or premises. A renewable permit for one year periods for the erection and maintenance of larger signs for real estate purposes may be issued upon approval of the City Zoning Commission.
5. Churches and parish houses providing they meet lot requirements section of this ordinance.

B. Uses Permitted By Special Permit

The City Board of Adjustment may grant the following uses provided the written consent of more than fifty (50) percent of the property owners within three hundred (300) feet of any property line of the premises is obtained.

1. Accessory building other than private garages, except stables.
2. Public libraries, museums and schools.
3. Hospitals, nursing homes and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street on which it fronts and shall have side and rear set backs of not less than thirty (30) feet and shall meet other requirements of this ordinance.
4. Duplexes.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Apartments, 99 ALR2d 873.
Exclusionary zoning, 48 ALR3d 1210.
Landlord and tenant leases, 37 ALR3d 1018.
Light and Air space, building regulations, 9 ALR 1040; 59 ALR 518.
Dimension or floor area, 149 ALR 1440.
Residential development, 54 ALR3d 1282.
Statutory notice prerequisite, 96 ALR2d, 449.
Width and frontage of residential lots, 96 ALR2d 1367.
Architectural restrictions, 47 ALR3d, 1232; 41 ALR3d 1397.
Halfway Houses, facilities for former mental patients, 100 ALR3d 876.
Low income housing, 62 ALR3d 880.
Maximum percentage of residential lot area, 96 ALR2d 1396.
Residential area, creation by ordinance restrictions, 117 ALR 1117.
Waste disposal, 59 ALR2d, 1367.

16-4-6 BUILDING HEIGHT LIMITS IN THE SINGLE FAMILY RESIDENTIAL DISTRICT

No dwelling shall exceed thirty-five (35) feet or two and one half (2½) stories in height, within the R_1 district.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Height of buildings, validity of regulation, 8 ALR2d 963.

16-4-7 LOT REQUIREMENTS IN THE SINGLE FAMILY RESIDENTIAL DISTRICT

The following lot requirements are specified as mandatory:

A. No dwelling together with its accessory buildings shall be hereafter erected upon a lot of less than 6,000 square feet or width of not less than fifty (50) feet and depth of not less than 120 feet.

B. All lots shall have access to public right of way.

C. Front Yard: There shall be a set back of not less than twenty (20) feet from the front lot line as to all buildings provided that when a greater or lesser set back distance than twenty (20) feet has been established in any block then no building shall approach nearer any street lot line than a general average of this set back distance as determined by the Zoning Officer.

D. Side Yard: There shall be a side yard of not less than ten (10) feet in width on each side of every building.

E. Rear Yard: There shall be a rear yard having a minimum depth of twenty-five (25) feet; however, accessory buildings may be within five (5) feet of an alley.

F. Lot Coverage: All dwelling and accessory buildings on any lot shall not cover more than thirty (30) percent of the lot area. Lot coverage shall be computed to include a minimum area of 180 square feet of building area or lot area for automobile storage.

G. No two-family dwelling, together with its accessory buildings, shall be hereafter erected upon a lot of less than 12,000 square feet and width of not less than 100 feet and depth of not less than 120 feet.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Light and air space, building regulations, 9 ALR3d 1018.
Maximum percentage of residential lot area, 96 ALR2d 1396.
Width and frontage of residential lots, 96 ALR2d 1367.

16-4-8 R_2 RESIDENTIAL DISTRICT

The following uses for the Residential District are defined as:

A. Uses Permitted

1. Single family dwellings and their normal accessory buildings.

2. Offices of recognized professions providing such profession is carried on in their respective residence, and there is no display nor advertising excepting a small professional name plate.
3. Home occupations engaged in by the occupants of a dwelling provided there is no display of goods visible from the street, and no exterior advertising other than a sign, not more than six (6) square feet in area, and further provided, that no more than twenty-five (25) percent of the total floor area, including basement area, of the building shall be used for this purpose.
4. A sign not more than six (6) square feet in area, appertaining to the lease, hire or sale of a building or premise. A renewable permit for one year periods for the erection and maintenance of a larger sign for real estate purposes may be issued upon approval of the City Zoning Commission.
5. Churches and parish houses providing they meet lot requirements section of the ordinance.
6. Permanent mobile homes.

B. Uses Permitted By Special Permit

The City Board of Adjustment may grant the following uses provided the written consent of more than fifty (50) percent of the property owners within three hundred (300) feet of any property line of the premises is obtained.

1. Accessory building other than private garages, except stables.
2. Public libraries, museums and schools.
3. Hospitals, nursing homes and homes for the aged. Any building approved for such use shall be set back not less than thirty (30) feet from the street on which it fronts and shall have side and rear set backs of not less than thirty (30) feet and shall meet other requirements of this ordinance.
4. Mobile home parks.
5. Two family dwellings.
6. Multiple family dwellings.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3, 11-4-4

Collateral References:
Apartments, 99 ALR2d 873.
Exclusionary zoning, 48 ALR3d 1210.
Landlord and tenant leases, 37 ALR3d 1018.
Light and Air space, building regulations, 9 ALR 1040; 59 ALR 518.
Dimension or floor area, 149 ALR 1440.
Residential development, 54 ALR3d 1282.
Statutory notice prerequisite, 96 ALR2d, 449.
Width and frontage of residential lots, 96 ALR2d 1367.
Architectural restrictions, 47 ALR3d, 1232; 41 ALR3d 1397.
Halfway Houses, facilities for former mental patients, 100 ALR3d 876.
Low income housing, 62 ALR3d 880.
Maximum percentage of residential lot area, 96 ALR2d 1396.
Residential area, creation by ordinance restrictions, 117 ALR 1117.
Waste disposal, 59 ALR2d, 1367.

16-4-9 BUILDING HEIGHT LIMITS IN THE R_2 RESIDENTIAL DISTRICT

No dwelling in the R_2 district shall exceed thirty-five (35) feet or two and one half (2½) stories in height.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3, 11-4-4

Collateral References:
Height of buildings, validity of regulation, 8 ALR2d 963.

16-4-10 LOT REQUIREMENTS IN R_2

The lot requirements of the R_2 Residential District are as follows:

A. No single family dwelling, together with its accessory buildings, shall be hereafter erected or placed upon a lot of less than 6,000 square feet and width of not less than fifty (50) feet and depth of not less than 120 feet.
B. No two family dwelling, together with its accessory buildings, shall hereafter be erected or placed upon a lot of less than 12,000 square feet and width of 100 feet and depth of less than 120 feet.
C. All lots shall have access to public right of way.
D. Front Yard: There shall be a set back of not less than twenty (20) feet from the front lot line as to all buildings, provided that when a greater or lesser set back distance than twenty (20) feet has been established in any block then no building shall approach nearer any street lot line than a general average of this set back distance as determined by the Zoning Officer.
E. Side Yard: There shall be a side yard of not less than ten (10) feet in width on each side of every building.
F. Rear Yard: There shall be a rear yard having a minimum depth of twenty five (25) feet; however, accessory buildings may be within five (5) feet of any alley.
G. Lot Coverage: All dwelling and accessory buildings on any lot shall not cover more than thirty (30) percent of the lot area. Lot coverage shall be computed to include a minimum area of 180 square feet of building area or lot area for automobile storage.
H. Lot requirements for special permits shall be determined by the zoning commissioner.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3, 11-4-4

Collateral References:
Light and air space, building regulations, 9 ALR3d 1018.
Maximum percentage of residential lot area, 96 ALR2d 1396.
Width and frontage of residential lots, 96 ALR2d 1367.

16-4-11 CENTRAL COMMERCIAL

The following uses for the Central Commercial District are defined as:

A. Uses Permitted

1. Retail establishments.
2. Service establishments.
3. Entertainment services.
4. Financial institutions.
5. Local, state and federal offices and services.
6. Newspaper and printing firms.
7. Offices.
8. Parking lot and/or garages.
9. Apartments using the upper floors of commercial buildings.

B. Uses Permitted by Special Permit

1. Other uses, which in the opinion of the City Zoning Commission are of the same general character and not detrimental to permitted uses in the "C" District as outlined, except that no use listed in the following paragraph (Uses Not Permitted) shall be permitted.

C. Uses Not Permitted

1. Blacksmith shops.
2. Coal or lumber yards.
3. Metal working shop, tinsmith or plumbing shop employing more than five (5) workers on the premises.
4. Milk or soft drink bottling or distributing stations employing more than ten (10) workers.
5. Poultry or livestock killing, dressing or live storage.
6. Manufacturing of any kind.
7. Oil stations, auto cleaning establishments or automobile, truck, or machinery sales when located within a radius of 150 feet of church edifice, hospital, or public school.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3, 11-4-4

Collateral References:
Zoning, 82 AmJur2d, Zoning and Planning, §§7,8.
Boundaries, 39 ALR2d 766.
Enterprise or activity, what's permissible in a business zone, 128 ALR 1214.
Right of municipality to enforce, 119 ALR 1509.
Exclusion of industry inconsistent with residential character, 9 ALR2d, 683.
Exclusionary zoning, 48 ALR3d 1210.
Landlord and tenants, 37 ALR3d 1018.
Population validity of classifications based on population, 98 ALR3d, 679.
Public facilities, municipal bans on construction with regards to, 92 ALR3d 1073.
Regulations as to building areas, 27 ALR 443.
Statutory notice requirements, 96 ALR2d, 449.
Waste disposal, 59 ALR3d, 1244.
Zoning laws passed to avoid industrial nuisance, 173 ALR 271.

Opinions of the Attorney General:
Authority of municipal powers within three miles of corporate limits, Opinion No. 81.-4.

16-4-12 BUILDING HEIGHT LIMIT WITHIN THE CENTRAL COMMERCIAL DISTRICT

The maximum height of all buildings and structures shall be thirty five (35) feet if located within the Central Commercial District.

Legislative History:
1990 Revisions

Authority:
SDCL § 11-4-1, 11-4-3

Collateral References:
Height of buildings, validity of regulation, 8 ALR2d 963.

16-4-13 LOT REQUIREMENTS WITHIN THE CENTRAL COMMERCIAL DISTRICT

Permitted uses shall have a minimum lot area of three thousand five hundred (3,500) square feet and a minimum lot width of twenty-five (25) feet. Uses permitted by special exception shall have a minimum lot area and width as determined by the City Zoning Commission.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Light and air space, building regulations, 9 ALR3d 1018.

16-4-14 MINIMUM YARD REQUIREMENTS OF THE CENTRAL COMMERCIAL DISTRICT

No yard shall be required in the Central Commercial District provided, however, that all buildings located on lots adjacent to a residential district shall observe a yard requirement equivalent to the minimum yard requirements of the residential district on the side or sides adjacent. Uses permitted by special exception shall have a minimum yard requirement as determined by the City Zoning Commission.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

16-4-15 MAXIMUM LOT COVERAGE OF THE CENTRAL COMMERCIAL DISTRICT

The maximum lot coverage for all permitted uses shall not exceed ninety (90) percent. The maximum lot coverage for all uses permitted by special exception shall be as determined by the City Zoning Commission.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Light and air space, building regulations, 9 ALR3d 1018.

16-4-16 COMMERCIAL INDUSTRIAL DISTRICT

The following uses for the CI Commercial Industrial District are defined as:

A. Permitted Uses

1. Horticulture and the raising of field crops.
2. Automobile filling stations.
3. On-site signs.
4. Utility substations.
5. Wholesale or Retail sales of lumber and other building materials, farm equipment, motor vehicles, marine crafts, mobile homes, trailers, farm and garden supplies, fuel and ice, motor vehicles and automobile equipment, drugs, chemicals, all allied products, dry goods and apparel, groceries and

related products, electrical goods, hardware, plumbing, heating and equipment and supplies, machinery, equipment and supplies, beer, wine and distilled alcoholic beverages, paper and paper products, furniture and home furnishings, lumber and construction materials.

6. General farm products, household goods and refrigerated warehousing and storage.
7. Motor freight terminals, garaging and equipment maintenance.
8. Mortuaries.
9. Contract construction services.
10. Off site signs.

B. Uses Permitted by Special Permit

1. Food lockers, provided that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors.
2. Other industrial or commercial uses determined by the City Zoning Commission to be consistent with the intent of this district.

C. Prohibited Uses

1. All uses and structures not specifically permitted or not permitted by special exception shall be prohibited in the Commercial Industrial District.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Zoning, 82 AmJur2d, Zoning and Planning, §§7,8.
Boundaries, 39 ALR2d 766.
Enterprise or activity, what's permissible in a business zone, 128 ALR 1214.
Right of municipality to enforce, 119 ALR 1509.
Exclusion of industry inconsistent with residential character, 9 ALR2d, 683.
Exclusionary zoning, 48 ALR3d 1210.
Landlord and tenants, 37 ALR3d 1018.
Population validity of classifications based on population, 98 ALR3d, 679.
Public facilities, municipal bans on construction with regards to, 92 ALR3d 1073.
Regulations as to building areas, 27 ALR 443.
Statutory notice requirements, 96 ALR2d, 449.
Waste disposal, 59 ALR3d, 1244.
Zoning laws passed to avoid industrial nuisance, 173 ALR 271.

Opinions of the Attorney General
Authority of municipal powers within three miles of corporate limits, Opinion No. 81.-4.

16-4-17 MINIMUM LOT REQUIREMENTS FOR THE COMMERCIAL INDUSTRIAL DISTRICT

A. The minimum lot area for permitted uses shall be fifteen thousand (15,000) square feet. The minimum lot width for permitted uses shall be one hundred (100) feet. The minimum lot area and width for uses permitted by special exception shall be as determined by the City Zoning Commission.

B. Permitted uses shall have a minimum from yard of twenty feet (20) feet, minimum side yards of ten (10) feet, and a minimum rear yard of twenty (20) feet.

C. The maximum lot coverage for all buildings and structures shall not exceed seventy five (75) percent of the total lot area.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 9-12-13, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Light and air space, building regulations, 9 ALR3d 1018.

16-4-18 MAXIMUM HEIGHT WITHIN THE COMMERCIAL INDUSTRIAL DISTRICT

The maximum height of all buildings and structures shall not exceed fifty (50) feet within the Commercial Industrial District.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-1, 11-4-2, 11-4-3

Collateral References:
Height of buildings, validity of regulation, 8 ALR2d 963.

16-4-19 INDUSTRIAL DISTRICT

The following uses of the Industrial District are defined as:

A. Uses Permitted

1. All uses permitted in the Commercial Industrial Area, and which, upon application to the City Zoning Commission, are granted by Special Permit, except that the following uses shall be approved by the City Zoning Commission after Public Notice and Hearing.

B. Uses Permitted by Special Permit

1. Slaughterhouses.
2. Crematory.
3. Explosive manufacture or storage.
4. Fertilizer manufacture.
5. Incineration or reduction of garbage, dead animals, fat or refuse.
6. Junk yards, including the storage of or baling of scrap paper, iron, bottles, rags or junk.
7. Soap manufacture.
8. Tanning of leather, rawhide or skins.
9. And in general, those uses which have been declared a nuisance in any court of record, or which may be noxious or offensive by reason or odor, dust, gas, smoke, or noise.
10. Livestock sales or auction barns and yards.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-1, 11-4-2, 11-4-3, 11-4-4

Collateral References:
Zoning, 82 AmJur2d, Zoning and Planning, §§7,8.
Boundaries, 39 ALR2d 766.

Opinions of the Attorney General:
Authority of municipal powers within three miles of corporate limits, Opinion No. 81.-4.

Collateral References (continued. . .)
Enterprise or activity, what's permissible in a business zone, 128 ALR 1214.
Right of municipality to enforce, 119 ALR 1509.
Exclusion of industry inconsistent with residential character, 9 ALR2d, 683.
Exclusionary zoning, 48 ALR3d 1210.
Landlord and tenants, 37 ALR3d 1018.
Population validity of classifications based on population, 98 ALR3d, 679.
Public facilities, municipal bans on construction with regards to, 92 ALR3d 1073.
Regulations as to building areas, 27 ALR 443.
Statutory notice requirements, 96 ALR2d, 449.
Waste disposal, 59 ALR3d, 1244.
Zoning laws passed to avoid industrial nuisance, 173 ALR 271.

16-4-20 BUILDING HEIGHT LIMIT OF THE INDUSTRIAL DISTRICT

The maximum height of all buildings and structures within the Industrial District shall be fifty (50) feet.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-1, 11-4-2, 11-4-3

Collateral References:
Height of buildings, validity of regulation, 8 ALR2d 963.

16-4-21 LOT REQUIREMENTS OF THE INDUSTRIAL DISTRICT

Same as outlined under Lot Requirements for the Commercial Industrial Zone. And in addition, all storage within 500 feet of a residential district must be completely enclosed in a building or by a solid walled fence at least two feet above the highest point of the stoke pile which fence shall be maintained in safe and good repair.

Storage yards for junk shall be set back a minimum of one hundred (100) feet from any adjoining street line and thirty (30) feet from any other property lines, and shall be screened by a solid wall at least two feet above the highest stock pile and maintained in a state of good repair. Further provided, that no storage yard for junk shall be allowed on any lot in an Industrial Zone which is within five hundred (500) feet of a residential zone.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-12-13; See Also Chapter 11-4 generally

Collateral References:
Light and air space, building regulations, 9 ALR3d 1018.
Attack on validity of zoning statute, 50 ALR2d, 1083.
Open side or rear yards, validity of the requirement, 71 ALR2d 568.
Alterations etc., 64 ALR 920.
Architectural restrictions, 42 ALR3d 1232; ALR 3d 1397.
Boundaries, 39 ALR2d 766.

16-4-22 FLOOD PLAIN DISTRICT

The following uses of the Flood Plain District shall be defined as:

A. Permitted Uses

Open spaces uses shall be permitted within the Flood Plain District provided they do not require structures, landfill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial commercial uses such as loading areas, parking areas and airport landing strips.
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

B. Uses Permitted on Review

No permit shall be issued for the construction of any building or structure including railroads, streets, buildings and utility lines or for any use within the Flood Plain District until plans for construction have been submitted to the Planning Commission and approval is given in writing after the other provisions of this title have been fulfilled. In its review of plans submitted, the Zoning Commission shall be guided by the following standards, keeping in mind that the purpose of this district is to prevent encroachment into the floodway which will unduly increase flood levels and endanger life and property.

1. Any structures or filling of land permitted shall be of a type not appreciably damaged by floodwaters.
2. Any use permitted shall be in harmony with and not detrimental to the uses permitted in the adjoining district.
3. Any permitted structures or the filling of land shall be designed, constructed and placed on the lot so as to offer the minimum obstruction to and effect upon the flow of water.
4. Any structure, equipment or material permitted shall be firmly anchored to prevent it from floating away and thus damaging other structures and threatening to restrict bridge openings and other restricted sections of the stream.
5. The storage or processing of materials that are in time of flood buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited.
6. Any structure shall be constructed on fill so that the first floor is above the regulatory flood protection elevation. The fill, which shall include the access to the structure from a public street, shall have an elevation no less than one foot below the regulatory flood protection elevation for the particular area, and the fill shall extend no less than ten (10) feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevations which make compliance with this provision impractical or in other special circumstances, the Zoning Commission may authorize other techniques for elevation.

7. Any structure may, in special circumstances, be protected by other flood proofing measures to a point at or above the regulatory flood protection elevation.
8. Where in the opinion of the Zoning Commission topographic data, engineering and other studies are needed to determine the effects of flooding on a proposed structure or fill and/or the effect of the structure or fill on the flow of water, the Zoning Commission may require the applicant to submit such data.
9. The granting of approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind by the Zoning Commission or by any officer or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.

Authority:
SDCL § 9-12-1-3; See Also Chapter 11-4 generally.

Collateral References:
Light and air space, building regulations, 9 ALR3d 1018.
Alterations etc., 64 ALR 920.
Architectural restrictions, 42 ALR3d 1232; 41 ALR3d 1397.
Attack on validity of zoning statute, 50 ALR2d, 1083.
Boundaries, 39 ALR2d 766.
Open side or rear yards, validity of the requirement, 71 ALR2d 568.

16-4-23 AREA, HEIGHT AND PARKING REGULATIONS OF THE FLOOD PLAIN DISTRICT

Any structure or use permitted shall comply with the minimum area, height and parking regulations established for such structure and height, and parking regulations established for such structure and use in the most restrictive of the adjacent zoning districts and with other parts of this title which regulate the use of its normal accessory uses.

Authority:
SDCL § 9-12-13-, 11-4-1, 11-4-2, 11-4-3

Collateral References:
Height of buildings, validity of regulation, 8 ALR2d 963.

CHAPTER 16-5
GENERAL REQUIREMENTS

16-5-1 PURPOSE

Pursuant to the purposes of this title are certain General Requirements that are not provided for under Chapter Four's District Requirements. These requirements are set forth under this Chapter.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally.

16-5-2 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS

On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one half and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-12-13; See Also Chapter 11-4 generally

Collateral References:
Zoning ordinances prohibiting or limiting fences, hedge or walls, 1 ALR4th 373.

Height regulations, 8 ALR2d 963.
Exclusionary zoning, 48 ALR3d 1210.

16-5-3 FENCES, WALLS AND HEDGES

Notwithstanding other provisions of this ordinance, fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall or hedge along the sides or front edge of any front yard shall be over two and one half feet in height.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-12-13; See Also Chapter 11-4 generally

Collateral References:
Zoning ordinances prohibiting or limiting fences, hedge or walls, 1 ALR4th 373.

Height regulations, 8 ALR2d 963.
Exclusionary zoning, 48 ALR3d 1210.

16-5-4 REFUSE AND MOWING

In all Zoning Districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a complete enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property mowed and free of trash.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Collateral Reference:
Waste disposal zoning, 59 ALR2d 1367.

16-5-5 UNLICENSED VEHICLES

Vehicles not in use and without a current license may not be kept in any uncovered area other than designated junk or salvage yard.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

16-5-6 PARKING AREAS

Except in the Commercial District, off street motor vehicle parking and loading spaces shall hereafter be provided on the same lot as, and in the number stated, for each use set forth in the Schedule of Minimum Off Street Parking and loading requirements below. In the event of the minimum number of spaces specified cannot be reasonably provided on the same lot as the principal use for which the spaces are required, the Zoning Commission may permit such spaces to be provided on other off street property within four hundred (400) feet of the entrance to such principal use.

Use or Structure	Minimum Off Street Parking Requirements	Minimum Off Street Loading Requirements
Bowling alleys	Four (4) spaces per alley	One (1) space per establishment
Churches	One (1) space for each four seats in the main seating area	None
Eating and drinking Places	One (1) space for each three customer seating spaces	One (1) space per establishment
Hospitals	One (1) space for each three beds	Three (3) spaces per establishment
Hotels	One (1) space for each two rental rooms	One (1) space per establishment
Industrial Uses	One (1) space for each two employees on the maximum working shift	Two (2) spaces per establishment
Libraries	One (1) space for each five hundred (500) square feet of floor area	One (1) space per establishment
Lodging and boarding houses	One (1) space for each rental unit	None
Medical or dental clinics	One (1) space for each exam or operating room plus one space for each doctor and employee	None

Mobile home parks	One (1) space for each mobile home	None
Motels	One (1) space for each guest room	None
Mortuaries and funeral homes	Five (5) spaces for each reposing room	Two (2) spaces per establishment
Nursing, convalescent and rest homes	One (1) space for each five beds	One (1) space per establishment
Private clubs, lodges social or fraternal organizations	One (1) space for each one hundred (100) square feet or one space for each three seats at bars or dining tables which ever is greater	One (1) space per establishment
Residential uses	One (1) space for each dwelling unit	None
Retail sales establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Schools	One (1) space for each twenty five (25) students	One (1) space per establishment
Service establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Theaters, auditoriums, and places of public assembly	One (1) space for each four seats of design capacity	One (1) space per establishments
Wholesale and distribution establishments	One (1) space for each two employees on the maximum work shift	Two (2) spaces per establishment

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

16-5-7 NON CONFORMING USES

All prior and existing non conforming uses shall be governed by the following rules and regulations:

A. Any non-conforming building or land use existing at the time of the passage of this title may be continued even though such building, structure or land use does not conform with the provisions of this title for the District in which it is located. Any such existing non-conforming use may hereafter be extended throughout any part or parts of a building which were manifestly arranged or designed for such use at the time of the passage of this title. Any such existing non-conforming land use may be expanded throughout any contiguous land area under the same ownership at the

time of the adoption of this title except when such non-conforming land use by its expansion enters into an area with a different zoning classification.

B. No non-conforming use, building, structure or premises, if once changed to conform to the requirements of this title for the district in which it is located, shall never be changed back so as to be non-conforming. No non-conforming use which shall have been discontinued for a period exceeding twelve months, shall be resumed or replaced by any other non-conforming use.

C. Nothing in this title shall prevent the restoration of any wall or other portion of a building declared unsafe by an authorized public official.

D. Whenever any building existing in any of the districts as a non-conformity is condemned by an authorized public official, it cannot be rebuilt for a non-conforming use. If any non-conforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six months after such casualty and completed within a reasonable time thereafter; however, if the damage caused by such casualty is such as to cause a loss in value exceeding sixty (60) percent of the value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.

E. The foregoing provision of this Section (9-5-7D) shall apply to buildings, structures, land or uses, except those buildings, land or uses, which are agricultural in nature which may hereafter become non-conforming by reason of the rezoning of the area in which the same may be situated.

F. Nothing contained in this statute shall be so construed as to abridge or curtail the powers of the City Zoning Commission as set forth elsewhere in this title.

G. Nothing contained in this section or elsewhere in this title shall restrict or prevent remodeling, replacing, or rebuilding a dwelling heretofore erected upon a lot area of less than 6,000 square feet, upon conditions that such remodeling, replacing or rebuilding each dwelling shall be done in such a manner as to not conflict with provisions of this section relating to matters other than lot area any farther than the dwelling now upon said premises so conflicts.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Law Reviews:
Zoning, non-conforming uses and the amortization solution, 4 SD LRev 180 (1959).

Collateral References:
Exclusion of industrial activities inconsistent with residential character, 9 ALR2d 683.

16-5-8 MOBILE HOME DISTRICT DEFINED

It shall be unlawful for any person to place or maintain any trailer house or mobile home used for human habitation or to use any trailer house or mobile home for living, sleeping, or business purposes on any premises except in an authorized mobile home court. Said mobile home court may be located in District R_3 as outlined on the map entitled "Zoning Use Districts".

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Collateral References:
Trailers, defining dwelling houses, commercial uses in residential districts, renting, see City of Sioux Falls v. Cleveland, 75 SD 548 70 NW2d 62 (1955).

16-5-9 MOBILE HOME COURT DEFINED

No mobile home court shall be constructed or maintained with less than four (4) mobile home spaces provided that the land area used or occupied by one trailer or other housing unit as a mobile home court shall be no less than thirty-five (35) feet by one hundred (100) feet and the same shall be defined by markers at each corner. No trailer or other living unit together with any appendages such as covered entrances or rooms or porches shall be placed within ten (10) feet of its individual lot line, fifteen (15) feet of one another side to side, and not less than thirty (30) feet end to end, nor within thirty (30) feet of any street or exterior boundary line of the court.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Collateral References:
Trailers, defining dwelling houses, commercial uses in residential districts, renting, see City of Sioux Falls v. Cleveland, 75 SD 548 70 NW2d 62 (1955).

16-5-10 MOBILE HOME PARKING SPACE

One (1) off street automobile parking space shall be provided for each individual mobile home lot. Such off street parking spaces shall be set aside on a location convenient to the occupants of the mobile home unit and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings on the curb line of said street.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

16-5-11 MOBILE HOME COURT FACILITIES

Each mobile home court shall provide the following minimum facilities on the site for the common use of all trailer occupants.

A. One refuse collection station shall be provided for each twelve (12) mobile homes or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (150) feet from any trailer unit served, and be conveniently located for collection. Said refuse collection station shall be provided with one twenty (20) gallon can or more capacity for each family unit and provided that each refuse collection station shall have a concrete floor and be screened from public view.

B. Each trailer or camping facility shall be connected with an approved sanitary sewerage and water system. Laundry facilities shall be connected to an approved water supply add sanitary sewerage system.

C. Site lighting shall be provided and used to supplement street lighting and shall be effectively related to toilet and laundry facilities, plantings, walks, steps or ramps.

Illumination should be of conservative intensity but sufficiently distributed to eliminate dark areas, especially at steps. Lights may be attached to toilet and laundry facilities.

D. Each mobile home court shall provide on site management by the owner or his representative at all times to supervise the management, repairs, maintenance and janitorial work connected therewith and to see that all provisions of this section are complied with.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

16-5-12 BUILDINGS MOVED IN; PREREQUISITES FOR

Rules and regulations for buildings being transported are as follows:

A. Any building, except those covered under section § 9-8-1, moved into any use district must secure a special permit from the Board of Trustees.

B. Any residence moved into any use district must have signatures by petition of seventy five (75) percent of the landowners within 300 feet.

EXCEPTION: A new residence to be used for first occupancy, constructed off the property and moved to location shall not require adjoining landowners approval.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Collateral References:
Height regulations, 8 ALR2d 963.

16-5-13 FILLING, GRADING, LAGOONING AND DREDGING; GENERAL RULES

Filling, grading, lagooning or dredging which would result in substantial detriment to natural waters by reason of erosion, sedimentation, or impairment of fish and aquatic life is prohibited.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Collateral References:
Conservation, validity, construction and application of enactments restricting land development by dredging or filling, 46 ALR3d 1422.

16-5-14 PERMITS REQUIRED FOR FILLING, GRADING, LAGOONING AND DREDGING

A permit shall be required for any filling or grading of any area which is within three hundred (300) feet horizontal distance of a natural water and which has surface drainage toward the water and in which there is:

A. Filling of more than five hundred (500) square feet of any wetland which is contiguous to the water.

B. Filling or grading on all slopes of twenty (20) percent or more. This does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.

C. Where more than ten thousand (10,000) square feet of the bank of a natural body of water is exposed by grading.

D. A permit shall be required before constructing, dredging, or commencing work on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within three hundred (300) feet of the high water mark of a natural body of water or where the purpose is the ultimate connection with such body of water. This requirement does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

CHAPTER 16-6
GENERAL PROVISIONS AND ENFORCEMENT

16-6-1 REQUIREMENTS FOR CHANGE

Whenever the public necessity, safety and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the City Zoning Commission as provided herein, the Board of Trustees may change zone district boundaries, use groups or the regulations established under this title; provided that such modification or repeal in each instance is presented to the Board of Trustees in the same manner and upon the same notice as required for the adoption of this entire city code.

Legislative History:
1990 Revisions

Authority:
SDCL § 11-4-8

Collateral References:
Boundaries, validity of zoning regulations with respect to uncertainty and indefiniteness of district boundary lines, 39 ALR2d 766.

Opinions of the Attorney General:
Zoning commissions, Report 1963-64, p. 256.

Case Law:
Vested rights: See, Tille v. City of Sioux Falls, 82 SD 411, 147 NW2d 128 (1966).

16-6-2 INITIATION OF CHANGE

A proposed change of zone district boundaries or regulations may be initiated by the Board of Trustees, City Zoning Commission, or by application of one or more of the owners of property within the area requested to be changed.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-8, 11-4-9

Case Law:
Vested rights: See, Tille v. City of Sioux Falls, 82 SD 411, 147 NW2d 128 (1966).

16-6-3 PUBLIC HEARING

Every three months or at the discretion of the City Zoning Commission, the Commission will set an informal hearing to consider requested changes or amendments to the zoning ordinance or zoning map. The hearing shall be held not less than fifteen (15) days after the proposed amendment has been published in a newspaper of general circulation in the City.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

16-6-4 RECOMMENDATIONS

The Zoning Commission may recommend approval or disapproval of a requested change, either in whole or in part. Recommendations for changes shall be presented to the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Opinions of the Attorney General:
Legal status of zoning commission, Report 1963-64, p. 256.

16-6-5 ADOPTION

The Board of Trustees shall thereafter by resolution either adopt or reject the proposed amendment, which if adopted shall take effect upon the twentieth day after its publication by the Board of Trustees in the official Java City newspaper.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

16-6-6 SITE PLAN AND SCHEDULE

All requests for change in the zoning map shall be accompanied by the following:

A. Intention: A complete statement giving reason and intention for the planned future use of the area proposed for amendment.
B. Site Plan: A site plan, drawn to scale, showing existing and proposed structures, uses, open space and facilities for parking and loading, and arrangements for pedestrian and vehicular circulation of the area proposed for amendment and all abutting properties with their use and zoning district defined. Water and sewer facilities must also be shown on site plan.
C. A proposed time schedule for beginning and completion of development.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

16-6-7 FEES AND EXPENSES

All requests for changes in the Zoning Ordinance or Map, except those initiated by the Board of Trustees or City Zoning Commission shall be accompanied by deposit of twenty ($20.00) dollars which shall be used to defray expenses for the administrative preparation for consideration of the request. Five ($5.00) dollars is the fee for submitting a request for a Building Permit.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

CHAPTER 16-7
ADMINISTRATION

16-7-1 ENFORCEMENT

The Board of Trustees shall enforce the provisions of this title. It shall be their duties to examine all applications for permits, issue permits only for construction and uses which are in accordance with the requirements for this title, record and file all applications for permits with an accompanying plan and documents. Permits for construction or use which are a special exception or variance to requirements of this title shall be issued only upon order by the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Cross References:
Injunction proceedings, SDCL Chapter 21-8.
Nuisances, remedies against, SDCL Chapter 21-10.

16-7-2 CONSTRUCTION UNDERWAY

Nothing herein contained shall required any change in plans or construction or lawful use, the construction of which is started before the effective date of this title and which is completed within one (1) year of the effective date of this title.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Case Law:
Vested rights: See, Tille v. City of Sioux Falls, 82 SD 411, 147 NW2d 128 (1966).

16-7-3 VIOLATION AND PENALTIES

Any person, firm, or corporation who fails to comply with, or violates any of these regulations shall be subject to a fine of one hundred dollars ($100.00) for each lot sold or otherwise disposed of, leased or offered for sale or lease. In addition to the penalties described above, the Board of Trustees may institute an appropriate action or proceedings to seek an injunction in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Opinions of the Attorney General:
Imprisonment for failure to pay fine, Report 1967-68, p. 105.

CHAPTER 16-8
PERMITS

16-8-1 BUILDING PERMITS

A building permit shall be obtained from the Board of Trustees for any of the following:

A. Occupancy and use of a building hereinafter constructed, enlarged, relocated, reconstructed, or structurally altered.

B. Any change in the use of an existing building.

C. Occupancy and use of vacant land, or change in the use of the land except for any use consisting primarily of tilling the soil.

D. No such occupancy, use of change of use shall take place until a building permit therefore has been issued by the Board of Trustees. No building permit shall be issued unless the proposed occupancy is in full conformity with all the provisions of this title.

E. A building permit shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which is applies, and shall continue in effect, so long as such buildings and the use thereof or the use of such land is in full conformity with the provisions of this title and any requirements made pursuant thereto. However, on the serving of a written notice by the Board of Trustees of any violation of any of the said provisions or requirements with respect to any building or the use thereof or of land, the building permit for such use shall thereupon without further action be null and void, and a new building permit shall be required for any further use of such building or land.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Cross References:
Housing and redevelopment projects subject to ordinances and regulations, see SDCL § 11-7-43.

16-8-2 APPLICATION FOR PERMITS

Applications for building permits shall be made to the Board of Trustees in writing upon forms approved by the Board of Trustees and such forms shall be filled in by the owner, or authorized agent, and shall be accompanied by plans and other requirements of this title. Such plans and data shall be final and conclusive and a deviation therefrom shall require a new building permit.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

16-8-3 APPEALS

Appeals from the decisions of the Board of Trustees may be made to any court of law.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-25, 11-4-26

16-8-4 PERMITS POSTED

Building permits shall be posted in a conspicuous place upon the premises, visible from a public right of way, at all times from the beginning until the completion of such construction, alteration, repair or occupancy.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally

Collateral References:
For destruction of public records, see SDCL § 1-27-19, 11-4-6.

CHAPTER 16-9
BOARD OF ADJUSTMENT

16-9-1 BOARD OF ADJUSTMENT

The Board of Trustees shall act as the Board of Adjustment.

Legislative History:
1990 Revisions

Authority:
SDCL §§ 11-4-13, 11-4-24

Collateral References:
Legislative authority of the boards, see Graves v. Johnson, 75 SD 261 63 NW2d (1954) City of Madison v. Clarke, 188 NW2d 312 (1980).

Necessity of board and board of adjustment has no power to rezone, see City of Sioux Falls v. Bessler, 68 SD 635 5 NW2d 633 (1942).

16-9-2 POWERS OF THE BOARD OF ADJUSTMENT

The Board of Trustees, acting as the Board of Adjustment shall be governed by these statutory regulations and/or have the authority to do the following:

A. The concurring vote of four (4) members shall be necessary for approval of any action by the Board of Adjustment.

B. Special Exceptions. The Board of Trustees shall have the authority to hear and decide applications for special exceptions as specified in this title and to pass decisions on any special questions upon which this Board of Adjustment is specifically authorized to pass.

C. Variance. The Board of Trustees shall have the authority to hear and decide applications for variance based upon circumstances involving unnecessary hardship under the terms of this title. Before any variance is granted the following conditions must be shown as present:

1. The conditions and circumstances are peculiar to the land, structure, or building and do not apply to neighboring lands, structures or buildings in the same district.
2. Strict application of the provisions of this title would not deprive the applicant of reasonable use of the land, structure or building equivalent to the use made of neighboring lands, structures or buildings in the same district and permitted under the terms of the title.
3. The peculiar conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this title.

D. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.

E. The Board does not possess the powers to permit a use which is not permitted in the district involved.

F. In granting a variance, the Board may attache thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this title. Violation of any of these conditions or safeguards shall be deemed a violation of the title itself.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 generally; More specifically § 11-4-13

Collateral References:
Legislative authority of the boards, see Graves v. Johnson, 75 SD 261 63 NW2d (1954) City of Madison v. Clarke, 188 NW2d 312 (1980).

Necessity of board and board of adjustment has no power to rezone, see City of Sioux Falls v. Bessler, 68 SD 635 5 NW2d 633 (1942).

16-9-3 APPEALS

Decisions of the Board in respect to the aforementioned shall be subject to appeal to the court of proper jurisdiction within the same prescribed by statute.

Legislative History:
1990 Revisions

Authority:
SDCL § 11-4-25, 11-4-26

Collateral References:
Special conditions governing appeals, City of Madison v. Clarke, 288 NW2d 312 (1980).

CHAPTER 16-10
ZONING SUBDIVISIONS

16-10-1 DEFINITIONS

The following definitions apply to the Java zoning subdivision statutes.

Alley: A minor public way having a narrow right of way and affording a secondary means of access to abutting properties.

Auditor: The duly appointed Auditor of the City of Java.

Board of Trustees The duly elected Board of Trustees of the City of Java.

Comprehensive/Development Plan: Any legally adopted part or element of the Comprehensive/Development Plan of the City of Java. This may include but is not limited to zoning ordinances, subdivision chapters, community facility plans, major street plans, capital improvement programs and land use plans.

Easement: A right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation, or particular persons for specified uses.

Engineer: The duly designated engineer acting in behalf of the Board of Trustees.

Final Plat: A plat of a tract of land which meets the requirements of these regulations and is in form for recording in the officer of the Register of Deeds.

Lot: A parcel of land intended for transfer of ownership or for building development.

Major Street Plan: The Major Street Plan adopted as an element of the Comprehensive/Development Plan.

Preliminary Plat: The map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this ordinance, to permit the evaluation of the proposal prior to detailed engineering and design.

Register of Deeds: The duly designated Register of Deeds of Walworth County.

Sketch Plan: The sketch map or maps of a proposed subdivision, drawn and submitted in accordance with the requirements of this chapter to evaluate feasibility and design characteristics at an early state in the planning.

Street: A tract of land, dedicated to public use, which affords the primary means of access to the abutting property, but excluding private driveways serving only one (1) parcel of land.

Subdivider: The person(s), firms (s) or corporations (s) owning land in the process of creating a subdivision of said land.

Subdivision: The division of any tract or parcel of land into two or more lots, sites or other divisions for the purpose, whether immediate or future, of sale or building development and includes re-subdivision. This definition shall not apply to the conveyance of a portion of any previously platted tract, parcel, lot or site; provided however, that such conveyance does not cause the tract, parcel, lot or site from which the portion is severed to be in violation of any existing zoning ordinances or subdivision regulation applying to such tract, parcel, lot or site.

Utilities: Municipal and franchised utilities.

Zoning Officer: The duly designated zoning officer of the City of Java.

Zoning Ordinance: The Zoning Ordinance of the city of Java.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

16-10-2 PURPOSE

Chapter Ten has been adopted to provide for the harmonious development of the City of Java and its environs; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the comprehensive plan; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, and convenience through the provisions for an adequate scale of street, sanitary, water, utility, and other improvements as land is subdivided.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

Opinions of the Attorney General:
Legal status of comprehensive plan and zoning ordinance adopted by governing body, Report 1963-1964, p. 256.

Collateral References:
Change of name of platted portion of municipality, SDCL §§ 21-37-6 to 21-37-10.
Fees to Register of Deeds, see SDCL § 7-9-15.

16-10-3 APPLICABILITY

All subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the City of Java.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

16-10-4 AMENDMENTS

Any provisions in this chapter may from time to time be amended, supplemented, changed, modified, or repealed by the Board of Trustees according to statutory law.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

Opinions of the Attorney General:
Legal status of comprehensive plan and zoning ordinance adopted by governing body, Report 1963-1964, p. 256.

Collateral References:
Change of name of platted portion of municipality, SDCL §§ 21-37-6 to 21-37-10.
Fees to Register of Deeds, see SDCL § 7-9-15.

16-10-5 VARIANCES

Exceptional Conditions:

A. General. The Board of Trustees may grant variances from the provisions of these regulations, but only after determining that:

1. There are unique circumstances or conditions affecting the property.
2. The variance is necessary for the reasonable and acceptable development of the property in question.
3. The granting of the variance will not be detrimental to the public welfare or injurious to adjacent property.
4. The variance will not permit or encourage uses contrary to the Zoning Regulations.

B. Conditions. In approving variances, the Board of Trustees may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements of these regulations.

C. Procedures. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Board of Trustees. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

Opinions of the Attorney General:
Rerecording plat, fees allowed for, Report 1931-32, p. 524.

Collateral References:
Fees of Register of Deeds generally, SDCL § 7-9-15.

16-10-6 ENFORCEMENT UNDER CHAPTER TEN

Generally:

A. It shall be the duty of the Zoning Officer to enforce these regulations and to bring to the attention of the Board of Trustees any violations or lack of compliance herewith.

B. No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Board of Trustees, in accordance with the provisions of these regulations, and filed with the appropriate County Register of Deeds.

C. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations.

D. The subdivision of any lot or any parcel of land, by the use of metes and bounds description for the purpose of sale, transfer, or lease with intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these regulations.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

Collateral References:
Uniform action required, no arbitrary decisions, See City of Mobridge v. Brown, 39 SD 270 164 NW 94 (1917).

16-10-7 VIOLATIONS AND PENALTIES WITHIN CHAPTER TEN

Any person, firm or corporation who fails to comply with, violates, any of these regulations shall be subject to a fine of one hundred dollars ($100.00) for each lot sold or otherwise disposed of, leased or offered for sale or lease. In addition to the penalties described above, the Board of Trustees may institute an appropriate action or proceedings to seek an injunction in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally; See Also § 9-19-3

16-10-8 INTERPRETATION, CONFLICT AND SEPARABILITY

A. Interpretation: In their interpretation and application, these regulations shall be held to be minimum requirements for the promotion of the public health, safety and general welfare.

B. Conflict: Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

C. Separability: Should any article, section, subsection, or provision of these regulations be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the subdivision chapter as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-12 and 1-19 generally

16-10-9 GENERAL PROCEDURES WITHIN THE SUBDIVISION PROCESS

The procedure for review and approval of a subdivision plat shall consist of three separate steps, in sequence: an informal discussion meeting with the Board of Trustees, preparation and submission of a preliminary plat of the proposed subdivision and preparation and submission of a final plat of the subdivision.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally

16-10-10 ADVISORY MEETING WITH BOARD OF TRUSTEES

Before filing a preliminary plat, the subdivider shall consult with the Board of Trustees for advice regarding general requirements, minimum standards of design and required improvement as set forth in this chapter. A sketch of the proposal shall be submitted. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing or platted streets and existing community facilities. This informal review should prevent unnecessary costly revisions in the layout and development of the subdivision. The informal advisory meeting does not require formal applications, fees, or filing of plats with the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally

16-10-11 PRELIMINARY PLAT APPROVAL

After meeting informally with the Board of Trustees, the subdivider shall prepare a preliminary plat prior to the making of any street improvements or prior to the installation of any utilities.

Generally:

A. Two (2) copies of the preliminary plats and the required supplemental material shall be filed with the Auditor who shall transmit them to the Board of Trustees. Such filing shall take place at least ten (10) days prior to the meeting of the Board of Trustees when it is to be considered.

B. Following a hearing and due consideration of the preliminary plat, the Board of Trustees shall approve, disapprove, or modify the plat and shall impose those requirements or grant those variances in conformance with this ordinance deemed necessary and appropriate by the Board of Trustees for final approval. The action of the Board of Trustees, together with all modifications, requirements, variances and reasons thereof, shall be noted on all copies of the preliminary plat application. One (1) copy shall be returned to the subdivider and one copy retained by the Auditor.

C. Approval of the preliminary plat by the Board of Trustees shall not constitute acceptance of the final plat. The approval of the preliminary plat shall lapse unless a final plat, based thereon, is submitted within two (2) years from the date of such approval. An extension of time may be applied for by the subdivider and granted by the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally

Collateral References:
Posting of notice, SDCL Chapter 17-3.
Publication of notice, SDCL Chapter 17-2.

16-10-12 PRELIMINARY PLAT INFORMATION

The preliminary plat shall meet the standards of design as set forth in later statutes, and shall show the following information:

A. Names of subdivision, names and addresses of the owners, and engineer or surveyor, and the owners of adjacent property.

B. Date, north point and scale. Scale shall not be less than one (1) inch equals one hundred (100) feet.

C. Location of property lines, roads, existing utilities with size of lines, and other underground installations.
D. Acreage of land to be subdivided.
E. Proposed utility system.
F. Contours at an interval of not greater than five (5) feet; also, the locations of water courses, bridges, wooded areas, and such other topographic features as may be pertinent to the subdivision.
G. Lot lines, lot numbers and minimum building setback lines.
H. Location of proposed culverts and other drainage provisions.
I. Proposed improvements and grading.
J. Proposed easements, dedications and reservations of land to be considered for sale or dedication to public use.
K. Names of new streets.

Copies of proposed deed restrictions, if any, shall be attached to the preliminary plat.

Legislative History: *1990 Revisions*

Authority: *SDCL Chapter 11-3 and 11-4 generally*

16-10-13 PLAT REVIEW FEE

A fee shall be levied for the examination and approval or disapproval of every plat reviewed by the Board of Trustees. At the time preliminary plats are filed with the Auditor, the subdivider shall pay to the Auditor the amount of ten dollars ($10.00) for each plat and one dollar ($1.00) for each lot shown on each plat.

Legislative History: *1990 Revisions*

Authority: *SDCL Chapter 11-3 and 11-4 generally*

16-10-14 FINAL PLAT APPROVAL

The final plat shall conform substantially to the preliminary plat as approved; provided however that it may constitute only a portion of the preliminary plat which the subdivider proposes to record and develop.

Legislative History: *1990 Revisions*

Authority: *SDCL § 9-33-6; See Also § 9-12-13 Chapter 11-4 and 11-3*

16-10-15 PROCEDURE FOR FINAL PLAT APPROVAL

Approval of the final plat shall be governed by the following rules and regulations:

A. Three (3) copies of the final plat and required supplemental material shall be filed with the Auditor, who shall transmit them to the Board of Trustees. Such filing shall take place at least ten (10) days prior to the meeting of the Board of Trustees at which it is to be considered.
B. The Board of Trustees shall study the said final plat to see if it is consistent with the minimum standards set forth in this title. Following a hearing, the Board of Trustees shall approve, disapprove, or suggest modifications and give reasons thereof.
C. When the final plat has been approved by the Board of Trustees, one (1) copy shall be returned to the subdivider with the approval of the Board of Trustees certified thereon, for filing with the appropriate County Register of Deeds as an official plat

of record within ninety (90) days. Another copy certified by the Board of Trustees will be transmitted to the appropriate Director of Equalization for his records.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

16-10-16 FINAL PLAT INFORMATION

The following is required for final plats of subdivisions:

A. The original or reproducible final plat shall be drawn in black ink upon tracing cloth or tracing vellum and shall be of uniform size, fifteen (15) inches by twenty six (26) inches or eight and one half (8½) inches by fourteen (14) inches. The scale shall be one (1) inch equals one hundred (100) feet or larger.

B. The final plat shall show the following information:

1. Date, title, name and location of subdivision, graphic scale, and true north line.
2. All dimensions, angles, bearings and similar data on the plat shall be tied to primary control points. Locations and descriptions of said control points shall be given. Except where deemed clearly unreasonable or infeasible by the Board of Trustees, these control points shall be the located section corners of the coordinate system of the State of South Dakota.
3. Name and right of way width of each street, easement or other right of way.
4. Lot numbers, lot lines and frontage dimensions.
5. Location and description of monuments.
6. Names of adjoining properties.
7. Purpose for which sites are dedicated or reserved.

C. The final plat shall be accompanied by:

1. Certification on plat of title showing that the applicant is the owner, that the making of the plat receives his consent and is in accordance with his desires, and a statement by such owner dedicating streets, rights of way, and other sites for public use. (Form 1)
2. Certification on plat by registered engineer as to the accuracy of survey and plat. (Form 2)
3. Certification that the subdivider has complied with one of the following alternatives:
   a. All improvements have been installed in accordance with the requirements of this title, or;
   b. A security bond or certified check has been posted with the Auditor in sufficient amount to assure such completion of all required improvements. (Form 3)
4. Protective covenants shall either be placed directly on the final plat or attached thereto in form for recording.
5. Certification on plat by the Board of Trustees that the plat has been approved for recording in the office of the county Register of Deeds. (Form 4)
6. A copy of the certificate of the county director of equalization that he has received a copy of such plat. (Form 5)

7. Endorsed on plat or attached to it the certificate of the county treasurer stating that all taxes which are liens upon any land are included. (Form 6)

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally; Specifically § 11-3-1

Collateral References:
Posting of notice, SDCL Chapter 17-3.
Publication of notice, SDCL Chapter 17-2.

16-10-17 GUARANTEES IN LIEU OF COMPLETED IMPROVEMENT

No final subdivision plat shall be approved by the Board of Trustees or accepted for record by the Register of Deeds until the required improvements have been installed in accordance with the preliminary plat and approved by the Board of Trustees; or in lieu of such prior construction, the Board of Trustees may accept a security bond in an amount equal to the estimated cost of installation of the required improvements, whereby improvements may be made and utilities installed without cost to the City of Java in the event of default of the subdivider.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

16-10-18 GENERAL REQUIREMENTS IMPOSED

The Board of Trustees shall impose all the necessary general requirements of a comprehensive plan and compel all subdividers to comply with the principles of design in the layout of all subdivisions.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-3 generally

16-10-19 SUITABILITY OF LAND FOR SUBDIVISION DEVELOPMENT

If the Board of Trustees finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations, and other such conditions as may increase the danger of health, life, or property or aggravate erosion or flood hazards; and, if from adequate investigations, conducted by all public agencies concerned, it has been determined that in the best interest of the public, the Board of Trustees shall not approve the land for subdivision unless adequate methods are formulated by the subdivider for meeting the problems that will be created by the subdivision and development of the land.

Legislative History:
1990 Revisions

Authority:
SDCL § 11-4-1

Collateral References:
Light and air space, building regulations, 9 ALR3d 1018.
Alterations etc., 64 ALR 920.
Architectural restrictions, 42 ALR3d 1232; 41 ALR3d 1397.
Attack on validity of zoning statute, 50 ALR2d 1083.
Boundaries, 39 ALR2d 766.
Open side or rear yards, validity of the requirement, 71 ALR2d 568.
Exclusion of industrial activities inconsistent with residential character, 9 ALR2d 683.

16-10-20 EXPENDITURE OF PUBLIC FUNDS

The Board of Trustees may refuse to approve what it considers to be scattered or premature subdivision of land which would necessitate an excessive expenditure of public funds for the supply of such services such as undue maintenance costs for adequate roads.

Legislative History:
1990 Revisions

Authority:
SDCL § 11-4-1; See Also Chapter 9-43

16-10-21 STREET EXTENSIONS

All street extensions within the city limits are to be governed by the following:

A. The arrangement, character, extent, location and grade of all streets shall be in accordance with good planning principles and shall be considered in their relation to existing and planned streets, topographical conditions, to public convenience and safety, and in appropriate relation to the proposed uses of land to be served by such streets.

B. Where, at the determination of the Board of Trustees, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the Board of Trustees deems it necessary, such dead end streets shall be provided with a temporary turn around having a radius of at least fifty (50) feet.

C. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

Legislative History:
1990 Revisions

Authority:
SDCL § 11-3-12.1

Collateral References:
Municipal housing and redevelopment law, SDCL Chapter 11-7.
Validity, construction and effect of statutes providing for urban redevelopment by private enterprises, 44 ALR2d 1414.

General obligation bonds of municipality, SDCL Chapter 9-26.
Preparation of general development plan, a comprehensive plan is required, SDCL §§ 11-6-4, 11-6-15.

16-10-22 DEDICATION OF RIGHT OF WAY AND ROADWAY WIDTHS

The following conditions shall govern the designation and minimum street right of way and roadway width:

A. A minimum width of highways, arterial streets, residential collector streets, local residential streets, and marginal access to be dedicated to the City shall be indicated on the Major Street Plan and where not shown thereon shall not be less than as follows:

Street Types	Minimum Dedicated Right of Way Width
Arterial	100 feet
Collector	80 feet
Minor	66 feet
Marginal Access	52 feet
Alleys	20 feet

B. In underdeveloped or vacant areas, the Board of Trustees shall have the discretion to identify or classify a street as a "collector street."

C. Subdivisions which abut - or include within the proposed are to be subdivided - any highway or arterial street, shall provide:

1. A marginal access street, or;
2. Reverse frontage with screen planting contained in a non-access reservation along the rear property lines, or;
3. Deep lots with rear service drives, or;
4. Other treatment as may be necessary to adequately protect residential properties and to afford separation of through and local traffic.

D. Minimum roadway widths:

Street Type	Pavement Width (Measured from Curb Faces)
Arterial	60 feet
Collector	44 feet
Minor	32 feet
Marginal Access	26 feet

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally

Collateral References:
Municipal housing and redevelopment law, SDCL Chapter 11-7.
Validity, construction and effect of statutes providing for urban redevelopment by private enterprises, 44 ALR2d 1414.

General obligation bonds of municipality, SDCL Chapter 9-26.
Preparation of general development plan, a comprehensive plan is required, SDCL §§ 11-6-4, 11-6-15.

16-10-23 INTERSECTIONS

The following conditions shall govern all intersections found within thJava city limits:

A. Streets shall intersect as nearly possible at right angles, and no intersection shall be at an angle of less than seventy (70) degrees.

B. Street curb intersections shall be rounded by radii of at least twenty (20) feet. when the smallest angle of the street intersection is less than ninety (90) degrees, the Board of Trustees may require curb radii of greater length.

C. No lot or other parcel of land which abuts on and has access to eight a collector or a minor street shall have a service drive, curb cut, or other means of access to an arterial street within seventy five (75) feet of the right of way of any street which intersects such arterial street on the side on which such lot or parcel is located.

D. Street jogs with center line offsets of less than one hundred and twenty five (125) feet are declared illegal.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1; Chapter 11-3 and 11-4 generally

Collateral References:
Preparation of general development plan, a comprehensive plan is required, SDCl §§ 11-6-4, 11-6-15.

16-10-24 STREET GRADES AND ELEVATIONS

The following rules and regulations shall govern street grades and elevations within the city limits:

A. Street grades shall conform to the following:

Street Type	Maximum Percent Grade
Arterial	7
Collector	8
Minor	10

B. Minimum grades of any roadway shall not be less than 0.5 percent unless otherwise approved by the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1; Chapter 11-3 and 11-4 generally

Collateral References:
Municipal housing and redevelopment law, SDCL Chapter 11-7.
Validity, construction and effect of statutes providing for urban redevelopment by private enterprises, 44 ALR2d 1414.
General obligation bonds of municipalities, SDCL Chapter 9-26.

16-10-25 DEAD END STREETS (CUL - DE - SACS)

Minor terminal or dead end streets or courts which are designed so as to have one end permanently closed shall not be longer than five hundred (500) feet and shall be provided at the closed end with a turnaround having a diameter at the outside of the pavement of at least seventy five (75) feet and a diameter at the outside of the right of way of at least one hundred (100) feet.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1; Chapter 11-3 and 11-4 generally

16-10-26 PRIVATE STREETS, RESERVE STRIPS AND ALLEYS

The following regulations shall govern private streets, reserve strips and alleys:

A. There shall be no private streets platted within the subdivision.
B. There shall be no reserve strips in a subdivision except where their control is definitely vested in the City of Java under conditions approved by the Board of Trustees as authorized by this title.
C. Alleys shall not be provided in residential blocks except in cases where the subdivider produces evidence of the need for alleys which is satisfactory to the Board of Trustees. Alleys may be required in commercial and industrial districts, except that the Board of Trustees may waive this requirement where other definite and assured provisions are made for service access. Such alleys shall be dedicated to the public.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1; Chapter 11-3 and 11-4 generally

16-10-27 BLOCKS

Block lengths shall not exceed twelve hundred (1200) feet or be less than three hundred (300) feet, except as the Board of Trustees considers necessary to secure efficient use of land or desired features of street layouts. These blocks shall be wide enough to allow two (2) tiers of lots of minimum depth. However, where this would require lots to front on an arterial street or highway or where topographical conditions or the size of the property prevents two (2) tiers of lots, the Board of Trustees may approve a single tier of lots of minimum depth.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally

Collateral References:
Municipal housing and redevelopment law, SDCL Chapter 11-7.
Validity, construction and effect of statutes providing for urban redevelopment by private enterprises, 44 ALR2d 1414.

General obligation bonds of municipality, SDCL Chapter 9-26.
Preparation of general development plan, a comprehensive plan is required, SDCL §§ 11-6-4, 11-6-15.

16-10-29 LOTS

The following regulations shall govern city lots:

A. The lot size, width, depth, shape orientation, and minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
B. Lot dimensions shall conform to the requirement of the zoning title.
C. Corner lots shall have sufficient extra width to meet the building setback lines established on both the front street and side streets.
D. Each lot shall be provided with access to a street.
E. Side lot lines shall be substantially at right angles to streets except on curves where they shall be radial.
F. Couble frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally; See Also § 9-43-12 as a comparison.

Collateral References:
Municipal housing and redevelopment law, SDCL Chapter 11-7.
Validity, construction and effect of statutes providing for urban redevelopment by private enterprises, 44 ALR2d 1414.

General obligation bonds of municipality, SDCL Chapter 9-26.
Preparation of general development plan, a comprehensive plan is required, SDCL §§ 11-6-4, 11-6-15.

16-10-30 EASEMENTS

Except where alleys are permitted for the purpose, the Board of Trustees shall require easements at least fifteen (15) feet in width centered along all rear lot lines. Where necessary or advisable in the opinion of the Board of Trustees, similar easements shall be provided along side lot lines or across lots.

If the Board of Trustees deems it necessary for proper drainage within or through a subdivision, it shall require that a storm water easement or drainage right of way also be provided.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally; See Also § 9-45-1

Collateral References:
Preparation of general development plan, a comprehensive plan is required, SDCL §§ 11-6-4, 11-6-15.

16-10-31 PREREQUISITES TO FINAL APPROVAL

The subdivider is required to install or construct the improvements hereinafter described prior to receiving approval of his final plat or prior to having released the bonds or other securities which guarantee such required improvements.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally

Collateral References:
General obligation bonds of municipalities, SDCL Chapter 9-26.

16-10-32 WATER MAINS AND SEWERS

All public and private water mains, sanitary sewers, laterals and storm sewers shall be installed as necessary to prevent the future cutting of pavement of any street, sidewalk, or other required pavement.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3 and 11-4 generally

16-10-33 PROPERTY MARKERS

The corners of all lots and the beginning and ending of all curves on property lines shall be accurately marked on the ground with three-fourths (3/4) inch diameter iron rods or pipes at least twenty four (24) inches long prior to final approval of the final plat.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-7; See Also § 11-3-12.1

16-10-34 STREETS AND ALLEYS

The subdivider shall provide street pavements which shall be designed to carry the expected traffic and which shall be approved by the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-4 and 11-7; See Also § 11-3-12.1

16-10-35 CURBS AND GUTTERS

Curbs and gutters shall be placed on both sides of all streets in all non-residential subdivisions and all residential subdivisions having more than three (3) lots per gross acre, unless they are waived by the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-1, Chapters 11-3, 11-4 and 11-7 generally

16-10-36 SIDEWALKS

Portland cement concrete sidewalks, no less than four (4) feet wide and four (4) inches thick shall be constructed on both sides of all streets within a subdivision having more than three (3) lots per gross acre, unless waived by the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-46-1

16-10-37 STREET SIGNS

The subdivider shall install durable street name signs at all intersections which meet specifications of the Board of Trustees. One street sign is required for each intersection unless waived by the Board of Trustees.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-30-3 as a comparison; See Also § 9-45-2

16-10-38 WATER SUPPLY SYSTEM

The subdivider shall construct a complete water distribution system which shall adequately serve all lots and which shall include appropriately spaced fire hydrants, and this system shall be properly connected with the public water supply.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-47 generally; See Also Chapter 11-3, 11-4 and 11-7

16-10-39 SANITARY SEWERS

The subdivider shall construct a subdivision sewer system to adequately serve all lots and connect the subdivision system to the public system after the Board of Trustees has approved the size of the lines.

Legislative History:
1990 Revisions

Authority:
SDCL See Chapter 11-3, 11-7 and 11-4 generally; See Also Chapter 9-48

16-10-40 STORM DRAINAGE

An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., for the proper drainage of all surface water shall be provided. Cross drains shall be provided to accommodate all natural water flow, and they shall be of sufficient length to permit full width roadways and required slopes.

Legislative History:
1990 Revisions

Authority:
SDCL § 9-45-3 and 9-45-5

16-10-41 OVERSIZE FACILITIES

The Board of Trustees may participate in the cost of "oversize" improvements within a subdivision if it is adjudged that such oversize improvements are necessary to serve large areas of land not in the subdivision and if the cost of such oversize improvements is an **unreasonable burden on the subdivider.**

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 9-43, 11-3, 11-4 and 11-7 generally.

16-10-42 INSPECTION

Each facility constructed in the subdivision shall be installed under inspection of the engineer.

Legislative History:
1990 Revisions

Authority:
SDCL Chapter 11-3, 11-4 and 11-7 generally

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