

CHAPTER 8 – MORALS & CONDUCT

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Section 8-2-101 to 199, inclusive. Public nuisances - general provisions.

Section 8-2-101 Public nuisances prohibited.

No person or persons, owner, occupant, or person in charge of any house, building, lot, or premises shall, in the city, create, maintain, or commit, or permit to be created, maintained, or committed, any public nuisance as defined in this section.

Within the meaning of this section, a public nuisance consists in unlawfully doing an act, or omitting to perform a duty, within the corporate limits of the city, or in any public grounds, or parks belonging to the city, or within one mile of the corporate limits of the city not within another municipality, which act or omission either:

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

and which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

Source: Rev. of Ord., 1990.

Section 8-2-102 Specific acts declared to be a nuisance.

Prohibited nuisances shall include, but are not limited to, the following enumerations, which are hereby deemed and declared nuisances:

- A. Household waste including but not limited to items such as paper, rags, trash, garbage, discarded clothing, shoes, curtains, linen, and other apparel, tin cans, aluminum cans, plastic containers, glass containers, cleaning utensils, cooking utensils, and discarded household fixtures, when such items are stored, collected, piled, or kept on private or public property, and in view of adjacent properties or public right-of-ways;

- B. Used building materials and waste, including but not limited to, such items as lumber, plaster, old iron or other metal, concrete, brick and tile, piles of rock, sand, dirt, or gravel when not used for landscaping purposes, doors, windows, and scrap or salvage building materials, when such items are stored, collected, piled, or kept, on property other than the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise and are not stored inside a building; except for building materials that are temporarily stored for work on the premises authorized by a valid building permit obtained for the premises, provided that such used or waste building materials shall not remain on the premises more than thirty (30) days after the expiration of the building permit;
- C. Household appliances, fixtures, and furniture including but not limited to items such as stoves, refrigerators, freezers, sinks, cabinets and other kitchen appliances, bedroom furniture, mattresses, tables, chairs, clothes washing and drying machines, bathroom appliances and fixtures, light fixtures, washtubs, when such items are stored, collected, piled, or kept, on property other than the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, and are not stored inside a building; except that patio furniture or other furniture designed for outdoor use shall not constitute a nuisance when kept in a residential district and in view of adjacent properties or public right-of-ways;
- D. Dismantled motor vehicles, motor vehicle bodies, and disassembled parts thereof, disassembled bicycles and bicycle parts, and other mechanical machines or motors or parts thereof when such items are stored, collected, piled, or kept and are not stored inside a building, in compliance with this chapter.
- E. Carcasses of animals and hides. All carcasses of animals remaining exposed one hour after death, excepting legally caught and tagged game, which shall be twenty-four (24) hours; and all green or salted hides left deposited in any open place;
- F. Liquid refuse. All slop, foul or chemically polluted water, liquor or beer washings, all filth, refuse or offal, discharged through drains or spouts or otherwise thrown or deposited in or upon any street, alley, sidewalk, public way, lot, park, public square, public enclosure, or any pond or pool of water;
- G. Vegetables or vegetable matters emitting noxious odors. All vegetables, vegetable matters, or other articles that emit or cause an offensive, noxious or disagreeable smell or odor; and any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin, or other disease carrying pests, animals, or insects, except that the presence of earthworms in a compost pile shall not constitute a nuisance;
- H. Any imperfect, leaking, unclean, or filthy sink, water closet, urinal, or other plumbing fixture in any building, used or occupied by human beings;
- I. Any well or other supply of water used for drinking or household purposes which is polluted or which is so constructed or situated that it may become polluted.

- J. Any excavation in which stagnant water is permitted to collect.
- K. Permitting weeds to grow to maturity on any private property, including vacant lots;
- L. Throwing or leaving any dead animal or decayed animal or vegetable matter or any slops or filth whatever, either solid or fluid, in any pool of water;
- M. Erecting or maintaining any privy or cesspool except such sanitary privies and cesspools, the plans of which are approved by the state health department;
- N. Burning, causing or permitting to be burned in any street, alley, or public ground any dirt, filth, manure, garbage, sweeping, leaves, ashes, paper, rubbish or material of any kind without the permission of the Fire Chief.
- O. Parking livestock trucks or trailers in residential districts. Parking or permitting a livestock truck or trailer to remain on any street or public ground in a residential district when such truck or trailer gives off an offensive odor or is contaminated with manure or other filth.

Source: Rev. of Ord., 1990.

Statutory Reference: SDCL 9-29-13, abatement of nuisances.

Section 8-2-103 City inspector or city police to give notice to persons maintaining nuisance to abate same - city inspector, chief of police or mayor authorized to abate nuisance upon failure of persons maintaining such nuisance to do so.

The city inspector or police department shall give written notice to any person creating, permitting, or maintaining, any nuisance to abate such nuisance forthwith, and if such person shall neglect or refuse to do so within a reasonable time after such notice, he shall be deemed guilty of a violation of this article. The chief of police, the mayor or either of said officers shall cause to be removed or abated any such nuisances upon the expiration of a reasonable time after the serving of such notice and the city may recover the expenses so incurred from the person maintaining such nuisance in a civil suit instituted for such purpose.

Source: Rev. of Ord., 1990.

Statutory Reference: SDCL 9-29-13, abatement of nuisances.

Section 8-2-104 Violation of sections relating to nuisances - penalty.

In addition to the remedies of abatement as provided in these sections, any person, firm or corporation violating any of the provisions thereof shall be guilty of a misdemeanor.

Each day which the nuisance remains unabated after notice shall constitute a separate offense.

Source: Rev. of Ord., 1990.

Section 8-2-105 Barbed wire and electric fence unlawful - special permits.

- A. It shall be unlawful for any person, persons or corporation within the limits of the city to construct or have in use any barbed wire or electric fence or fencing upon any premises other than those permitted by the City Commission as shown on the map filed in the office of the City Finance Officer. In addition, the City Commission may issue special permits which allow for the placement anywhere in the City of barbed wire at least six (6) feet above the ground and on top of other fences.
- B. It is hereby made the duty of the Chief of Police to notify the owners or occupants of all premises within the city having barbed wire or electric fence or fencing thereon, in violation of these ordinances, to remove the same at once, and upon failure to do so within three (3) days after such notice, the Chief of Police shall cause the same to be removed at the cost of the owner or occupant of such premises.
- C. Any person, persons or corporation having and permitting barbed wire or electric fence or fencing to remain on premises or who shall hereafter construct or have in use such fencing in violation of these ordinances, shall be punished by a fine of not exceeding \$20.00 and the expense of moving such fence in addition thereto.

Source: Rev. of Ord., 1990.

Section 8-2-106 Unlawful to create or maintain certain excavations - exceptions.

It shall be unlawful for any person, firm or corporation to create or permit to remain upon his property the side of an excavation more than two (2) feet tall which has an angle of repose greater than the following:

- A. Solid Rock, Shale or Concrete (90°)
- B. Compacted Angular Gravel 1/2 : 1 (63°- 26°)
- C. Average Soil 1 : 1 (45°)
- D. Compacted Sharp Sand and Gravel 1 1/2 : 1 (33° - 41°)
- E. Rounded Loose Sand and Gravel 2 : 1 (26° - 34°)

Provided however, the limitations described herein shall not be applied to temporary excavations in preparations for construction of basement walls, foundations for buildings or utility trenches.

Source: Rev. of Ord., 1990.

Section 8-2-107 Airtight containers - Restricted.

The keeping of any discarded icebox, refrigerator or other airtight container is hereby declared to constitute a public nuisance and it shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, without first removing said door or lid, snap lock or other locking device from said icebox, refrigerator or container.

Source: Rev. of Ord., 1990.

Section 8-2-108 Unlawful to install, maintain and operate devices causing interference with radio and television reception - notice to abate.

- A. The installation, maintenance or operation of electrical or any other devices, appliances, equipment, or other machines causing unnecessary or avoidable interference with radio or television reception within the city is hereby declared a nuisance and as such prohibited within the corporate limits of the city.
- B. It shall be the duty of the city inspector to inspect any electrical or other device, appliance, equipment, machine or installation of any kind which may be causing interference with radio or television reception within the city and wherever, upon such inspection, he shall find that any electrical or other device, appliance, equipment, machine or installation of any kind is unnecessarily or avoidably causing interference with radio or television reception, he shall notify the owner and operator of the same that he is violating the provisions of this chapter and shall abate said nuisance within a reasonable time and not more than ten days after the giving of such notice. When any person, firm or corporation has been so notified that he is violating any provision or provisions of this article and fails to abate the same as hereinabove provided, each day's continuance to maintain or operate the interfering equipment after the passage of the time given by such notice may be considered a separate offense under this chapter.
- C. This section shall not apply to the operation of violet ray machines, diatherma machines, X-ray machines or other electrical medical devices causing radio or television interference, provided the interference created by their operation is reduced in every reasonable way by the use of filters, condensers, shields, grounds and other apparatus tending to reduce radio and television interference.

Source: Rev. of Ord., 1990.

Statutory Reference: SDCL 9-29-15, interference with radio reception.

Section 8-2-109 Interference with action of the health officer or city building inspector - penalty.

No person or persons shall interfere with the action of the health officer or city inspector in the performance of his duties as specified in this chapter.

Source: R.O. Pierre, 1957, 7.0105; Rev. of Ord., 1990.

Section 8-2-110 Unlawful to pollute public water.

No person shall cast or throw or permit others to cast or throw, impure or unwholesome substances into any of the city wells furnishing water for the city water works or the city reservoir, public watering troughs or drinking fountains.

Source: Rev. of Ord., 1990.

Statutory Reference: SDCL 9-32-8, protection of public water supply.

Section 8-2-111 Unlawful to allow pigeons to fly at large within the city.

No person owning or having in his charge, control or possession of any pigeons shall suffer, allow or permit the same or any of them to roam or fly at large within the city.

Source: Rev. of Ord., 1990.

Statutory Reference: SDCL 9-29-12, animals running at large.

Section 8-2-112 Storing, parking or leaving dismantled or junk vehicles declared nuisance exceptions.

The presence of an abandoned, wrecked, dismantled, inoperative, junk or partially dismantled motor vehicle or parts thereof, on private or public property, is hereby declared a public nuisance. This section shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, properly operated in the appropriate zoning district, or to any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways and covered with an appropriate cover to screen it from view, which vehicle remains on private property, or to any motor vehicle retained on private property by the owner for antique collection purposes and covered with an appropriate cover to screen it from view.

As used in this article the following words, terms and phrases shall have the meanings herein ascribed:

- A. Motor vehicle: Any self-propelled vehicle including but not limited to automobiles, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, and campers.
- B. Junk motor vehicles: Any motor vehicle which does not have lawfully affixed thereto unexpired license plates or which is wrecked, dismantled, partially dismantled, inoperable, or discarded.

Source: Rev. of Ord., 1990.

Section 8-2-113 Duty of property owners to remove junk or dismantled vehicles - notice.

No person owning, in charge of, or in control of any real property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned or junk motor vehicle of any kind to remain on such property longer than fifteen (15) days. Except as provided in 8-2-112.

Whenever it comes to the attention of the police department that any person has an abandoned or junk motor vehicle on his property, a notice in writing shall be served upon such person ordering the removal of such motor vehicle in the time specified in this article. The notice shall contain the request for removal within fifteen (15) days after receipt of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this article and that each day the violation continues shall constitute a separate offense.

Source: Rev. of Ord., 1990.

Section 8-2-114 Unlawful to keep animals or fowl within the city.

No person shall place, keep or maintain any live swine, horses, cows, goats, sheep, llamas, prairie dogs, primates, snakes, ducks, geese, chickens or other domestic fowl, except on property zoned agriculture, and in accordance with the conditions of Chapter 12, Article 4, Agricultural District, or any wild mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it escaped from secure quarters, within the limits of the city.

Source: R.O. Pierre, 1957, 9.0902; Ord. No. 655, 1957; Rev. of Ord., 1990; Ord. 1357, 1994; Ord. 1376, 1996; Ord. 1378, 1996.

Section 8-2-115 Abandoned property declared to be a nuisance - procedure for disposal.

No person shall abandon, leave or place in any street, alley or public place of the city any property of any kind; and no person shall permit any property of any kind so abandoned, left or placed to remain for more than twenty-four (24) hours in any street, alley or public place of the city, adjacent to or in the vicinity of his property or residence without reporting the same; and any property abandoned, left or placed in any such street, alley or public place and any property heretofore or hereafter abandoned, left or placed by any person on any private property of which report or complaint may have reached any

department of the city is declared to be a public nuisance and an obstruction and a menace to the public health, safety and welfare.

It shall be made the duty of all members of the police department to report to the chief of police as to any property so abandoned, left or placed and the chief of police shall provide for the removal of such obstruction and abatement of such nuisance as soon as possible after receiving any such report.

It shall be the duty of the police department to take possession of any article of property so abandoned, left or placed on any public or private property, and if the same is believed to have any value, to retain it and make an attempt to find the owner thereof. It shall be the duty of said department to maintain a place for the keeping of any such article until the same shall be claimed or otherwise disposed of and the city shall have a lien thereon for the reasonable expenses incurred and value or cost of the time and effort necessary in taking, removing and storing such article. The police department may retain possession of any article of property until any and all such expenses are paid.

If any article of property has been or is kept for ninety (90) days or more without being claimed, the same may be disposed of by said department; if of no value or slight value, it may be destroyed; if of slight value but of use to the city, it may be turned over to the proper department and used until claimed and the charges hereby made a lien thereon shall be regarded as sufficient offset to the value of any such use; if of more than slight value it may be sold by said department ten (10) days after notice of such sale has been given by one (1) publication in a legal newspaper published in the city and the city may be a bidder at such sale. If on any such sale an amount is bid in excess of the charges or lien of the city, such excess shall be deposited to the credit of the general fund of the city.

Source: Ord. No. 727, 1963; Rev. of Ord., 1990.

Section 8-2-116 Unlawful to litter public places.

No person, firm or corporation shall throw, dump or place any paper, trash, dirt, snow, rubbish or other articles or substances in any place where such may be blown or may fall upon any of the streets, alleys, sidewalks, bathing beaches, swimming pools, vacant lots or other public places in the city.

No person, firm or corporation shall litter, sweep, throw, cast or direct, suffer or permit any agent, employee or other person under his control, to litter, sweep, thrown or cast any ashes, refuse, paper, dust, snow, rubbish, leaves, grass, clippings or refuse of any kind whatsoever, in or upon any gutter, street, alley, sidewalk, bathing beach, swimming pool, vacant lot and other public place in the city.

No one, being the owner, or in charge of or in control of any vehicle, or any receptacle, shall litter, drop, spill or permit to be littered, dropped or spilled any dirt, sand, gravel, stone, building rubbish, or other materials of any kind in or upon any street, alley, sidewalk or public place.

It shall be unlawful for any person in this city selling foods, wares or merchandise of such nature that the purchasers thereof throw the containers, wrappers or portions of said articles on or in the streets, alleys, sidewalks or public places in the city to allow said described matters, or any part thereof, to

remain in or upon the said streets, alleys, sidewalks or public places.

Any person selling goods, wares or merchandise of such nature shall keep the streets, alleys, sidewalks and public places adjacent to his premises clean and free from such materials and such materials when removed from said streets, alleys, sidewalk or public places shall be placed in a receptacle for trash and refuse.

This section shall be enforceable against the owner; manager, or employee in charge of said premises at the time said street, alley, sidewalk or public place shall become dirty from said matters being discarded thereon.

No person shall prevent or interfere with any employee of the department of sanitation in the sweeping or cleaning of any street, alley or public place, or in the removal of sweepings, ashes, garbage, rubbish, snow, ice or refuse material.

Source: Rev. of Ord., 1990.

Section 8-2-117 Distribution of handbills prohibited - exceptions.

No person shall throw or deposit any handbill in or upon any street, sidewalk, or public place nor shall any person throw, deposit, or place any handbill upon any vehicle without the specific and immediate consent of the person having charge of such vehicle. This section shall not prohibit the handing out of handbills to persons willing to receive such handbill.

For the purpose of this article, handbill shall mean:

Any printed or written matter, any sample, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any printed or otherwise reproduced original or copy of any matter of literature.

Source: Rev. of Ord., 1990.

Section 8-2-118 Smoking Prohibited in Hyde Stadium.

No Person may smoke tobacco or carry any lighted tobacco product within the enclosed area of Hyde Park, Lots 1 & 2, Hyde Stadium Addition, also known as Hyde Stadium.

Source: Ord. No. 1609, 2007;

Section 8-2-119 to 8-2-198 inclusive. Reserved.

Section 8-2-199. Violation of article as misdemeanor - penalty.

Any person, firm or corporation convicted of a violation of any of the provisions of this article is guilty of a second class misdemeanor and subject to fine and imprisonment as provided by section 1-3-101.

Source: Rev. of Ord., 1990.