

**TITLE 12
GENERAL NUISANCES**

(Title 12 revised in its entirety effective July 24, 2004, Ordinance 2004-11)

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota, that the current Title 12 shall be repealed in its entirety and shall be replaced with the following TITLE 12 which shall read as follows:

**TITLE 12
GENERAL NUISANCES**

Chapters:

- 12.01: General Provisions
- 12.02: General Nuisances
- 12.03: Depositing of Filth, Obnoxious, and Offensive Substances
- 12.04: Weeds, Trees, Bushes, Et cetera
- 12.05: Slaughter Houses, Meat Market, and Livestock Sale Rings
- 12.06: Non-Domestic Animals
- 12.07: Depositing and Burning of Filth, Ashes, Manure, Garbage, Refuse, Filthy Liquids, and Et cetera
- 12.08: Fireworks
- 12.09: Junk Dealers
- 12.10: Indecent Acts
- 12.11: Regulation of Sexually Oriented Performances and Performers

**CHAPTER 12.01
GENERAL PROVISIONS**

SECTIONS:

- 12.01.01: Scope and Purpose
- 12.01.02: Definitions
- 12.01.03: Penalty

12.01.01: SCOPE AND PURPOSE

The purpose of this Title is to regulate acts, conditions and things that are or may be injurious to the health and/or safety of the public; that are indecent or offensive to the senses; or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of another's life or property.

12.01.02: DEFINITIONS

BIG GAME ANIMAL: Any cloven-hoofed wild animal, mountain lion or wild turkey.

(Added effective 10-18-08, Ordinance 2008-21)

DAMAGED BUILDING: Any structure and/or building which has been destroyed or damaged by natural disasters or fire, and has not been torn down, salvaged or repaired.

DILAPIDATED BUILDINGS: Any structure, which, because of the lack of maintenance has become a fire hazard, public health or safety hazard.

FIREWORKS: Any device, including but not limited to, firecrackers, torpedoes, roman candles, detonating cannons, skyrockets or other similar pyrotechnic displays.

GARBAGE: Cans, bottles, ashes, kitchen refuse, and/or an accumulation of animal and vegetable matter which attends the preparation, cooking and eating of food, cans, bottles, and ashes.

IMPURE WATER: Any well or other supply of water used for human consumption or for household purposes, which has become polluted.

INDECENT: Conduct or language patently offensive in its content or application.

JUNK DEALER: Any person engaged in business as a dealer or trader in junk, old metals, rags, waste paper, green hides, old automobiles, carcasses of animals used for fertilizer, or other articles or things which from the worn condition are rendered useless for the purpose for which made.

JUNK YARD: Any area, lot or location where two or more unusable automobiles or old metals, rags, waster paper, green hides, or other similar articles are bought, sold, unloaded or stored.

LICENSED PREMISES: Any premise which is licensed to allow sexually oriented performing and which is licensed for the sale of alcoholic beverages.

LICENSEE: Any person, association, partnership, corporation, club, or other entity which is licensed to allow sexually oriented performing and who possesses a license for the sale of alcoholic beverages.

NUDITY: The showing of the human male or female genitals with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering or any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernable turgid state.

NUISANCE: Anything, which is injurious to the health or safety, or is indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property.

PATRON: Any person present on licensed premises that is not in the employ of the licensee.

PERFORMER/ENTERTAINER: Any person who is present on licensed premises with the consent of the licensee for the purpose of entertaining any patrons on the premises, and who is licensed to perform such entertainment. This term includes those who are paid to perform as well as those as who are not paid.

RODENT HARBORAGE: Any condition which provides shelter or protection for rodents thus favoring the rodents' multiplication and continuous existence, in, under or around a structure of any kind.

RODENTS: Any non-domestic animal, including but not limited to rats, skunks, and raccoons.

RUBBISH: Any waste other than garbage; including: paper, boxes, cartons, wastes from gardens and lawns, and tree branches.

SEXUAL CONDUCT: Any act of masturbation, sexual intercourse, or other physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or if such person be a female, the breast.

SEXUALLY ORIENTED PERFORMER: Any person who wears the fully opaque covering required by this Title, but who could not be described as "fully clothed", and who includes in his/her performance, activities, or body movements which are not only provocative or "sexually excitable" as that term is defined in SDCL 22-24-27 (15), but which are also without serious literary, artistic, political, or scientific value.

STAGE: That portion of the licensed premises in which an entertainer may perform and which may not, during any such performance, also be occupied by any patron who has not been specifically invited on stage by the performer to participate in the performance.

STAGNANT WATER: Any excavation, pond, low-lying area, public or private, in which water has become stagnant and/or has produced mosquito larvae and/or has an offensive odor.

WASTE MATERIAL: Any noncombustible inorganic matter, including but not limited to ashes, glass, sand, earth, stones, concrete, mortar, metals, and tin cans.

WRECKED VEHICLE: Any automobile which because of body damage, or operating apparatus, including tires and wheels, is in such a condition to render the start, legal operation, or use of said automobile impossible.

12.01.03: PENALTY

Any violation of the provisions of this Title is a Class 2 misdemeanor punishable by the maximum punishment set forth by the laws of the state of South Dakota pursuant to SDCL 22-6-2. Said punishment may also include payment of any cost and/or restitution authorized by this Title and/or state law.

In addition, any violation of the provisions of this Title may result in the revocation and/or suspension of any license issued pursuant to any Section of this Title.

CHAPTER 12.02 GENERAL NUISANCES

SECTIONS:

- 12.02.01: Specific Acts, Conditions, and/or Things Deemed to be Nuisances
- 12.02.02: Filing a Nuisance Complaint
- 12.02.03: Courtesy Letter/Notice of Violation
- 12.02.04: Notice of Violation
- 12.02.05: Abatement or Filing of Review Required Within Fifteen (15) Days
- 12.02.06: Notice of Review by Legal & Finance Committee
- 12.02.07: Issuance of Ticket of Violation
- 12.02.08: Abatement
- 12.02.09: Landowner Responsible for Any Costs
- 12.02.10: Immediate Abatement Required in Certain Cases

12.02.01: SPECIFIC ACTS, CONDITIONS, AND/OR THINGS DEEMED TO BE NUISANCES

The following specific acts, conditions, and things are each declared a public nuisance, however, this enumeration shall not be deemed to be exclusive:

- A. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any garbage, refuse, or waste which is likely to cause or transmit disease or which is a hazard to health;
- B. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any rubbish. This provision shall not include building materials for sale used on pending construction;
- C. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any waste material. This provision shall not include materials, which are not man-made and are used to fill a site for the purpose of construction or land leveling;
- D. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any abandoned, discarded, or unused furniture, refrigerators, washing machines, dryers, stoves, sinks, toilets, cabinets, or household furnishings/fixtures, and/or storing said items in such a manner as to be visible to the public from adjoining property, public alleys or streets;

- E. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any vehicle or vehicles that is/are abandoned, wrecked, dismantled or inoperative including any vehicle with flat tires, missing wheels, et cetera;
- F. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any automobile or automobiles which is/are non-licensed automobiles or because of body damage, or operating apparatus, including tires and wheels, is/are in such a condition to render the start, legal operation, or use of said automobile or automobiles impossible;

Any vehicle, which is left for repair at a regularly operated repair garage, is exempt from this Section;
- G. Any trailer, recreational vehicle, or implement which is left standing on a public right-of-way for a period of one hundred twenty (120) hours or longer;
- H. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any trees and/or bushes that interfere with the health, safety, or enjoyment of another;
- I. Damaged buildings;
- J. Dilapidated buildings;
- K. Impure water;
- L. Undressed hides, which for any reason are kept longer than twenty-four (24) hours;

Hides which are kept at a place where they are to be manufactured into items such as gloves, coats, and et cetera and are stored inside an approved structure, which complies with all health regulations for such manufacturing, shall be exempt from this Section;
- M. The accumulation of manure;

Manure accumulated to be properly used as a fertilizer shall be exempt from this Section;
- N. Rodents;
- O. Stagnant water;
- P. Any dead animal remaining on any public or private ground for a period of more than twenty-four (24) hours;

- Q. Depositing, placing, letting fall, or throwing materials into a pond, pool or waterway as to pollute said water;
- R. Erecting or maintaining any privy or cesspool unless approved by the City Council and the South Dakota Department of Environment and Natural Resources;
- S. Ignition of any bonfire or campfire on public or private property;
- Campfires which are placed in approved fire rings and are in conjunction with a year-round state licensed campground shall be exempt from this Section;
- Approved campgrounds shall receive approval from the Fire Chief in writing prior to burning;
- T. Parking or allowing a livestock truck, trailer or any other vehicle, which gives off an offensive odor or contains an offensive substance or other filth on any public or private grounds;
- U. Causing or allowing any offensive, foul odors or stenches that are dangerous or offensive to the neighborhood to be emitted from public or private property;
- V. Causing or allowing pieces of paper, newsprint, excelsior, handbills, posters, building paper, advertisements, or other materials to be carried about by the winds;
- ~~W. Fireworks;~~
- ~~X. Discharge of any slingshot, air gun or firearm for any purpose;
(W&X deleted effective 3/31/07, Ordinance 2007-02)~~
- Y. Slaughter houses;
- Z. Depositing, placing, throwing or letting fall any item into the Deadman Creek Channelization Project, including, but not limited to, leaves, garbage, ashes, grass clippings, and tree branches;
- AA. Entering the Deadman Creek Channelization Project without prior permission from the Public Works Director;
- BB. Leaving or allowing to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his/her control in a place accessible to children, any non-operating ice box, refrigerator or other container without first removing said door or lid for said ice box, refrigerator or container; or

- CC. Depositing or placing any offal, filth, filthy waters, human or animal waste, obnoxious liquid substances, including: petroleum products such as oil, gasoline, and et cetera on any private lot or public grounds.

12.02.03: FILING A NUISANCE COMPLAINT

Unless otherwise stated in this Title, in the event any City representative receives a complaint, either orally or in writing, he/she shall forward the complaint to the Engineering and Inspections Office for investigation.

As part of the investigation, the Engineering and Inspections Office shall obtain the the following information in writing:

- A. Name, address and phone number of the person making said complaint;
- B. Address of the property for which the complaint is being filed; and
- C. Nature of the complaint.

After obtaining the necessary information from the complainant, the Building Inspector may request assistance from other City departments or request an investigation by a more appropriate City employee and/or agent as is necessary based upon the nature of the complaint.

12.02.04: COURTESY LETTER /NOTICE OF VIOLATION

Unless otherwise stated in this Title, in the event the Building Inspector, other employee, and/or agent finds that any violation exists, the City shall send a Courtesy Letter/Notice of Violation to the property owner. The letter shall state the following:

- A. Name and address of the property owner;
- B. Address and legal description of the property in violation;
- C. Nature of the violation;
- D. Title, Chapter and Section violated;
- E. Demand that the property owner become compliant; and
- F. The date upon which the representative will inspect the property for compliance.

12.02.05: NOTICE TO COMPLAINANT AND RIGHT TO REVIEW

In the event the Building Inspector or other employee and/or agent concludes that a violation does not exist, the Building Inspector or other employee and/or agent shall send a letter to the complainant within fifteen (15) days of advising him/her of said determination. In the event, the

complainant is not satisfied with the investigation and subsequent determination; said complainant may file a written request for review. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the Building Inspector setting forth the basis for which he/she believes the decision that a violation does not exist to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of the written request for review, the Building Inspector shall notify the Public Works Committee.
- C. The Public Works Committee shall have thirty (30) days to review the case, and give its decision in writing to the complainant.

12.02.06: ABATEMENT OR FILING OF REVIEW REQUIRED WITHIN FIFTEEN (15) DAYS

Any person who has received written notification of an existing violation shall either abate said nuisance or file a written notice of review with the Building Inspector within fifteen (15) days of receipt of the Courtesy Letter/Notice of Violation.

12.02.07: NOTICE OF REVIEW BY PUBLIC WORKS COMMITTEE

Any person who disagrees with the determination of a violation by the Building Inspector or other employee and/or agent shall have the right to have the Public Works Committee review the decision. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the Building Inspector setting forth the basis for which he/she believes the decision that a violation exists to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of the written request for review, the Building Inspector shall notify the Public Works Committee.
- C. The Public Works Committee shall have thirty (30) days to review the case, and give their decision in writing to the landowner.

12.02.08: ISSUANCE OF SUMMONS AND COMPLAINT FOR VIOLATION

If the landowner fails to abate the nuisance or request a review from the Public Works Committee within the given time, the City may issue a complaint and summons to the landowner ordering the landowner to appear in court to answer said violation. Each violation may be considered a Class II Misdemeanor for each day of violation until the nuisance is abated.

12.02.09: ABATEMENT

In lieu of or in addition to the issuance of a complaint and summons to appear in court, for violation of this Chapter, the City shall also have the authority to abate said nuisance as set forth in SDCL § 21-10-6.

The Building Inspector or other employee and/or agent that conducted the investigation shall have the authority to employ a contractor to assist with said abatement.

12.02.10: LANDOWNER RESPONSIBLE FOR ANY COSTS

Any related expenses, receipts, and administrative, legal, and/or investigative fees shall be billed to the landowner.

In the event the landowner fails to pay said bill within thirty (30) days, the City Finance Officer may file a special assessment on the property with the Meade County Auditor's Office.

In the event the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment.

12.02.11: IMMEDIATE ABATEMENT REQUIRED IN CERTAIN CASES

Nuisance cases involving subjects such as, but not limited to, bonfires, campfires, dead animals, undressed hides, fireworks, depositing filth, spoiled foods or similar items which are determined by the Building Inspector or investigating employee to be an immediate threat to public health and safety shall be abated immediately, unless it is otherwise dictated by the Building Inspector or other investigation employee of the City.

Sections 12.02.04 through 12.02.07 shall not be applicable to nuisances deemed to be in need of immediate abatement due to the threat to public health and safety.

In the event the violator refuses to comply with the orders of the City, the City may have the nuisance abated immediately at the owner's expense.

Nothing in this Title shall be deemed to interfere with the City's authority to immediately abate a nuisance that has been determined by the City to be an immediate threat to public health and safety.

CHAPTER 12.03
DEPOSITING OF FILTH, OBNOXIOUS, AND OFFENSIVE SUBSTANCES

SECTIONS:

12.03.01: Application of Chapter

12.03.02: Action to be taken by City

12.03.01: APPLICATION OF CHAPTER

The provisions of this Chapter shall only apply to nuisances caused by the following:

- A. Depositing of garbage or refuse;
- B. Depositing of rubbish;
- C. Depositing of waste material;
- D. Vehicles containing obnoxious, offensive or nauseous substances;
- E. Offensive odors; and
- F. Depositing filth.

12.03.02: ACTION TO BE TAKEN BY THE CITY

The following guidelines and penalties shall apply only to this Chapter:

- A. Due to public health and safety concerns, once it has come to the attention of the City that one or more of the above listed nuisance violations have been committed the City Police Department may issue a ticket or the City may serve a Complaint and Summons to appear in court to answer for said violation.
- B. In addition, the Building Inspector or other investigating employee shall have the authority to have the nuisance abated, removed or cleaned up immediately at the cost of the violator;
- C. When the Building Inspector or other investigating employee is dealing with a vehicle, which contains obnoxious, offensive or nauseous substances, he/she shall direct the owner to remove the vehicle. If the owner is unable to be found within a reasonable time, the Building Inspector or other investigating employee shall have the vehicle towed at the owner/driver's expense. All towing and storage charges shall be assessed against the owner or driver of the vehicle before possession is returned. For purposes of this provision only, a reasonable amount of time shall be defined to be no longer than thirty (30) days under any circumstances; however, nothing in this provision shall prevent the City from

taking immediate action when necessary to protect the health and safety of the public.

CHAPTER 12.04
WEEDS, TREES, BUSHES, ET CETERA

SECTIONS:

- 12.04.01 Weeds and Noxious Vegetation
- 12.04.02 Overhanging Tree Limbs and Bushes
- 12.04.03 Notice to Cut Vegetation
- 12.04.04 Removal by the City of Sturgis
- 12.01.01 Penalty

12.04.01 WEEDS AND NOXIOUS VEGETATION

All weeds and plants declared to be dangerous, or noxious weeds by the South Dakota Department of Agriculture or the commission of State Weed control, and all other weeds suffered or allowed to grow during the growing season which are declared noxious, dangerous or unhealthy vegetation are hereby declared a public nuisance. It shall be the duty of the property owner or any lot within the city of Sturgis to cut such noxious vegetation at such time as necessary to prevent its growth.

No landowner shall allow domestic grass, weeds or noxious vegetation to grow to a height of more than eight (8) inches.

12.04.02 OVERHANGING TREE LIMBS OR BUSHES

The limbs of trees or bushes hanging less than sixteen (16) feet in height above the driving surface of Lazelle Street, Main Street or Junction Avenue shall be declared a public nuisance and shall be removed as stated in 12.04.03 and/or 12.04.04.

The limbs of trees or bushes hanging less than twelve (12) feet in height above the driving surface of all streets within the City limits other than those listed above shall be declared a public nuisance and shall be removed as stated in 12.05.03 and/or 12.05.04.

Due to public safety concerns, the full width of sidewalks shall be kept clear of all vegetation between the walking surface and eight (8) feet above the walking surface.

All limbs of trees or bushes which are hanging less than eight (8) feet in height above the walking surface of all sidewalks within the City of Sturgis shall be declared a public nuisance and shall be removed as stated in 12.05.03 and/or 12.05.04.

The Chief of Police may declare all trees or bushes, which cause or may in the future cause a traffic or visibility problem, a public nuisance, in addition the Chief may because of public safety, order said vegetation removed immediately.

It shall be the duty of all landowners to keep all overhanging trees and bushes herein described cut down and removed on all lots owned or occupied by them, and to the middle of the street abutting the land owned or occupied by them.

12.04.03 NOTICE TO CUT GRASS, WEEDS, OVERHANGING LIMBS, ETC.

The Street Superintendent, Chief of Police, Police Officers or City Health Officer at any time during the growing season shall notify landowners in writing by Certified Mail or in person with a return of service. Upon service the landowner shall have ten (10) days in which to remove the violation.

This notice shall in addition, inform the landowner that he/she is required to keep all vegetation cut and in compliance with City Ordinances throughout the growing season.

Subsequent notices—After receiving the initial notice to cut any overhanging limbs, weeds, trees etc. then landowner shall be required to abate any similar nuisance within five (5) days of written notification.

Notices shall include the following information:

- A. Landowner's name and address;
- B. Address of property in violation;
- C. Legal description of property;
- D. Ordinance section violated;
- E. Requirements of the ordinance;
- F. Required completion date.

The landowner may appeal the case in writing to the Legal and Finance committee as stated in ordinance 12.01.04 with one exception. The landowner must make said appeal within the timeframe set for removal of the nuisance, if the landowner fails to make a written appeal within this time frame, the nuisance may be abated as stated in 12.05.04

12.04.04 REMOVAL OF VEGETATION BY THE CITY

If the owner of said property fails to remove or cut vegetation within the given time allowed by Ordinance, the Street Superintendent may cause such vegetation to be removed.

The Street Superintendent or his designee may enter upon the property for the purpose of removing or cutting vegetation, which is in violation of this ordinance.

12.04.05 PENALTY

All violations of this chapter shall be considered a Class II misdemeanor.

**CHAPTER 12.05
SLAUGHTER HOUSES, MEAT MARKETS, AND LIVESTOCK SALE RINGS****SECTIONS:**

12.05.01: Offensive and Unwholesome Material

12.05.02: Right of Entry

12.05.03: Destroying Spoiled Meats

12.05.04: Abatement

12.05.01: OFFENSIVE AND UNWHOLESOME MATERIAL

No person shall engage in the business of slaughtering animals, pack them for market, render any animal matter, conduct a meat market or operate a livestock sale ring within the City or within one (1) mile thereof, without approval of the City Council. Said approval shall be conditional upon said person proving compliance with any applicable health regulations and having received verification hereof by the authorized health representative.

Any establishment legally in operation prior to the adoption of this Section shall be permitted to continue said operation until such time the operation has become a health hazard to the general public.

No person shall permit or suffer to remain on the premises where such business is carried on any decaying meat, blood, bone, offal, filth, or other animal matter so that the same shall become offensive and unwholesome and endanger health or be a nuisance to the neighborhood. Such premises shall at all times be kept in a clean, healthy and non-offensive condition.

12.05.02: RIGHT OF ENTRY

The City Health Officer and/or Police Officer of the City, and any and all of their assistants, shall be permitted free entrance at all hours of the day or night to all places used for any investigative purpose specified in this Chapter, and shall have the right to unrestricted examination of such places and of the machinery and utensils therein contained, and of the meat or provisions therein exposed for sale and the manner of conducting and operating such business. No person shall willfully hinder or obstruct such entrance or examination.

12.05.03: DESTROYING SPOILED MEATS

No person shall sell, offer, or expose for sale any spoiled, diseased, rotten, emaciated, tainted or putrid meat or provisions of any kind.

If in the opinion of the Health Officer of the City, any meat provisions for sale in any market, shop or other building are tainted, putrid, unwholesome, or dangerous to the public health, it shall be the duty of the Health Officer of this City to serve notice in writing upon the person exposing for sale such provisions, requiring him to destroy the same in such a manner and within such time as he deems necessary.

In the event said person fails to conform to such notice, the Health Officer or his representative shall destroy such meat or provisions at the expense of the person exposing such meat or provision for sale.

In the event said person refuses to pay for the cost of disposal, the City shall dispose of the items and file an assessment against said person.

12.05.04: ABATEMENT

Any violations of this Chapter may be abated as set forth in Chapter 12.02 as an existing nuisance.

CHAPTER 12.06 NON-DOMESTIC ANIMALS

SECTIONS:

12.06.01: Building Materials Not to Provide Harborage for Animals

12.06.02: Notice to Owner from Health Officer

12.06.03: Action Required by Owner

12.06.04: Food and/or Feed Protection

12.06.01: BUILDING MATERIALS NOT TO PROVIDE HARBORAGE FOR ANIMALS

No person shall permit to accumulate upon any premises, whether improved or vacant, or upon any open lot, alley, street, or drive, any lumber, boxes, barrels, bricks, stones, refuse, scrap, metal, iron, or other materials that may permit harborage for non-domestic animals.

12.06.02: NOTICE TO OWNER FROM HEALTH OFFICER

When it has come to the attention of the City Health Officer either by citizen complaint or by City staff, the City Health Officer shall notify the owner in writing by certified mail.

The notice shall contain the following information:

- A. Owner's name and address;
- B. The property address and legal description; and
- C. Nature of the violation.

12.06.03: ACTION REQUIRED BY OWNER

Upon receipt of written notice or order from the City Health Officer, the owner of any property specified in said notice or order shall take immediate steps for rodent proofing said building and/or property. Unless said work and improvements required for such rodent proofing have been completed by the owner of the property within the time specified or an extension has been granted, the owner shall be deemed to have violated the provisions of this Chapter.

12.06.04: FOOD AND/OR FEED PROTECTION

All food and/or feed, whether for human or animal consumption, shall be protected from non-domestic animals by storing in buildings, compartments, containers or rooms which are rodent proof.

12.06.05: FEEDING OF BIG GAME ANIMALS PROHIBITED

No person shall set out any grass, lawn cuttings, alfalfa, hay, grain, minerals, salts, fruits, vegetables, nuts, or commercial animal feed or food supplement for the purpose of the consumption by any big game animal, with the intention of providing such animals with supplementary nutrition or dietary enhancement or with the intention of attracting any big game animal for viewing. (12.06.05 added effective 10-18-08, Ordinance 2008-20.)

CHAPTER 12.07**DEPOSITING AND BURNING OF FILTH, ASHES, MANURE, GARBAGE, REFUSE, FILTHY LIQUIDS, AND ET CETERA.****SECTIONS:**

- 12.07.01: Deposit on Public or Private Grounds Prohibited
- 12.07.02: Manure
- 12.07.03: Stagnant Water
- 12.07.04: Dead Animals
- 12.07.05: Keeping or Using Putrid Materials, Hides, and et cetera
- 12.07.06: Unwholesome Business
- 12.07.07: Scattering Papers
- 12.07.08: Depositing of Foreign Objects or Trespassing into the Deadman Creek Channelization Project Prohibited

12.07.01: DEPOSIT ON PUBLIC OR PRIVATE GROUNDS PROHIBITED

No person shall deposit or place any offal, filth, filthy waters, garbage, ashes, waste water, sewage, tin cans, excrement, manure (except when used for brief periods and in a proper manner as a fertilizer), decaying fruit, vegetables, fish, meat, or bones, or any foul, putrid or obnoxious liquid substances (including all gasoline and petroleum or products thereof), on any private lot, public thoroughfares (including all streets, highways, and sidewalks), or public grounds of the

City. No person shall throw, let fall on or permit to remain on any street, alley, or public ground, any of the said materials while engaged in handling or removing the same.

12.07.02: MANURE

Manure shall not be allowed to accumulate anywhere in the City, and it shall be used only in the proper manner as a fertilizer.

12.07.03: STAGNANT WATER

No owner of any lot, or any other person responsible, shall allow the collection of any stagnant water on any lot or premises within the City.

12.07.04: DEAD ANIMALS

No owner or possessor of any animal which shall have died, shall suffer the same to lie on any public ground, street, lane or alley or any private lot or place within the City, nor shall any person throw or leave any such animal or any vegetable or animal matter or any slop or filth, whether solid or fluid, into any pool of water in the City, or other place, to the annoyance of any citizen of the City.

12.07.05: KEEPING OR USING PUTRID MATERIALS, HIDES, AND ET CETERA

No person shall keep or use or cause to be kept or used any stale, putrid or stinking fat, grease or meat, nor shall any person keep for more than twenty-four (24) hours any undressed hides, except at the place where used for manufacturing. No owner or occupant of any grocery, cellar, tallow chandler, shop, soap factory, tannery, pork or beef-packing house, stable, or barn, shall suffer the same to become foul, nauseous or offensive.

12.07.06: UNWHOLESOME BUSINESS

No person shall on the premises owned or occupied by him permit or suffer any nuisance, either by exercising any unwholesome trade, calling or business, or by having or suffering any unwholesome or offensive substances whatsoever to remain on his premises until, by offensive, foul odors, or stench or otherwise, said premises shall become offensive, hurtful or dangerous to the neighborhood.

12.07.07: SCATTERING PAPERS

No person shall throw into, deposit upon or in any manner permit to get in any street, alley or passageway of the City, pieces of paper, newspapers, excelsior, handbills, posters, building paper, lithographs used for advertisement upon bill boards, or any materials likely to be carried about by the winds.

12.07.08: DEPOSITING OF FOREIGN OBJECTS OR TRESPASSING INTO THE

DEADMAN CREEK CHANNELIZATION PROJECT PROHIBITED

No person shall deposit, place, throw, or let fall into the Deadman Creek Channelization Project located on Deadman Creek in the City any substance or object whatsoever, including garbage, ashes, grass clippings, trees, tree branches, leaves or any other type of litter or material. No person shall enter the Deadman Creek Channelization Project without prior permission of the Public Works Director.

**CHAPTER 12.08
FIREWORKS****SECTIONS:**

- 12.08.01: Limitation
- 12.08.02: Sale
- 12.08.03: Use
- 12.08.04: Restriction by Resolution

12.08.01: LIMITATION

This Chapter shall not apply to ammunition for firearms nor shall it apply to explosives such as dynamite or TNT, which are used for industrial purposes and are not used or kept for public display.

12.08.02: SALE

No person shall sell or offer for sale any fireworks within the limits of the City or within one mile thereof.

(12.08.02 amended effective 03/31/07, Ordinance 2007-03)

12.08.03: USE

No person shall explode, set off or fire any fireworks within the City or within one mile thereof except during the specified allowable time period which shall commence at 6:00 am July 3rd and end at 12:00 am July 5th.

No person shall at any time including the time period specified above explode, set off or fire any fireworks within any City park.

(12.08.03 amended effective 03/31/07, Ordinance 2007-04)

12.08.04: RESTRICTION BY RESOLUTION

The use of fireworks within the limits of the City may be restricted by resolution of the City Council as the City Council may deem necessary due to the existence of heightened fire danger.

(12.08.04 added effective 03/31/07, Ordinance 2007-05)

**CHAPTER 12.09
JUNK DEALERS**

SECTIONS:

- 12.09.01: License Required
- 12.09.02: Application for License
- 12.09.03: Record of Purchases
- 12.09.04: Reports to Police Department
- 12.09.05: Restrictions
- 12.09.06: Business Confined to Premises
- 12.09.07: Burning Prohibited
- 12.09.08: Wrecking and Dismantling of Old Cars Limited
- 12.09.09: Fenced Enclosure Required

12.09.01: LICENSE REQUIRED

No person shall engage in business as a junk dealer or operate a junkyard within the City without first having secured a license therefore as herein provided.

12.09.02: APPLICATION FOR LICENSE

Any person desiring to procure a license as a junk dealer or operate a junkyard shall file written application with the Finance Office. The application shall contain the following information:

- A. The names and residences of each applicant, if an individual, partnership or firm;
- B. The names of the principal officers and their residences, if the applicant be an association or corporation;
- C. A detailed description of the character of the business in which the applicant desires to engage and the kind of materials the applicant desires to collect, buy, sell or otherwise deal;
- D. The length of time each applicant has resided in the City,
- E. Each applicant's place of previous employment;
- F. Whether each applicant or any of them have been convicted of a felony or misdemeanor, and if so what offense, when, and in what Court;
- G. A description of the premises where the business is to be located or carried on. Such description shall be given by street and number in case of a building and in case such business is carried on wholly or in part on a vacant lot or lots, the lot and block number shall be given, together with the exact dimensions of the space to be occupied in any manner in the conduct of such business; and

- H. Such other information as may be required by the City Council or the Finance Office.

12.09.03: RECORD OF PURCHASES

Any junk dealer shall keep in such form as the Chief of Police shall prescribe, and written in ink, indelible pencil, or by typewriter, a daily record of all articles purchased. Said daily record shall include the following information:

- A. The name, address and age of the person from whom each article was purchased;
- B. The occupation and name of the employer of the person from whom each article was purchased;
- C. The day and hour of such purchase; and
- D. The price paid for each article.

The records shall at all reasonable times be open to the inspection of the Chief of Police or any police officer, or any person duly authorized in writing by the Chief of Police. No entry in such records shall be changed, erased, obliterated or defaced.

12.09.04: REPORTS TO POLICE DEPARTMENT

Any junk dealer, upon being served with written notice so to do by a member of the Police Department, shall report to the Chief of Police a description of all goods, articles or things purchased or received by him in the course of business of a junk merchant at such time and during such period of time specified in the notice stating the amount paid for and the name, residence, and general description of the person from whom such goods, articles or things were received.

12.09.05: POSSESSION OF OLD BONES PROHIBITED

The handling, storing and/or keeping of old bones of any description whatsoever by any person within the City is hereby prohibited.

The handling, storing and/or keeping of such bones is hereby declared to be a nuisance and the violation of this Section by the holder of any license granted under the provisions of this Chapter, shall be sufficient cause for the revocation of the license in addition to any other penalty prescribed by this Title.

12.09.06: BUSINESS CONFINED TO PREMISES

No junk dealer shall carry on the business at or from any other place than the premises designated and described in the application and license and all junk of all kinds and description shall be kept wholly within the boundaries of such premises.

12.09.07: BURNING PROHIBITED

No junk dealer shall burn old cars or other refuse on the premises covered by said license or at any other place within the City.

12.09.08: WRECKING AND DISMANTLING OF OLD CARS LIMITED

The wrecking and/or dismantling of old cars for the purpose of junking the bodies and securing old parts shall be done wholly inside the buildings occupied by said junk dealer or within the enclosure hereinafter provided for and shall not in any event be done upon the highways or streets of the City or outside the premises described in the application and license.

12.09.09: FENCED ENCLOSURE REQUIRED

In all cases no license shall be granted until the lots, lot or part of a lot where the junk business is to be conducted has an enclosure with a tight, well-constructed and well-painted fence of at least seven feet in height. After the construction of such fence, it shall at all times be suitably maintained and kept in good repair by the licensee.

**CHAPTER 12.10
INDECENT ACTS****SECTIONS:**

12.10.01: Indecent Exposure

12.10.02: Indecent Act

12.10.03: Insulting Females

12.10.01: INDECENT EXPOSURE

No person shall appear in any public place or places exposed to public view in the state of nudity.

No person shall appear in any public place or places exposed to public view with his or her genitals or the female breast covered with paint or any similar substance without also having the genitals or breasts covered with a full opaque covering. Paint or any similar substance does not qualify as a full opaque covering as discussed in this Section.

12.10.02: INDECENT ACT

No person shall commit any indecent act in a public place or a place exposed to public view.

12.10.03: INSULTING FEMALES

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

CHAPTER 12.11
REGULATION OF SEXUALLY ORIENTED PERFORMANCES AND PERFORMERS

SECTIONS:

- 12.11.01: Prohibited Activities on Licensed Premises
- 12.11.02: Contact Between Any Performer and Patron
- 12.11.03: Performance in Posted Designated Areas Only
- 12.11.04: License Required for Premises
- 12.11.05: License Required for Sexually Oriented Performer
- 12.11.06: Basis for Denial of License
- 12.11.07: Fees
- 12.11.08: Display of License
- 12.11.09: Inspection
- 12.11.10: Expiration of License
- 12.11.11: Suspension
- 12.11.12: Revocation
- 12.11.13: Liquor or Malt Beverage License
- 12.11.14: Appeal Process
- 12.11.15: Validity in Case of Judicial Declaration

12.11.01: PROHIBITED ACTIVITIES ON LICENSED PREMISES

No performer while on the licensed premises and in the presence of any other person shall perform any one or more of the following:

- A. Fail to conceal with a fully opaque covering the sexual parts of his/her body, to include the genitals, and the nipple and areola of the female breast;
- B. Expose any devise, costume, or covering, which gives the appearance of, or simulates, the genitals, pubic area, or the nipple and areola of the female breast; or
- C. To move or behave in a manner which constitutes sexual conduct.

12.11.02: CONTACT BETWEEN ANY PERFORMER AND PATRON

No patron shall have physical contact with any performer during the course of a performance on licensed premises except under the following conditions:

- A. The performer shall have invited the patron to participate in the performance; and
- B. The contact, which takes place, does not involve any act by the patron or performer that is prohibited by this Chapter.

12.11.03: PERFORMANCE IN POSTED DESIGNATED AREAS ONLY

No performer shall perform on the premises of a licensed business in any area other than that which the licensee has designated as the stage.

Any licensee shall post in a location clearly visible to patrons a written designation of the stage area on the premises.

Any stage shall be separated from the general area of the premises by a barrier or railing, the top of which shall be at least three (3) feet above floor level. No stage shall be larger than two hundred (200) square feet.

Any stage shall be located inside the premises of the licensed business in an enclosed area not visible to any person located outside of the licensed premises.

12.11.04: LICENSE REQUIRED FOR PREMISES

No person shall operate a business where there is sexually oriented performing without a valid license issued by the Police Department or employ or allow a person to perform on the premises who is not licensed as a sexually oriented performer.

To obtain a business license authorizing sexually oriented performances, the business owner shall make application to the Police Department on a form prescribed and provided by the City. The applicant shall be qualified according to the provisions of this Chapter. The application shall be signed under oath by the applicant and notarized. The application shall include and/or be accompanied by the following information:

- A. The name, telephone number and mailing address of the owner of the business making application;
- B. The name, telephone number and address of the business in which the performing is intended;
- C. If any prior license or permit has been denied, revoked or suspended, the reasons therefore and the effective date of such revocation or suspension;
- D. The name and address of the statutory agent or other agent authorized to receive service of process on behalf of the business; and
- E. Any other information determined to be necessary and relevant to the application process by the Chief of Police.

The application process shall be conducted at the Police Department. It shall be the responsibility of the applicant to contact the Police Department to obtain an appropriate date and time to complete the application process with the Police Department. If said applicant meets all

qualifications and complies with all requirements of this Chapter, the Police Department shall issue the license within thirty (30) days of the date of the application.

12.11.05: LICENSE REQUIRED FOR SEXUALLY ORIENTED PERFORMER

No person shall perform as a sexually oriented performer without a valid license.

To obtain a sexually oriented performer license, the applicant shall make application to the Police Department on a form prescribed and provided by the City. The applicant shall be qualified according to the provisions of this Chapter. The applicant will be signed under oath by the applicant and notarized. The application shall include and/or be accompanied by the following information:

- A. The applicant's full, legal name and any other names used in the preceding five (5) years;
- B. Current residential mailing address and telephone number;
- C. Written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency;
- D. If any prior license or permit has been denied, revoked or suspended the reasons therefore, the issuing jurisdiction and the effective date of such revocation or suspension;
- E. Any criminal charges, complaints, information, or indictments in the preceding five (5) years which resulted in a conviction, a plea of guilty, or no contest for any offense described in Chapters 22-22, 22-23, 22-24, of the South Dakota Codified Laws; and
- F. Any other information determined to be necessary and relevant to the application process by the Chief of Police.

The application process shall be conducted at the Police Department. It shall be the responsibility of the applicant to contact the Police Department to obtain an appropriate date and time to complete the application process with the Police Department. If said applicant meets all qualifications and complies with all requirements of this Chapter, the Police Department may issue the license the day the application is completed and all requirements of this Chapter complied with and in no event shall the Police Department wait any longer than thirty (30) days to either issue the license or advise the applicant of the denial of said issuance.

12.11.06: BASIS FOR DENIAL OF LICENSE

The Police Department shall approve or deny the issuance of a license to an applicant for a sexually oriented business license or a sexually oriented performer license. The Police

Department shall not approve the issuance of a license in the event one or more of the following is found to be true:

- A. The applicant is under eighteen (18) years of age;
- B. The applicant is delinquent in the payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant, in relation to a sexually oriented business or arising out of any other business activity owned and operated by the applicant and licensed by the City;
- C. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
- D. The applicant has been convicted of a violation of a provision of this Chapter, other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall be of no effect;
- E. The license application fee required by this Chapter has not been paid;
- F. The applicant or the proposed establishment is in violation of or is not in compliance with this Chapter or any other City Ordinance; or
- G. The applicant has been convicted of any of the offenses set forth in SDCL 22-22, 22-23, or 22-24;

12.11.07: FEES

The annual, non-refundable application fee for a business allowing sexually oriented performing shall be Two Hundred and Fifty Dollars (\$250.00). The annual application fee for a sexually oriented performer shall be One Hundred Dollars (\$100.00).

(12.11.07 fees amended effective 3/31/07, Ordinance 2007-06)

12.11.08: DISPLAY OF LICENSE

The license for a business allowing sexually oriented performing shall be displayed in a place clearly visible to the public and law enforcement.

12.11.09: INSPECTION

Any applicant, operator or licensee shall permit law enforcement officers, and any other federal, state, county, or city agency in the performance of any function connected with the enforcement of this Chapter, normally and regularly conducted by such agency, to inspect the premises of the business for the purpose of ensuring compliance with this Chapter, at any time it is occupied or open for business.

No licensee, operator, or employee of such a business shall refuse to permit a law enforcement officer or any agency enumerated in this Section to inspect the premises at any time the premises is occupied or open for business.

12.11.10: EXPIRATION OF LICENSE

Each sexually oriented business license and sexually oriented performer license shall expire on December 31st of the year issued and may be renewed only by making application as provided in this Chapter.

12.11.11: SUSPENSION

The Chief of Police shall suspend a business license as herein before set forth for a period not to exceed thirty (30) days if he/she determines that the licensee or an employee of the licensee has:

- A. Refused to allow an inspection of the business premises; or
- B. Has violated any other provision of this Chapter.

12.11.12: REVOCATION

The Chief of Police shall revoke the license of a business allowing sexually oriented performing if a cause for suspension set forth in the previous section occurs and the license has been suspended in the previous twelve (12) months.

The Chief of Police shall revoke the license of a business allowing sexually oriented performing if it is determined that:

- A. The licensee gave false or misleading information in the application;
- B. The licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- C. The licensee or an employee has knowingly allowed prostitution on the premises;
- D. The licensee has allowed a sexually oriented performer to perform on the premises without having obtained a sexually oriented performer's license as required by this Chapter;
- E. The licensee or an employee knowingly operated the business during a period of time when the licensee's license was suspended;
- F. The licensee has been convicted of an offense set forth in SDCL 22-22, 22-34, or 22-24;

- G. The licensee or an employee has knowingly allowed any act of sexual activity to occur on the licensed premises;
- H. The licensee is delinquent in payment to the City taxes or fees related to the business or arising out of any other business activity owned or operated by the licensee and licensed by the City; or
- I. The licensee has allowed sexually oriented performing to occur on its premises in a manner that is in violation of this Chapter and has failed and/or refused to immediately eliminate the violation.

12.11.13: LIQUOR OR MALT BEVERAGE LICENSE

Nothing contained in this Title shall be construed to prevent the City from seeking revocation or suspension of a licensee's liquor or malt beverage license for a violation of this Title pursuant to Title 35 of the South Dakota Codified Laws.

12.11.14: APPEAL PROCESS

Any person aggrieved by a decision of the Chief of Police made under this Chapter shall be entitled to have said decision reviewed by the Chief of Police. If after review the said person is unsatisfied, he or she may appeal the decision to the City Council. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the Police Department setting forth the basis for which he or she believes the Chief of Police's decision to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of a written request for review, the Chief of Police shall review his or her decision and mail a written response to the aggrieved person within five (5) days.
- C. If the aggrieved person is not satisfied with the decision of the Chief of Police following review, he or she may file a notice of appeal with the Police Department.
- D. Upon receipt of a notice of appeal, the Police Department shall notify the City Council and a hearing shall be held within thirty (30) days after the date said appeal was filed. The City Council shall provide notice to the person specifying the time, date, and location of the hearing.
- E. The City Council may notify the aggrieved person of its decision following the hearing, however, the City Council shall issue a written decision to the person

within twenty (20) days of the hearing. The City Council may affirm or reverse the decision of the Chief of Police.

12.11.15: VALIDITY IN CASE OF JUDICIAL DECLARATION

Should any section, clause, or provision of this Chapter be judicially declared to be invalid, the same shall not affect the validity of the remainder of this Chapter.

(Title 12 revised in its entirety effective July 24, 2004, Ordinance 2004-11)