

Chapter 8.08

NUISANCES

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(Amended 2017)
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(Amended 2017)
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(Amended 2017)

8.08.10 Declaration of nuisance.

A. The city council shall have the authority to declare, pursuant to SDCL 9-29-13, what shall constitute a nuisance, to prescribe procedures for the prevention, abatement, and removal of such nuisance and to prescribe a penalty for the existence of a nuisance that is not addressed by a separate ordinance. (Ord. 368 § 1, 2002: prior code § 3.0101)

B. Unless provided otherwise in this Chapter 8.08, all written notices of violations enumerated in this chapter may be personally served by a North Sioux City police officer.

C. “Junk” is defined as any unused or unusable material that by reason of its state, condition, or excessive accumulation appears to be or has been cast aside, discarded, abandoned, worthless, useless, used up, expended, or worn out, in whole or in part. **(Amended 2017)**

8.08.020 Criteria.

A nuisance consists of unlawfully doing an act, or omitting to perform a duty within the city or in any public grounds or parks belonging to the city, which act or omission either:

- A. Annoys, injures or endangers the comfort, repose, health or safety of others;
- B. Offends decency;

- 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;
- D. In any way renders other persons insecure in life, or in the use of property.
- E. Does or tends to lower the value of adjacent real estate because of unsightly conditions. (Ord. 368 § 2, 2002: prior code § 3.0102) (Amended 2017)

8.08.025 Specific Nuisances Declared.

In addition to the general public nuisances set forth in this Chapter 8.08, the following conditions are specifically declared to be public nuisances and include but are not limited to:

- A. **Wastes Such As Papers, Rags, Aluminum Cans:** Waste, including, but not limited to, discarded items such as paper, rags, trash, garbage, junk, clothing, tin cans, aluminum cans, batteries of any kind, used motor oil, tires, boxes, plastic containers, glass containers, plastic wrap, cardboard, discarded household fixtures and furnishings, and any like items when such items are stored, collected, piled, or kept on exterior private or public property, except for that contained within a covered waste receptacle which is properly emptied frequently enough so as to prevent waste accumulation that prevents the cover from being effective.
- B. **Building Materials And Wastes:** Building materials and waste including, but not limited to, such items as: lumber, lath, pallets, plaster, old iron, or other metal, concrete, brick, tile, and piles of rock, sand, dirt, or gravel when not used for landscaping purposes, and doors, windows, and scrap or salvage building materials, boxes, barrels, or other containers, when such items are stored, collected, piled, or kept and are not stored inside a building; except for building materials that are temporarily stored for work on premises authorized by a valid building permit obtained for the premises provided that such building materials shall not remain on the premises for more than thirty (30) days after the expiration of the building permit; and except for lumber neatly stacked on a platform at least eighteen inches (18") off the ground.
- C. **Appliances, Fixtures, And Furniture:** 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, lawn mowers, tillers, chainsaws, snowblowers, and garden equipment when such items are stored, collected, piled, or kept and are not stored inside a building; except that patio furniture and other furniture designed for outdoor use shall not constitute a nuisance.
- D. **Abandoned Or Discarded Refrigerators Or Containers:** It shall be unlawful and deemed a nuisance for any person to leave or permit to remain any abandoned or discarded icebox, refrigerator, or other like container outside of any dwelling, building, or other structure or within any unoccupied or abandoned building, dwelling, or other structure or area under his or her control that could be accessible to children.

- 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 undressed hides left deposited in any open place; except that this section shall not apply to decorative animal hides, bones, antlers, or other remains which are not prone to decay.
- F. Combustible Refuse Matter: Depositing, maintaining, or permitting to be maintained or be accumulated upon any public or private property any combustible refuse matter such as papers, sweepings, rags, grass, tree branches, dead leaves, wood shavings, wood, magazines, cardboard, cotton, or other such materials which could serve as kindling.
- G. Liquid Refuse: All slop, foul, filth, refuse, grease, lard, or chemically polluted water, liquor, or beer washings discharged through drains or spouts or otherwise thrown or deposited anywhere other than an appropriate sanitary system or container for temporary storage of such materials.
- H. Permitting Manure, Garbage, Filth On Street, Alley, Or Public Ground: Letting any manure, waste, junk, garbage, rubbish, filth, fuel, oil, small dead animals, wood, or like material to fall or permit to remain on any street, alley, or public ground; except such items placed properly in an appropriate receptacle.
- I. Weeds Of Excess Height; Noxious Weeds: Permitting weeds to grow to maturity, permitting weeds or grass to grow in excess of seven inches (7") tall, or otherwise permitting landscaping that is characterized by uncontrolled growth or lack of maintenance on any platted property within the city. For unplatted property within the city, such length shall be ten inches (10"). Provided, however, that such limitations shall not apply to parks, gardens, arboreta, or similar facilities where plants in excess of the designated length are intentionally cultivated and maintained. All noxious weeds are prohibited.
- J. Dead Vegetation: The accumulation of dead branches, twigs, leaves, grass, and other dead vegetation other than when in an enclosed compost bin.
- K. Rodents, Vermin, Insects, And Other Pests: All property shall be kept free of infestation by rodents, vermin, insects, and other pests, as well as conditions which may encourage such infestation. Where rodents, vermin, insects, or other pests are found, they shall be promptly exterminated by approved processes not injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
- L. Failure To Maintain Exterior Building Appearance: All buildings' exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. No unpainted galvanized metal material shall be used for exterior finish surfaces in residential areas. Windows, doors, roofing, gutters, soffit, and fascia must be maintained intact and in good repair, as shall any interior window dressings or other interior materials plainly visible from

the exterior of the building. Temporary bracing, scaffolding, or the like shall not stand for more than sixty (60) days unless approved by the city building inspector. Buildings shall be free of any other similar conditions of disrepair or deterioration regardless of the condition of other properties in a neighborhood.

- M. Stagnant Water: All bodies of water, excavations, ditches, and other depressions on any premises, except storm management ponds, shall be kept free of stagnant water. Containers or materials located on exterior property areas shall be kept in such a condition that water cannot accumulate and stagnate in or on the containers or materials.
- N. Hazardous Signs: All signs shall be maintained in such a manner so as to prevent undue danger from loose wires, electricity, exposed edges, loose materials, unsecure anchors, or any other condition which may injure or interfere with persons reasonably foreseeable to be in the area of such sign.
- O. Zoning Noncompliance: It shall be unlawful and deemed a nuisance for any person to engage in, or permit to be engaged in, any unauthorized conditional use, home occupation, or other activity which violates city zoning regulations on any premises in the city limits. (Inserted 2017)

8.08.030 Abatement and penalty for violation.

The city mayor, or whomever he or she may designate, shall give written notice, either by hand delivery in person, posting of the notice on the property within view of the public, via certified mail, or another physical form of direct communication, to any person creating, permitting or maintaining any nuisance as defined in this chapter, to abate such nuisance forthwith. The notice shall be abated by the person or persons in control of the affected premises within ten (10) days after the notice is given, except that in such cases where the mayor determines that the nuisance constitutes a health or safety hazard, the notice may require abatement of the nuisance to be immediate, or within such time as shall be deemed by the mayor to be reasonable and practical under the circumstances. If such person shall neglect or refuse to abate any such nuisance after the notice is given, and within the time stated in the notice, he or she may be charged with a violation of this chapter. Each day the person is in violation of this chapter shall be deemed a new violation. Upon conviction the person may be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each of the violations. In addition to imposing penalties, the court may make abatement of the nuisance a condition of suspension of any of the imposed penalties. (Amended 2019)

8.08.040 Noxious vegetation.

- A. Definitions. The following named weeds and plants shall be deemed noxious, dangerous and unhealthful vegetation and are declared to be nuisances: ragweed, parsley, pigweed, nettle, thistle, sunflower, goldenrod, tumbleweed, burdock, cockleburs, wild oats, dandelions, sticktight, milkweed, mustard greens, and any and all other weeds and plants the South Dakota Weed and Pest Control Commission and the South Dakota Department of Agriculture may publish on their list of state weeds.

- B. Duty to Cut. It shall be the duty of the occupant, person in charge of, or owner of any lot in the city to keep such lot free from noxious vegetation or weeds and to cut such noxious vegetation at such time as may be necessary to prevent its growth.
- C. Notice to Abate and Abatement by City. The Finance Officer shall annually, on or before May 1 each year, publish once a week for two consecutive weeks a Notice to Property Owners generally setting forth the duty to control weeds and other vegetation which might be a nuisance in violation of this Section. The Finance Officer or his or her designee may cause a Notice to Abate Nuisance to be served by providing written notice, by posting of notice on such property within view of the public, upon any property owner who fails to comply with the published notice or any person at any other time has weeds or other vegetation. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within five (5) days thereof, the Finance Officer or his or her designee is hereby authorized and empowered to provide for the cutting, destroying or removal of the weeds, grass or other noxious matter and stabilize the soil if necessary. The City may defray the cost of the work, including administrative costs, by special assessment against the property as set out in Section 8.08.040(D). (Amended 2017)
- D. Costs Recovered. The Finance Officer shall cause an account to be kept against each lot upon which work is done pursuant to Section 8.08.040(C) and shall, after completion of the work, bill the owner of the property for such work. If not paid within thirty (30) days thereafter, the Finance Officer shall thereupon add such assessment to the general assessment against said property. The Finance Officer shall certify such special assessment together with the regular assessment to the Union County Auditor to be collected as municipal taxes for general purposes. Said assessment shall be subject to review and equalization the same manner as assessments or taxes for general purposes. In lieu of special assessment, the City Council may institute a civil action against the owner or occupant of such property to recover said account.
- E. Habitual Violators. If the owner or person in control of any land that has previously received a notice to abate nuisance relating to weeds within the preceding 24 months, then the notice to abate nuisance may include notice that such owner or person in control of said property will be considered to be a habitual violator of this section and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing property as needed up to a weekly basis for the next following 24-month period of time and that the full cost of said contract together with an administrative fee of two hundred dollars (\$200.00) will be assessed against the property. (Ord. 366 §§ 1--5, 2002: prior code § 3.0104) (Amended September, 2013)

8.08.045 Maintenance of Right-of-Ways

- A. The maintenance of property located within a right-of-way shall be the responsibility of the property owner which is adjacent to and abuts the right-of-way. Maintenance includes, but is not limited to, the removal of dead, dangerous, and/or noxious vegetation, keeping the grass cut below the seven-inch (7") requirement, and keeping the property free from any and all nuisances listed within this chapter.
- B. Notice will be given to the property owner when a violation is discovered within the abutting right-of-way. Once notice is provided, the owner will have five (5) days to bring the property into

compliance. If the owner fails or refuses to comply, the City is authorized to bring the property in the right-of-way into compliance and bill the owner of the adjacent property to recover the cost. Failure to pay the bill within thirty (30) days may result in an assessment on the owner's property to collect the money owed to the City. In lieu of special assessment, the City may institute civil action against the owner to recover the cost. (Inserted 2019)

8.08.050 Dangerous trees.

- A. Definitions. A "dangerous tree" is all trees, whether living or dead, which by reason of their condition or location may endanger public life or safety or the safety of property. Dangerous trees includes all trees whether living or dead if there is a danger that all or a substantial portion of such tree or trees might fall on any public alley, street or other public property or upon any private property.
- B. Declaration of Public Nuisance. All dangerous trees are declared to be a nuisance which should be removed or abated. No person, firm or corporation shall permit any public nuisance as set out above, to remain on the premises owned, controlled, or occupy within the city.
- C. Abatement of Nuisances. If any citizen feels aggrieved by the existence of such a public nuisance, they may bring a private lawsuit to abate the same pursuant to the provisions of SDCL 21-10. If the city council determines that the existence of the public nuisance be a threat to the city as a whole and the city may direct the said nuisance to be abated pursuant to the provisions of SDCL 21-10.
- D. Multiple Owners. If such tree is growing upon the property of two different owners and/or two different occupants, then any abatement proceeding must be directed towards both property owners. If the trunk of the tree enters the ground on the property of one and owner, then he shall be considered to be the owner of that tree, regardless of whether the branches and/or roots of the tree protrude onto the property of another. (Prior code § 3.0106)

8.08.055 Trees, Shrubs, and Vegetation

- A. The occupant or owner of any premises abutting upon any street, road, or alley shall keep all trees upon the premises or between the same and the center of the adjoining streets so trimmed that no bough or branch thereof shall hang lower than 8 feet above the surface of the sidewalk and 16 feet above the surface of the street, road or alley thereon.
- B. No person shall plant, maintain, or permit to grow upon the premises any tree, shrubbery, or vegetation in such way as to obstruct the view of the drivers of vehicles approaching within 50 feet of any street intersection.
- C. Notice to Abate and Abatement by City. The Finance Officer or his or her designee may cause a Notice to Abate Nuisance to be served by providing written notice, by posting of notice on such property within view of the public or upon the property owner who fails to trim trees or shrubs. Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within seven (7) days thereof, the Finance Officer or his or her designee is hereby authorized and empowered to provide for the cutting, destroying, or removal of the bough, branch, vegetation, or shrub. The City may defray the cost of the work, including administrative costs, by special assessment against the property as set out in Section 8.08.040(D). (Amended 2017)

8.08.060 Keeping of garbage and junk in city.

A. Definitions.

"Garbage" means every accumulation of animal, vegetable or other matter that attends the preparation, consumption, dealing in or storage of meats, fish, fowl, fruits, or vegetables including the containers or wrappers wasted along with such materials.

"Refuse" means any waste product composed wholly or partly of such materials as garbage, rubbish, trash, litter, cans, tires, junk or other materials that may become a nuisance.

"Rubbish" means wood, leaves, trimmings from shrubs, dead trees or branches, printed matter, paperboard, pasteboard, grass, straw and all other combustible material not included under the term garbage.

"Waste material" means all noncombustible inorganic material such as ashes, glass, sand, earth, concrete, mortar, metals, abandoned mobile homes, etc. Mobile homes shall be deemed abandoned under this Title if they do not comply with current building code or other applicable City ordinances and remain unoccupied for 90 days or more.

- B. No person or persons in control of private property shall permit any house, barn, cellar, vault, drain, cesspool, privy or sewer upon the premises to become offensive or injurious to the public health.
- C. The owner or person in control of private property shall at all times maintain the premises free of garbage, rubbish, refuse, waste material and other junk.
- D. No person shall throw or deposit garbage, rubbish, refuse, waste material or any other junk on any private property, occupied or vacant, whether owned by that person or not.
- E. The owner or person in charge of any private property shall cause any and all garbage, rubbish, refuse and waste materials to be collected and removed from the property within ten (10) days after written notice has been provided to them by the chief of police of North Sioux City.
- F. This section does not prohibit the use of approved trash receptacles, provided they are emptied at least every seven days.
- G. Failure to cause the cleanup required in subsection E of this section within ten (10) days shall be a violation of this section punishable by a fine of up to Five Hundred Dollars (\$500.00) beginning on the eleventh day. Each successive day of failure to comply shall constitute a separate violation subject to a fine of up to Five Hundred Dollars (\$500.00).
- H. Abatement by City.
- a. If the owner or person in control of the property shall fail to cause the clean up required in subsection E of this section, the city shall have the right to enter upon such property for the purpose of removing the garbage, rubbish, refuse, waste material or abandoned mobile homes.
 - b. The finance officer shall cause an account to be kept against each lot of the costs of clean-up during each year for the purposes of a special assessment against such property.
 - c. The finance officer shall prepare an estimate of the assessment against each lot for the clean-up for the preceding year, including therein the expense of levying such special assessment against each lot. Such estimate shall be submitted to the council for its approval on or before the first day of January each year.
 - d. The finance officer shall cause to be published in the official newspaper a notice of the time and place when the council will meet for the purpose of approving such estimate, such notice

to be published not less than one week before such hearing. Upon the day so named, the council shall meet and if it finds the estimate correct it shall approve the same; if not correct, it shall correct or modify the same and approve the same as modified or corrected and file such assessment rule with the finance officer.

- e. From the date of the approval and filing of such assessment roll with the, finance officer, the same shall become a special lien against the various pieces of property described and the assessment shall be collected in a like manner as special assessments for public improvements are now collected. (Ord. 369 §§ 1--8, 2002: prior code § 3.0109)(Amended December 2003) (Amended 2007) (Amended 2017)

8.08.070 Junk yards and salvage businesses.

- A. It is declared to be unlawful for any person, person, firms, partnership or corporation to maintain or cause or permit to be maintained, on any premises within the corporate limits of the city, any junk yard, junk shop, automobile wrecking shop or yard, or any form of salvage business or establishment or yard wherein, or whereupon, a practice is made and the business maintained of collecting, buying or accepting for storage or resale, wrecked automobiles and other forms of used and scrap metal.
- B. Any person, persons, firm, partnership or corporation who maintains, or causes or permits the maintaining of any such business or establishment herein prohibited within such city limits, shall be guilty of a misdemeanor and on conviction thereof shall be fined a maximum of Five Hundred Dollars (\$500.00).
- C. Each day any violation of this ordinance continues shall be deemed a separate offense. (Ord. 384 §§ 1--3, 2002: prior code § 5.0801)

8.08.080 Junk on private property.

No person shall use, establish or maintain any building place, or lot where junk, junked automobiles or farm machinery or parts thereof, of other worn-out machinery of any kind are bought, sold or stored, without special permission having been granted by the Council.

All automotive vehicles or trailers of any kind or type shall not be parked or stored within the city limits of the City of North Sioux City, other than in a completely enclosed building, unless said vehicles contain a current license plate and are operable and meet the safety equipment guidelines established by the State of South Dakota.

Any violation of this section shall be punishable by a maximum fine of Five Hundred Dollars (\$500.00) for each day that the property is so used or the vehicle remains.

In addition to the fine of Five Hundred Dollars (\$500.00) the City of North Sioux City will have the right to remove any vehicles which are in violation of this section if the owner of the vehicle or the owner of the property wherein said vehicle is located, does not remove said vehicle within ten

(10) calendar days after receipt of written notice to do so. If the owner of the vehicle, or alternatively the owner of the lot wherein said vehicle is located, does not claim the vehicle within thirty (30) days from the date it is impounded, the City shall have the right to dispose of said vehicle at its discretion. (Ord. 370, 2002: prior code § 5.0802) (Amended 2003) (Amended 2017)