

Title 4

HEALTH AND SANITATION

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CHAPTER 4-1: ANIMALS

4-1-1: Cats and Dogs Must be Reported.

Every person who keeps or owns any cat or dog within the limits of the City shall report to the City Finance Officer within thirty days of bringing a cat or dog within the City limits the description, kind and number of cats and dogs kept or owned by such person, and shall continue on or before the 31st day of January each year hereafter to report to the City Finance Officer the description, kind and number of cats or dogs kept or owned.

4-1-2: Cats and Dogs Limited.

It is unlawful to have, harbor, keep, own or possess more than three (3) domestic pets in any combination over the age of six months in any apartment, dwelling, household, or single residence, or on any lot or premises in the city unless a person residing on the lot or premises has a valid kennel permit issued by the city. The animal shelter, and veterinary offices, and birds and fish are exempt from the provisions of this section.

4-1-3: License Fee.

The keeper or owner of any cat or dog shall pay unto the City Finance Officer the annual sum of \$10.00 and an annual fee of \$25.00 shall be paid for any cat or dog over the age of six months that has not been neutered or spayed. A prerequisite to the licensing of any cat or dog shall be the display to the City Finance Officer by the keeper or owner thereof a certificate or letter from a licensed veterinarian showing that such cat or dog has had a current inoculation or vaccination for rabies and that said inoculation or vaccination is sufficient to protect said cat or dog against rabies for the ensuing year following the application for such license. It shall thereupon be the duty of the City Finance Officer to number and register every cat or dog so reported upon receipt of the license fee. The City Finance Officer shall also register a description of such cat or dog and the name of the keeper or owner of such cat or dog, and the keeper or owner's street address.

4-1-4: License Issued.

The City Finance Officer shall issue all cat and dog licenses. The license shall state the registered description, kind and number of such cat or dog and the year when licensed. A tag for each cat or dog so registered and licensed as provided herein shall be provided to the cat or dog

keeper or owner. The tag shall be engraved or stamped with the registered number of the cat or dog and the year when registered.

4-1-5: Owner Attaches Tag.

Every keeper or owner of any cat or dog shall place a collar around the neck of such cat or dog kept or owned by them to which shall be securely fastened the tag described above not later than the expiration time for annually registering and licensing the cat or dog. In the event any tag is lost, then a new license must be purchased.

4-1-6: Proceeds of Licenses.

The funds received for the registration and licensing of cats and dogs shall be credited by the City Finance Officer to the general fund of the City.

4-1-7: Finance Officer to Make Report.

It shall be the duty of the City Finance Officer to make a full report of the number of dogs and cats registered and licensed under this chapter at least once every year, together with a statement of the amount of money collected.

4-1-8: Cat or Dog Running At Large.

No person shall allow any cat or dog to run at large other than on the keeper or owner's premises. The term "at large" shall mean off the premises of the keeper or owner and not under control.

4-1-9: Cats and Dogs Captured.

An agent or employee of the City or a law enforcement officer or any person may capture or cause to be captured and conveyed to a dog pound (which shall be provided by the City) all cats or dogs that are found to be at large or found not to be properly registered, licensed and tagged in compliance with this chapter prior to the expiration date provided herein. The City shall then keep such cats or dogs there with kind treatment and supply them with sufficient food and water for a period of at least five (5) days unless reclaimed sooner by the keeper or owner. The keeper or owner of such cat or dog shall display to any law enforcement officer the tag on the cat or dog whenever the law enforcement officer demands to see same.

4-1-10: Notice to Keeper or Owner and Redemption.

The keeper or owner of any cat or dog shall be notified within three (3) days after the impounding of the cat or dog, or if the keeper or owner is unknown, then written notice shall be posted for three (3) days at two or more conspicuous places within the City describing the cat or dog and the place and time of capture. The keeper or owner of any such cat or dog impounded may reclaim such cat or dog upon payment of the license fee, if unregistered, and upon paying for

all charges and costs incurred by the City for the impoundment and maintenance of such cat or dog, plus \$15.00 per day (or any part of a day) for keeping the cat or dog.

4-1-11: Cat or Dog Destroyed.

If the cat or dog remains unclaimed or if the keeper or owner fails or refuses to comply with the provisions of this chapter at the expiration of three (3) days from the date of notice, then it shall be the duty of a City employee to cause such cat or dog to be destroyed and the body thereof to be removed and properly buried, subject to any person willing to pay the sum due the City as provided herein, and if so, then the impounded cat or dog may be sold by the City by a private sale. Additionally, any cat or dog found to be infected with rabies shall be killed forthwith.

4-1-12: Vicious Cat and Dog Defined.

A "vicious cat or dog" means

- (1) any cat or dog with a known propensity, disposition or tendency to attack unprovoked, or to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
- (2) any cat or dog which because of its size, physical nature or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this chapter or ordinances; or
- (3) any cat or dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal.

4-1-13: Confinement.

The keeper or owner of a vicious cat or dog shall not permit the cat or dog to go unconfined unless it is on the keeper or owner's premises. A vicious cat or dog is "unconfined" if the cat or dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the keeper or owner. The pen or structure shall have secure sides and a secured top attached to the sides. If the pen or structure has no bottom secured to the sides, then the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

4-1-14: Leash and Muzzle.

The keeper or owner of a vicious cat or dog shall not permit the cat or dog to go beyond the premises of the keeper or owner unless the cat or dog is securely muzzled and restrained by a chain or leash and under the physical restraint of an adult. The muzzle shall be made in such a manner that it will not cause injury to the cat or dog or interfere with its respiration or vision, but shall prevent it from biting any animal or human. No vicious cat or dog shall be allowed off the premises of its keeper or owner unless in charge of the keeper or owner or a member of the keeper

or owner's immediate family over 16 years of age. If a vicious cat or dog is found off the premises of its keeper or owner, then it may be seized by any person, and upon delivery of the cat or dog to the proper authorities may be killed upon establishing the vicious character of the cat or dog. However, if it is necessary, then an agent or employee of the city or a law enforcement officer or any person may destroy any cat or dog without having to catch or impound the animal.

4-1-15: Signs.

The keeper or owner of a vicious cat or dog shall display in a prominent place on their premises a clearly visible warning sign indicating that there is a vicious cat or dog on the premises. A similar sign is required to be posted on the kennel or pen of the cat or dog.

4-1-16: Insurance.

All keepers or owners of a vicious cat or dog must within fourteen (14) days of the effective date of this ordinance provide proof to the City Finance Officer of public liability insurance in the amount of at least \$10,000.00 which insures the keeper or owner for any personal injuries inflicted by their vicious cat or dog.

4-1-17: Cruelty to Animals.

No person shall cruelly beat, injure or torture any cat or dog. Nor shall any person negligently or willfully abuse, mistreat or neglect in a cruel manner any cat or dog, including but not limited to the failure to provide adequate food, shelter and water.

4-1-18: Disturbance.

It shall be unlawful for any person to keep or own a cat or dog, or a dog run within twenty (20) feet of the house of a neighbor or to keep within the limits of this City any cat or dog which causes a disturbance by barking or making noises to the annoyance or disturbance of the public.

4-1-19: Cat or Dog Fighting.

No person shall maintain or possess any cat or dog for the purpose of fighting, or badger, bait, train or torment any cat or dog for the purpose of causing or encouraging the cat or dog to attack domestic animals or human beings.

4-1-20: Pigeons and Bees in City.

No person having in their charge or owning any pigeons shall allow, permit or suffer the same or any of them to roam or fly at large within the City. No one shall keep, maintain or possess any bees, hives or swarms of bees within the City.

4-1-21: Fowl in City.

No person shall allow any chickens, ducks, geese or other domestic fowl to run at large,

nor shall any person keep enclosed or housed any chickens, ducks, geese or other domestic fowl in any house, coop, pen or enclosure situated within the distance of one hundred (100) feet of any dwelling house, store or any other building occupied or used as a residence of any person, or within one hundred (100) feet of any church, school or other public building. Any such coop, house, pen or enclosure shall be maintained at all times in a clean and sanitary condition.

4-1-22: Cows, Goats, Horses and Sheep in City.

No person shall keep any cow, goat, horse, sheep or erect or maintain any building or enclosure for use in keeping any such animals within one hundred fifty (150) feet of any dwelling, house or building used for human habitation other than that of the keeper or owner of such animals, because such shall constitute a nuisance. No person shall keep or maintain any building or enclosure where livestock is kept unless the same be at all times kept in a clean and sanitary condition and in accordance with the regulations and rules of the county or state Board of Health. No person shall keep, maintain or place any hogs within the City.

4-1-23: Picketing Animals.

No person shall stake out any domestic animals within the City in such a manner as to permit them to approach within one hundred (100) feet of any dwelling house or building used for human habitation other than that of the keeper or owner of such animal.

4-1-24: Waste.

No keeper or owner of any cat or dog shall allow the animal to defecate on private or public property other than their own. If a cat or dog does defecate upon private or public property, then the keeper or owner of the cat or dog must immediately and thoroughly clean the fecal material from such property.

4-1-25: Penalty.

Any person violating any provision of this chapter shall be subject to a penalty of not more than \$500.00 for each occasion or day a violation occurs.

CHAPTER 4-2: GARBAGE

4-2-1: Definition.

The term garbage as used in this ordinance is defined to be any accumulation of animal, fruit, or vegetable matter, refuse or any other substance used in the preparation, cooking, dealing in or storing meats, fowls, fruits or vegetables.

4-2-2: Leaving Garbage Exposed.

It shall be unlawful for any occupant or owner of any lot within the city to throw, or leave exposed upon any lot, or within any alley or street adjoining said premises any animal matter, fruit, vegetable or any filth or slop whatsoever, liquid or solid.

4-2-3: Receptacles.

It shall be the duty of every occupant, owner or tenant of any building or premises within the city to provide and keep in good condition for the exclusive use of such building or premises separate receptacles for receiving and holding without leakage the garbage that may accumulate from the building or premises. Each apartment building must have one receptacle per four units, and a second receptacle in the event an apartment building has more than four units.

4-2-4: Wrapping in Paper or Plastic.

It shall be unlawful for anyone to place or cause to be placed in any receptacle any refuse, substance or thing other than garbage as defined herein. All garbage shall be drained of all liquids and wrapped in paper or plastic before being placed in such receptacle provided that the City Council may adopt regulations and rules dispensing with the wrapping of garbage and paper when the receptacles are emptied so frequently that they deem such wrappings unnecessary.

4-2-5: Receptacle - How Made.

Every receptacle intended to be used or provided to receive and hold garbage shall be watertight and made of galvanized iron or other suitable material or metal with a watertight fitting cover which shall be maintained in a place so as to prevent the ingress and egress of flies.

4-2-6: Where kept.

Such garbage receptacle shall be kept outside of the buildings, but within the lot line, and it shall be unlawful to place or keep such garbage receptacle in the alley, street or public place.

4-2-7: Ashes.

It shall be unlawful for any corporation, firm, person or other entity to deposit ashes upon the public streets within the city.

4-2-8: Municipal Garbage Collector.

The City Council may enter into an annual or multi-year contract with automatic annual renewals with some responsible person to collect and haul garbage. The garbage collector shall have exclusive rights to collect and haul such garbage in the city during the term of the contract. However, a garbage collector may be required to make a showing to the City Council that it is properly equipped and capable of performing the contract. The City Council may appropriate and provide such compensation as may be required to obtain a fair and reasonable contract.

4-2-9: Duty of Garbage Collector.

It shall be the duty of the garbage collector to thoroughly clean up all the garbage in the immediate vicinity of the place from which said garbage is removed, and to see that none of the garbage is dropped or liquid matter permitted to escape from the receptacle in which it is being hauled on to the alleys or streets within the city, and to keep all garbage receptacles emptied at whatever regular intervals may be deemed necessary.

4-2-10: Cleaning Parks.

Any person or group of persons using any public picnic or playground areas in city parks shall be responsible for cleaning all garbage and litter caused by their occupancy before leaving the area.

4-2-11: Littering Prohibited.

No person shall cast, deposit, drop or throw any bottles, cans, paper, paper containers, rubbish, trash, or any filth of any kind or any other form of litter or waste upon any alley, premises, sidewalk, street or yard whether private or public.

4-2-12: Municipal Rubble Site.

A municipal rubble site has been established on the East One-half of the Southeast One-fourth (E $\frac{1}{2}$ SE $\frac{1}{4}$) of Section Four (4), Township One Hundred Fifteen (115) North, Range Forty-seven (47) West of the 5th P.M., County of Deuel, State of South Dakota. The municipal rubble site may only be used by the residents of the City of Gary unless otherwise decided by the City Council and no one may enter upon the premises of the municipal rubble site at any time other than the hours established by the City Council.

The only items which may be deposited at the municipal rubble site are those items permitted by federal and state regulations and statutes. No party may deposit any item in the municipal rubble site which violates any federal or state regulation or statute. Furthermore, no one may remove or cause to be removed any article or material of any kind from the municipal rubble site after the article or material has been deposited therein except that metal articles for immediate use may be removed upon receiving written permission from either the Mayor or City Finance Officer.

4-2-13: Municipal Cemetery.

The policies and regulations for the Grandview and East Grandview Cemeteries shall be established by the City Council.

CHAPTER 4-3: NUISANCES

4-3-1: Nuisances Defined and Prohibited.

Whatever is dangerous to human health, or whatever renders the air, food, ground or water a hazard or an injury to human health, and the following specific acts, conditions and things are each and all of them hereby declared to constitute a nuisance. No person shall commit, create, maintain or permit to be committed, created or maintained any nuisance as defined herein within the city or within one mile of the boundaries thereof.

4-3-2: Specific Nuisances and Additional Remedies.

The maintenance of such conditions as defined in the following sections of this chapter shall each be deemed to constitute a nuisance. The penalty for nuisances is as defined in the general penalty of this Code. Such a penalty shall be in addition to any other remedies authorized by this Code or state statute.

4-3-3: Garbage and Refuse.

Depositing, maintaining or permitting to be maintained or to accumulate upon any private or public property any household garbage, excrement, sewage, tin cans, wastewater, or any decaying bones, fish, fruit, meat or vegetable, or any foul, putrid or obnoxious liquid substance.

4-3-4: Impure Water.

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.

4-3-5: Undressed Hides.

Undressed hides kept longer than 24 hours except at a place where they are to be manufactured or in a storeroom basement approved by the State Health Department.

4-3-6: Manure.

The accumulation of manure unless it be in a properly constructed fly proof bin, box or pit.

4-3-7: Breeding Places for Flies.

The accumulation of garbage, manure or anything whatsoever in which flies breed.

4-3-8: Stagnant Water.

Any excavation in which stagnant water is permitted to collect.

4-3-9: Weeds.

Permitting weeds or other noxious matter to grow to maturity on any private property, including vacant lots.

4-3-10: Dutch Elm Trees.

Permitting any species or varieties of elm trees which are dead or substantially dead.

4-3-11: Dead Animals.

For the owner of a dead animal to permit it to remain undisposed of longer than 24 hours after its death.

4-3-12: Cesspools and Privies.

Erecting or maintaining any cesspool or privy.

4-3-13: Garbage Handled Improperly.

Throwing or letting fall on or permitting to remain on any alley, street or other ground any garbage, filth, fuel, manure, rubbish or wood while engaged in handling or removing any such substance.

4-3-14: Rodents and Definition of Junk.

Accumulation of junk, old iron, automobiles or parts thereof, and anything whatever in which rodents may accumulate, breed or live. Junk is defined to mean old ferrous or nonferrous metals, old cordage, ropes, fabrics, old rubber or old bottles or other glass, bones, wastepaper and other waste or discarded materials which may be prepared to use again in some other form, but "junk" shall not include materials or objects accumulated by a person as by-products, waste or scraps from the operation of a business, or materials or objects held and used by a manufacturer as an integral part of the manufacturing process.

4-3-15: Bonfires in Public Places.

The burning of leaves will not be allowed. It is the finding of the City Council that for the immediate preservation of the public health, peace and safety, and the support of the municipal government and its existing public institutions that this ordinance shall take effect upon publication.

4-3-16: Parking Livestock Trucks or Trailers in Residential Districts.

Parking or permitting livestock trailers or trucks to remain on any area, public ground or street in a residential district is prohibited when such trailer or truck gives off an offensive odor or is contaminated with manure or other filth.

4-3-17: Iceboxes - Prohibiting Abandonment in Places Accessible to Children.

It shall be unlawful for any person to leave or permit to remain outside of any building, dwelling or other structure or within any abandoned or unoccupied building, dwelling or other structure under their control in a place accessible to children any abandoned or discarded container, icebox or refrigerator 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 container, icebox or refrigerator.

4-3-18: Iceboxes Declared Nuisance.

The keeping of any discarded container, icebox or refrigerator as set forth immediately hereinbefore shall be and the same is hereby declared to constitute a public nuisance and the same shall be abated as provided under South Dakota Codified Law 21-10-6, or acts amendatory thereto, and the abatement of such nuisance shall not in any manner affect the penalty provisions of this ordinance.

4-3-19: How to Abate Nuisances.

The Mayor or Finance Officer shall give written notice to any person creating, maintaining or permitting 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 and not file an appeal with the Finance Officer within three days of being notified, then that party shall be deemed guilty of a violation of this chapter. The Mayor or Finance Officer shall cause to be abated or removed any such nuisance upon the expiration of four days after the serving of such notice and the City may recover the expense so incurred from the person maintaining such nuisance in a civil suit instituted for such purpose. In the alternative, the Finance Office shall certify the amount of the expense incurred, and the description of the property and the owner thereof to the County Assessor who shall thereupon add such assessment to the general assessment, together with the regular assessment, to be collected as a municipal tax for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

4-3-20: Public Nuisances Defined and Election of Remedies.

A public nuisance consists of unlawfully doing an act or omitting to perform a duty within the jurisdiction of the city which either:

- a. annoys, endangers or injures the comfort, health, repose 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 or stream or public park, road, street or highway; or
- d. it in anyway renders other persons insecure in life, or the use of property affecting at the same time the entire community or a neighborhood or any other considerable number of people. The extent of the annoyance or damage inflicted upon the individuals may be unequal.

In addition to or in lieu of any penalty, plus the recovery of any expenses incurred, the City may remedy a public nuisance by abatement or by commencement of a civil action. Abatement shall consist of removing, or if necessary, destroying the thing which constitutes a nuisance without committing a breach of the peace or doing any unnecessary injury. For a public nuisance which results from a mere omission of the wrongdoer which cannot be abated without entering upon their premises, then reasonable notice must be given that party before entering upon the premises to abate the nuisance.

CHAPTER 4-4: NOXIOUS WEEDS

4-4-1: Weeds - Duty of Owner.

No owner of any area, lot or place within the City or the agent of such owner or the occupant of such area, lot or place shall permit on such area, lot or place or upon any sidewalk abutting the same any grass, weeds or deleterious or unhealthful growths or other noxious matter that may be growing, lying or located thereon, and the growing of such weeds or other noxious or unhealthful vegetation is hereby declared to be a nuisance.

4-4-2: Notice to Destroy.

The City Attorney or the Finance Officer is hereby authorized and empowered to notify in writing the owner of any such area, lot or place within the city or the agent of such owner or the occupant of such premises to cut, destroy or remove any such grass, weeds or deleterious or unhealthful growths or other noxious matter found growing, located or lying on such property or upon the sidewalk abutting same. Such notice shall be by certified mail-return receipt requested to the agent, occupant or owner at their last known address.

4-4-3: Action Upon Noncompliance.

Upon failure, neglect or refusal of any agent, occupant or owner so notified to comply with said notice within 72 hours after the mailing thereof, the Finance Officer is hereby authorized and empowered to provide for the cutting, destroying or removal of such grass, weeds or deleterious unhealthful growths or other noxious matter and to defray the cost of the destruction thereof by special assessment against the property as provided in this Code.

4-4-4: Weed Removal Costs.

If the occupant or owner of the land fails to cut the weeds as provided for in the preceding section, then the City shall cut the weeds. The cost to the landowner shall be \$100.00 for the first hour of cutting, plus \$75.00 for each additional hour of cutting thereafter, with a \$100.00 minimum charge.

4-4-5: Costs Assessed.

The Finance Officer shall cause an account to be kept against each lot for the destruction of noxious weeds upon said lot as herein provided, and upon the completion of the work in destroying such weeds and abating said nuisance the Finance Officer shall thereupon certify said account showing the amount and description of the property and the owner thereof to the County Assessor who shall thereupon add such assessment to the general assessment, together with the regular assessment, to be collected as a municipal tax for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

4-4-6: Recovery by City.

In lieu of spreading the cost of the destruction of such noxious weeds and other deleterious matter against said property in the discretion of the City Council said amount may be recovered in a civil action against the occupant or owner of such property.