

**TITLE 93
GENERAL NUISANCES**

CHAPTER: NUISANCES

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SECTION 93.01 GENERAL PROVISIONS

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93.01.01: 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.

No person shall create, commit, maintain, or permit to be created, committed or maintained any nuisance including but not limited to those described in ordinance within the city.

No provision set forth in this Ordinance shall be construed to limit any right or authority of the City to declare or abate a nuisance allowed by statute.

93.01.02: DEFINITIONS

BIG GAME ANIMAL: Any animal declared big-game by the South Dakota Game, Fish and Parks Department, or any cloven-hoofed wild animal, mountain lion or wild turkey.

BONFIRE: An outdoor fire utilized for ceremonial purposes, and shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a pit.

CHARCOAL GRILL: A metal or stone device not resting on the ground with a metal grate designed to cook food using charcoal briquettes, charwood, hardwood, or similar fuel.

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.

FILTH: Foul or putrid matter; loathsome dirt, muck or refuse.

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.

IFC: International Fire Code

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/SALVAGE DEALER: Any person engaged in business as a dealer or trader in junk, old metals, rags, waste paper, green hides, inoperable 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, waste paper, green hides, or other similar articles are bought, sold, unloaded or stored.

LIQUID FUEL GRILL: A metal or stone device designed to cook food using liquefied or gaseous combustible fuel.

NUISANCE: Anything contemplated under SDCL 21-10-1, 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. Any condition declared by the City Council to be a nuisance under SDCL 9-29-13.

OPEN BURNING/OPEN FLAME: The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames, *recreational fires* or use of portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

An operation of kindling or maintaining of an open fire or a fire on any public street, alley, road or other public or private land.

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 who are not paid.

POLLUTION/POLLUTE: contaminate (water, air, or a place) with harmful or poisonous substances, causing such to become unsafe or unsuitable for use.

RECREATIONAL FIRE. An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 5 feet or less in

diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

RECREATIONAL TRAILER: A vehicle that is primarily designed to provide temporary living quarters for recreational, camping, or seasonal use and which:

- (a) Is built on a single chassis mounted on wheels;
- (b) Has a gross trailer area not exceeding four hundred square feet in the setup mode;
- (c) Is certified by the manufacturer as complying with American National Standards Institute Standard No. A119.5 in effect on January 1, 2008; and
- (d) Has at least a seventeen digit identification number and the manufacturer has designated the vehicle as a recreational park model on the manufacturer statement of origin.

RECREATIONAL VEHICLE: A self-propelled vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational, vacation, or seasonal uses, permanently identified as a recreational vehicle.

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.

STAGNANT WATER: Any excavation, pond, low-lying area, public or private, in which water not circulating or flowing; "dead water", standing fluids, not moving or flowing that has become stagnant and/or has or may produce 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 damaged automobile, trailer, or apparatus which unlicensed, or because of body damage, or non-operating parts, including tires and wheels, is in such a condition to render the start, legal operation, or use of said automobile improbable.

93.01.03: PENALTY/CITATIONS

93.01.03 (A) Administrative Citations

93.01.03 (B) Administrative Citations Procedures

- 93.01.03 (C) Administrative Citation Penalties Assessed
- 93.01.03 (D) Failure to Appeal or Pay Administrative Citation Penalties
- 93.01.03 (E) Civil Penalty Amount
- 93.01.03 (F) Remedies not Exclusive

93.01.03 (A): ADMINISTRATIVE CITATIONS

Any person violating any provision of the Code may be issued an administrative citation by an enforcement officer as provided for in this Ordinance.

A continuing violation of the Code constitutes a separate and distinct violation each day that the violation exists.

A civil penalty shall be assessed by means of an administrative citation issued by the enforcement officer and shall be payable directly to the City Finance Office.

Penalties assessed by an administrative citation shall be collected in accordance with the schedule of civil penalties.

93.01.03 (B): ADMINISTRATIVE CITATION PROCEDURES

An enforcement officer and/or his/her designee may issue an administrative citation to a responsible party as described in this Title. The citation shall be on forms approved by the City.

If the responsible party is not an individual, the enforcement officer shall attempt to issue the owners registered agent an administrative citation. If the owner or the registered agent cannot be located, the administrative citation may be issued in the name of the entity and given to an occupant, manager or onsite supervisor. A copy of the administrative citation shall also be mailed to the entity, owner or owner's agent of record.

The available, the responsible party shall sign the administrative citation. If the responsible party refuses or fails to sign the administrative citation, the issuer shall note such thereon.

If the code enforcement officer cannot locate a responsible party, the administrative citation shall be mailed to the responsible party

Furthermore, in the case when no adult can be located at the property, the administrative citation may be posted in a conspicuous place near the entrance of the property and a copy subsequently mailed to the responsible party.

In the case of mailing, the City shall mail the citation by certified mail to the address of the owner of the property and/or owner at the address listed in the office of the Meade/Pennington County Director of Equalization, and such action by the City shall meet any notice requirement of this Title.

The failure of any responsible party to receive notice shall not affect the validity of any proceedings taken under this Ordinance.

93.01.03 (C): ADMINISTRATIVE CITATION PENALTIES ASSESSED

Any civil penalties assessed shall be payable to the City within twenty (20) days from the date of the administrative citation.

Payment of the civil penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City.

If the responsible party fails to correct the violation, subsequent administrative citations may be issued for the same violations. The amount of the civil penalty shall increase at a rate specified in ordinance.

Additionally, any fees and/or costs associated with the capture, impoundment, care or euthanasia or disposal of the animal shall be bared by the responsible party.

93.01.03 (D): FAILURE TO APPEAL OR PAY ADMINISTRATIVE CITATION PENALTIES

The failure of any person to file a timely appeal or pay the civil penalties within the time specified on the citation shall constitute an irrebuttable presumption that a violation has occurred. Failure may result in a class II Misdemeanor Citation and/or the city attorney filing legal proceedings in magistrate or circuit court. Alternatively, the City may pursue any other legal remedy available to collect the civil penalty or correct the violation.

93.01.03 (E): CIVIL PENALTY AMOUNT

Civil penalties may be cited under this Ordinance, although criminal enforcement is not prohibited.

The civil penalties within any rolling 12-month period shall be as follows:

- First violation \$50.00
- Second violation \$100.00
- Third or subsequent violation(s) \$200.00

Failure to pay an Administrative Citation fee within the time permitted, will result in an increase of \$5.00 per day of penalty, not to exceed a total of \$500.00, per citation issued.

93.01.03 (F): REMEDIES NOT EXCLUSIVE

The procedures established in this Ordinance are in addition to other legal remedies established by law, which may be pursued to address violations of the Code. The City is enabled to establish policies and procedures to carry out this ordinance.

93.02 GENERAL NUISANCES

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

Any condition that is dangerous or injurious to human health and safety, as declared by the City Council may constitute 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 junk, litter, debris, rubbish building materials, lumber, vehicle parts, appliances, furniture, yard waste, noxious matter, and any debris not normally associated with residential areas are considered nuisances and must be screened from view or removed from the property.
- C. 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, streets or rights-of-way;
- D. Depositing, maintaining, or permitting to be maintained, abandoned, wrecked, inoperative, dismantled or permitted to accumulate upon any public or private property for a period of seven (7) or more days; any automobile(s), which is/are non-licensed automobiles or because of body damage, or operating parts, including flat tires, missing wheels, is/are in such a condition to render the start, legal operation, or use of said automobile(s) impossible. At all times, and of the above listed, must be stored behind the front building line and screened from view, or removed from the

property. Exception: Any vehicle permitted under Chapter 93.11 or any vehicle, which is left for repair at an approved regularly operated repair garage.

- F. Any trailer, recreational vehicle, or implement occupied overnight on a public street, or recreation vehicle or implement, which is left standing on a public right-of-way for a period of ten (10) days or two-hundred and forty (240) hours or longer;
- G. 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 of the public;
- H. Damaged buildings;
- I. Dilapidated buildings;
- J. Impure water;
- K. The accumulation of manure; manure accumulated to be properly used as a fertilizer or is in an agricultural zoned area shall be exempt from this section;
- L. Rodents;
- M. Stagnant water;
- N. Any dead animal remaining on any public or private ground for a period of more than twenty-four (24) hours;
- O. Depositing, placing, letting fall, or throwing materials into a pond, pool or waterway as to pollute said water;
- P. Erecting or maintaining any privy or cesspool unless approved by the City Council and the South Dakota Department of Environment and Natural Resources;
- Q. Unless otherwise approved by City Council, 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;
- R. Parking or allowing a 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;
- S. 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;
- T. Causing or allowing pieces of paper, newsprint, excelsior, handbills, posters, building paper, advertisements, or other materials to be carried about by the winds;
- U. Fireworks; (See Section 93.08)

- V. Slaughter houses;
- W. Depositing, placing, throwing or letting fall any item into any surface drainage within the City, including, but not limited to, leaves, garbage, ashes, grass, clippings, and tree branches and other hazardous materials; or otherwise block drainage;
- X. Refuse Fires- No person shall set or cause to be set or allow upon their premises public or private, any fire for the purpose of destroying any paper, rubbish, trees, leaves, grass, household trash, or other materials; or open burning when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited;
- Y. As per SDCL 34-28-3. Abandonment of air-tight refrigerator or other furniture. Any person, firm, or corporation abandoning or discarding in any public or private place accessible to children any chest, closet, piece of furniture, refrigerator, icebox, or other article having a compartment of a capacity of one and one-half cubic feet or more and having a door or lid which when closed cannot be opened easily from the inside, or who being the owner, lessee, or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition;
- Z. Depositing or placing any offal, filth, filthy waters, human or animal waste, obnoxious liquid substances, on any public or private property;
- AA. Depositing or placing any petroleum products or hazardous substance such as oil, gasoline, and et cetera on any private lot or public grounds;
- BB: On construction sites, it shall be the responsibility of the owner or general contractor to have a container for all smaller construction debris. Any complaint of substantial blowing debris from construction sites may result in immediate action by the code enforcement officer with assistance by the police department.
- CC: Sidewalks. Every person owning or occupying property shall keep all sidewalks abutting such property free of ice, snow and obstructions. If city personnel find that any portion of a sidewalk has not been cleared of ice, snow or other obstructions and that a hazardous condition exists, the Code Enforcement officer shall notify the Planning & Zoning Officer to provide written notice to the owner and/or occupant of such property that such obstruction(s) shall be removed within twenty-four (24) hours. In the event that the property owner and/or occupant does not comply, the Code Enforcement officer, Planning & Zoning Officer, and/or their agent may cause the removal of such obstruction and bill the property owner the removal costs plus administrative costs. In the event of snow and ice, the Code officer may issue the notice to the property owner or occupier, or post the notice in a conspicuous place on the property.
- DD: Barbed wire or electrified fences: It shall be unlawful for any person on the perimeter of a residential property, to use barbed wire or electrified fences for the purpose of enclosing, in whole or part, any lots or parts of lots or parcels of ground in any residential district, unless otherwise approved by City Council.

Notwithstanding, anything herein to the contrary, the above listed examples shall not in any way be construed as limitation on the definition of a public nuisance.

93.02.02: FILING A NUISANCE COMPLAINT

Unless otherwise stated in this Chapter, in the event any City representative receives a complaint, either orally or in writing, he/she shall forward the complaint to the appropriate agency for investigation.

As part of the investigation, the person taking the complaint shall obtain 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. Specific nature of the complaint.

Unless otherwise ordered by the court, the names of those filing complaints are not for publication, and shall never be released.

After obtaining the necessary information from the complainant, the Code Enforcement Officer, Planning & Zoning Office 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.

93.02.03: FALSE REPORTING

Any person, who makes a report or intentionally causes the transmission of a report to authorities empowered herein of a violation of this ordinance, knowing that it did not occur; or false information about any violation of this Ordinance, is guilty of false reporting.

93.02.04: COURTESY LETTER /NOTICE OF VIOLATION

Unless otherwise stated in this Chapter in the event the Code Enforcement Officer, Planning & Zoning Office, or other employee, and/or agent finds that any violation exists, the City shall notify the owner or may notify the occupant creating, permitting or maintaining such nuisance by one or more of the following methods: (1) phone contact; (2) hand delivery; (3) first class mail; (4) certified mail with return receipt; or (5) personal service.

The notice may state the following:

- A. Name and address of the property owner;
- B. Address and/or 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.

93.02.06: 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 Planning & Zoning Office within fifteen (15) days of receipt of the Courtesy Letter/Notice of Violation.

Failure to appeal the abatement or filing of a review within the time permitted, relieves the violator of the right to appeal or further review of their case.

93.02.07: NOTICE OF REVIEW BY PLANNING & ZONING COMMISSION

Any person who disagrees with the determination of a violation by the Code Enforcement Officer or Planning Zoning Office shall within 15 days of the notice, have the right to have the Planning Commission review the decision. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the Planning & Zoning Office, 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, phone number, email address (if available) and a copy of the violation notice.
- B. Upon receipt of the written request for review, the Planning & Zoning Office shall notify the Planning Commission.
- C. The Planning Commission shall have thirty (30) days to review the case, and give their decision in writing to the landowner.

93.02.08: CITY COUNCIL APPEAL AND HEARING

Any person aggrieved by the decision of the Planning Commission after review may appeal their case to the City Council and request a "Hearing".

- A. The hearing request must be made in writing and submitted to the City Finance Office with ten (10) days of the decision by the Planning Commission.
- B. The City Council after hearing the facts of the case, may determine if a violation exists, set timelines for compliance, and/or issue additional fines in regards to the violation.

93.02.09: ISSUANCE OF SUMMONS AND COMPLAINT FOR VIOLATION

If the landowner fails to abate the nuisance or request a review from the Planning Commission within the given time, the City may as a remedy implement, one or all of the following: issue an administrative citation, abate the nuisance without further notice, file 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.

93.02.10: ABATEMENT

In addition to the remedies set forth herein 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 Code Enforcement Officer, Planning & Zoning Director or other employee and/or agent that conducted the investigation shall have the authority to employ, as needed, a contractor to assist with said abatement.

93.02.11: LANDOWNER RESPONSIBLE FOR ANY COSTS

Any related expenses, receipts, administrative, legal, and investigative fees associated with an investigation and/or abatement, shall be billed to the landowner.

In the event the landowner fails to pay said bill within thirty (30) days upon receipt of said bill, the City Finance Officer may file a special assessment on the property with the Meade/Pennington 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.

93.02.12: IMMEDIATE ABATEMENT REQUIRED IN CERTAIN CASES

Nuisance cases involving subjects such as, but not limited to, unlawful; bonfires, campfires, dead animals, undressed hides, fireworks, depositing filth, spoiled foods or similar items which are determined by the Code Enforcement Officer and/or investigating employee to be an immediate threat to public health and safety shall have the authority to immediate abated, unless it is otherwise dictated by City policy or statute.

Sections 93.04 through 93.07 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.

- A. Whenever a law enforcement officer finds a vehicle on public property in violation of this ordinance, he/she shall place a written notice on the vehicle, that it will be removed to a towing impound yard or place of safety within twenty-four (24) hours of the giving of said notice, unless the owner removes the vehicle from the public property within the twenty-four (24) hour time frame.

After the expiration of the twenty-four (24) hour notice, the vehicle may be removed by any removal agency to an impound yard, garage or place of safety. Nothing in this section precludes the Police Department from immediately removing a motor vehicle or apparatus, which causes an obstruction or hazard to traffic and/or the public.

Any trailer, recreational vehicle, implement, vehicle or other personal property being stored in violation of this Section shall be immediately removed from the right of way and may not be continued to be stored by moving said property to another location in any public right of way.

93.02.13 RIGHT OF ENTRY

A Code Enforcement Officer, Law Officer or designated agent, shall have the right to enter upon property of any person or corporation at reasonable times and in a reasonable manner to perform an inspection or abatement. Before entering said property, the owner or occupant, if available at the time, should be notified of the purpose of the entry. The officer or their designee, when entering said property, may take photos, video, measurements, and bring any person(s), equipment, machinery, or items required for said inspection and/or abatement. While the officer or designee is conducting an inspection or performing an abatement, no person shall interfere with the officer or their designee, or fail to comply with any reasonable request of the officer or any agent of the City.

SECTION 93.03 DEPOSITING OF FILTH, OBNOXIOUS, AND OFFENSIVE SUBSTANCES

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93.03.01: APPLICATION OF SECTION

The provisions of this Section 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.

93.03.02: ACTION TO BE TAKEN BY THE CITY

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

- A. After determination of the City Council, or under other appropriate ordinance authority, the Code Enforcement Officer, Planning & Zoning Officer and/or

other investigating employee or agent shall have the authority to have the nuisance abated, removed or cleaned up immediately at the cost of the violator;

- B. When the Code Enforcement Officer, Police Department and/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 Code Enforcement Officer, Police Officer and/or other investigating employee or agent shall have the vehicle towed at the owner/driver’s expense. All towing and storage charges shall be assessed against the owner and/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.

SECTION 93.04 WEEDS, TREES, BUSHES, ET CETERA

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93.04.01 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 of any lot within the City of Box Elder 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 on property owned by them.

Unless otherwise agreed to by the City, landowners shall also be responsible to maintain grass, weeds or noxious vegetation to a height of less than eight (8”) inches on all property, abutting the landowner’s property, to the edge of the driving surface of the street, alley or public right-of-way.

93.04.02 OVERHANGING TREE LIMBS OR BUSHES

The limbs of trees or bushes hanging less than sixteen (16) feet in height above the driving surface of any public street, shall be declared a public nuisance and shall be removed by the landowner having property abutting the street or public right-of-way where the nuisance exists.

The limbs of trees or bushes hanging less than twelve (12) feet in height above the driving surface of all alleys within the City limits, shall be declared a public nuisance and shall be removed at the expense of the landowner having property abutting the alley where the nuisance exists.

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 Box Elder, shall be declared a public nuisance and shall be removed by the property owner having property abutting the sidewalk where the nuisance exists.

The Chief of Police or his/her designee 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 at the expense of the property owner having property abutting the public right-of-way where the violation exists.

It shall be the duty of all landowners to keep all overhanging trees and bushes herein described over public right-of-ways cut down and removed on all lots owned or occupied by them. Additionally, shall maintain all grass, trees and bushes on land abutting property owned or occupied by them, to the middle of the street.

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

In the case of any overgrown vegetation described in Section 93.04, upon service of the notice, the landowner shall have ten (10) days in which to remove the violation.

If the landowner fails to make a written appeal within 10 days, the nuisance may be abated, without further notice, at the landowner's expense.

93.04.04 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, or as designated in the written notification, the City and/or their agent, may cause such vegetation to be removed at the owner's expense. The City staff and/or their designee/agent, may enter upon the property, without violation, for the purpose of removing the violation or cutting vegetation, which is in violation of this ordinance.

93.04.05 STORAGE OF DEAD OR UNCUT TREES WITH ANY CONTAGIOUS DISEASE OR PEST INFESTATION

No person shall store or permit the accumulation of any diseased Elm wood in the city. No person shall store any tree or part thereof known to harbor or contain any pest infestation.

93.04.06 PENALTY

All violations of this title may be considered for an Administrative Citation, misdemeanor crime or court appearance.

SECTION 93.05 SLAUGHTER HOUSES, MEAT MARKETS, STORAGE/ SALES

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93.05.01: OFFENSIVE AND UNWHOLESOME MATERIAL

No person shall engage in the business of slaughtering animals, packing them for market, rendering any animal matter, conducting a meat market or operating 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 (Ref. SDCL 39-5-14). Such premises shall at all times be kept in a clean, healthy and non-offensive condition.

93.05.02: RIGHT OF ENTRY

The City Health Officer, Code Enforcement Officer and/or Police Officer of the City, and their agents, 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.

93.05.03: ABATEMENT

Any violations of Title 93.05 may be immediately abated, if a public nuisance is declared, and it is determined by the investigating person, that the public health and safety are in jeopardy.

93.05.04 PENALTY

All violations of this title may be considered for an Administrative Citation, misdemeanor crime or court appearance.

SECTION 93.06 NON-DOMESTIC ANIMALS

93.06.01: KEEPING OF FOWL, LIVESTOCK, ETC. RESTRICTED

It shall be unlawful for any person to keep and or raise, chickens, ducks, geese or other domestic fowl, in any house, pen, coop, enclosure or free-range within the City.

In other than Agriculturally zoned properties, where livestock has been permitted under a Conditional Use Permit, it shall unlawful for any person to keep or permit situated any livestock within one hundred (100) feet of any dwelling house or store or other building used or occupied as the residence of any person, or within one hundred (100) feet of any church, school or public building.

This section does not permit the raising or keeping of the animals described where they are prohibited by zoning or other restrictive ordinances.

93.06.02: 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 rodents or other non-domestic animals.

SECTION 93.07 DEPOSITING AND BURNING OF FILTH, ASHES, MANURE, GARBAGE, REFUSE, FILTHY LIQUIDS

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93.07.01: 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.

93.07.02: 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.

93.07.03: 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.

93.07.04: DEAD ANIMALS

No owner or possessor of any animal which shall have died, shall allow 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.

SECTION 93.08 VEHICLE RESTORATION

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93.08.01: INTENT OF THE VEHICLE RESTORATION

This section of Title 93 is intended to provide resident with a way to repair inoperable vehicles, to resort classic vehicles, or to prepare an maintain vehicles for competitive racing areas zoned as residential without such activity being considered a violation of the City's Nuisance Ordinance.

93.08.02: CONDITIONS

- A. A residence may be permitted to have one (1) vehicle in front of a residence, but not on the public Right-of-Way, that is non-operable or non-licensed. Said vehicle must be covered with a fitted car cover or tarpaulin at all times the vehicle is not be worked on or restored.
- B. A residence or single property or parcel may have additional non-operable or non-licensed vehicle(s), however, all but one vehicle as listed above, shall be maintained out of the view of the public Right-of-Way, from which the property is addressed. Out of view shall include, storage inside a building or behind an opaque fenced area in the rear yard.
- C. At no time, may a vehicle being restored, non-operable vehicle or non-licensed vehicle be store in, or permitted to stand in any public Right-of-Way.
- D. Vehicle parts, including tires, to be used for the repair or restoration of a Licensed Vehicle shall stored within the covered vehicle, within a building or behind an opaque fence out of the view of the public, when the owner is not actually working on the vehicle.
- E. **Exception:** A Permit may be obtained for the preparation and maintenance of vehicles for competitive racing, however the permit may only be applicable between April 1 and October 1 of each year, otherwise, the vehicle must be stored in a building or behind an opaque enclosure, out of the view of the public. All other provisions of this section shall be applicable for the duration of the permit.
- E. **Exempt:** Establishments approved as for Automotive sales and/or repair, if properly zoned and or/permitted.

CITY OF BOX ELDER:

ATTEST:

Larry Larson, Mayor

Nicole Schneider, Finance Officer

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