

## ORDINANCE NO. 97-4

AN ORDINANCE FOR THE DECLARATION AND ABATEMENT OF PUBLIC NUISANCES FOR AREAS WITHIN HUGHES COUNTY INCLUDING THE EXTRA TERRITORIAL LIMITS OF THE CITY OF PIERRE (EXCEPT AREAS OF THE COUNTY WHERE INCORPORATED PLACES HAVE EXERTED JURISDICTION PURSUANT TO STATUTE) THAT ARE NOT ZONED AGRICULTURE A OR AGRICULTURE B.

BE IT ORDAINED BY THE COUNTY COMMISSION OF HUGHES COUNTY, SOUTH DAKOTA:

### **Section 1: Public Nuisances Prohibited:**

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

A public nuisance for purposes of this Ordinance is defined as Public Nuisance: Unlawfully doing an act, or omitting to perform a duty, which act or omission either: (1) annoys, injures, or endangers the comfort, repose, health, or safety of others; (2) in any way renders other persons insecure in life, or in the use of property; (3) whatever renders the ground, the water, the air, or food a hazard or an injury to human health; and in addition (4) the following specific acts, conditions, and things are, each and all of them, hereby declared to constitute public nuisances; provided however, that the additional enumeration is not deemed to be exclusive.

Whoever shall create, commit, maintain, or permit to be created, committed, or maintained (1) any of the enumerated conditions, specific acts, things, and situations or (2) otherwise violates the general provisions of this ordinance is guilty of a public nuisance and the place, contents, area, thing, or all of the forgoing, are declared a public nuisance and shall be enjoined and abated as provided by state law and/or county ordinance.

Source: SDCL 7-8-33

### **Section 2: Definitions.**

Clean fill: Any rock, gravel, sand, dirt, or clay which has not been used as an absorbent for a regulated substance. Articles that contain chrome, are petroleum based such as asphalt, are compactable or burnable materials such as but not limited to paper, wood or plastic are prohibited.

Manure: Animal excreta and other materials such as bedding, straw, soil, hair, feathers and other debris normally included in animal waste handling operations.

Residential Development Area: An area of land that is located in a residential zoning district or an area consisting of three (3) or more dwelling units within a 500 foot radius.

Stockpiling: in this context, it is the unhealthful accumulation of a substance which causes a noxious odor, provides for infestation of flies, mosquitoes, rodents or other pests or is present in such concentrations that potential exists to cause contamination of water or soil by leaching, lateral transport, absorption, advection or other movement.

### **Section 3: Specific Acts Declared To Be a Public Nuisance.**

- A. Abandoned property. Any deteriorated, wrecked, dismantled or partially dismantled, inoperable and/or abandoned property in unusable condition having no value other than nominal scrap or junk value, which has been left unprotected outside of a permanent structure from the elements. Without being so restricted this shall include deteriorated, wrecked, dismantled or partially dismantled, inoperable, abandoned motor vehicles, abandoned mobile homes, trailers, boats, machinery, refrigerators, washing machines and other appliances, plumbing fixtures, furniture, building materials and any other similar articles in such condition.
- B. Breeding place for flies, rodents and/or pests. The unhealthful accumulation or stockpiling of manure, garbage, tires, debris or discarded items which is a potential harboring place and breeding area for flies and rodents.
- C. Burning of any excrement, chemical or plastic substances, or any liquid or substance in violation of Federal or State dischargeable substances statutes or County ordinances on any property. This includes the burning of any tires, rubber products, asphalt shingles, plastic, tar paper or any substance which may cause a black, hydrocarbon, toxic, or noxious plume of smoke. Also, included is the burning of insecticide, fertilizer or chemical containers except in accordance with SDDOA administrative rule 12:56:02:01 which does not allow open burning of pesticide or pesticide containers; except the open burning of small quantities of combustible containers on open fields, which shall not exceed more than one day's accumulation, but no more than 50 pounds of combustible containers, formerly containing organic or metallo-organic pesticides, except organic mercury, lead, cadmium, beryllium, selenium or arsenic compounds.
- D. Combustible materials. Any dangerous accumulation upon any property of combustible refuse matter such as papers, sweepings, rags, grass, dead trees, tree branches, wood shavings, wood, magazines, cardboard, etc.
- E. Dead animals. For the owner of a dead animal to permit it to remain undisposed for more than seventy-two (72) hours.
- F. Disposal or dumping. The accumulation of garbage, refuse, waste, trash, rubbish or building materials upon any property outside an approved landfill.

- G. Fill. Filling a gravel pit or other hydrologically or environmentally sensitive area with something other than clean fill.
- H. Garbage and refuse. Depositing, maintaining, or permitting to be maintained, upon any property outside an approved landfill any dangerous accumulation of any animal or vegetable matter which is likely to cause or transmit disease or which may be a hazard to health.
- I. Impure water. Any well or supply of water which is not in compliance with or is in violation of Sanitary Sewer District Regulations, State Water Regulations or State Waste Laws or County Ordinances.
- J. Manure Disposal. Any unspread accumulation of manure which has been transported from the point of generation. Any manure deposited within 300 feet of a residence without benefit of incorporation into the soil. Any manure spread thicker than three (3) inches on tillable soil. Any manure spread thicker than one (1) inch on frozen soil. Any manure applied on slopes greater than six per cent (6%) or 600 feet from sinkholes, streams and/or drainage ways.
- K. Polluting river. Depositing any dead animal, decayed animal, vegetable matter, garbage, discarded items, manure or any slopes or filth whatever either solid or fluid, into any water body designated or undesignated as a source of water supply.
- L. Transport of materials. Deposition, permitting deposition or negligent deposition on any road, highway, or public right-of-way, any manure, septage, garbage, rubbish, fill, fuel, fertilizers, wastes, chemicals, or wood while engaged in handling or removing any such substances.
- M. Vegetation. Weeds and grass, exclusive of crops and pasture land, growing within any residential development area to a height greater than eighteen (18) inches.

#### **Section 4. Public Nuisance and Remedy.**

- A. Any person who maintains, commits, or fails to abate a public nuisance as required under the provisions of this ordinance shall be subject to a maximum penalty of thirty (30) days in jail, or a two hundred dollar (\$200.00) fine, or both.
- B. In addition, the County may also use the remedies of a civil action and abatement as set forth in SDCL 21-105 through SDCL 21-10-9.

#### **Section 5. Severability.**

If any provision of this ordinance shall be held invalid, it shall not affect any other provisions of this ordinance that can be given effect without the invalid provision, and for this purpose, the provisions of this ordinance are hereby declared to be severable.

#### **Section 6. All ordinances or parts thereof in conflict herewith are hereby repealed.**

First Reading: August 5, 1997  
Public Hearing and Adoption: September 2, 1997  
Publish: September 11 1997

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//Signed//  
Chairman  
Hughes County Commission

ATTEST:

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//Signed//  
Shellie Baker, County Auditor