

## TITLE 5 - OFFENSES

### Chapter 5.01 - Offenses Against Public Welfare

### Chapter 5.02 - Animals

### Chapter 5.03 - Fireworks and Firearms

### Chapter 5.04 - Minors

## CHAPTER 5.01 - OFFENSES AGAINST PUBLIC WELFARE

- 5.0101 Interfering with Public Improvements, Etc. It shall be unlawful for any person to hinder or obstruct the City or any employee or agent of the City in lawfully making any improvements in any street, road, alley or on any other public ground in the City or in performing any other official duty.
- 5.0102 Intentional Damage to Property. Any person who intentionally injures, damages or destroys public property without the lawful consent of the appropriate governing body having jurisdiction thereof, or private property in which other persons have an interest, other than by arson under SDCL 22-23, without the consent of the other person.
- 5.0103 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:
- A. Engages in fighting or in violent or threatening behavior, including, but not limited to, the use of obscene or profane language directed at a person present;
  - B. Makes unreasonable noise;
  - C. Operates amplified sound equipment at an unreasonably high volume;
  - D. Disturbs any lawful assembly or meeting of persons without lawful authority;
  - E. Obstructs vehicular or pedestrian traffic;
  - F. Resists or obstructs the performance of duties by a law enforcement officer or other authorized official;
  - G. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment shall not be prohibited; or
  - H. Commits any act which tends to corrupt the public morals or outrages public decency, is guilty of disorderly conduct which is hereby prohibited.
- 5.0104 Open Containers. It shall be unlawful to consume any beer or alcoholic beverage or to possess any glass, can or other container containing beer or any alcoholic beverage on which

the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3, SDCL 35-1-9.3)

5.0105 Indecency. No person shall willfully and lewdly expose his or her person, or the private parts thereof, in any public place where there are present other persons to be offended or annoyed thereby.

5.0106 Public Urination and Defecation Prohibited. Any person who urinates or defecates on any public street, alley, sidewalk, or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where the act could be observed by any member of the public, except in the place that has been designated as a restroom is guilty of an offense and in violation of this section.

5.0107 Roller Skates and Skateboards Prohibited in the Business District. No person shall ride upon, in or by means of roller skates, coasters, go-karts, skateboards or other similar wheeled device upon a sidewalk in any business district. (SDCL 9-32-1)

A. Definition as used in this Section:

"Business District" - An area in which 50% or more of the street footage for a distance of 200 ft. or more is occupied by buildings used for business commercial, educational, governmental or religious purposes and/or is used for parking vehicles either as a parking lot or a parking ramp.

B. Exception. Provisions of this Section do not apply to:

1. Physically handicapped persons who have been disabled in such a manner as to make it difficult and burdensome to walk and who use a wheelchair or other wheeled device on the sidewalk.
2. A wheeled vehicle used to transport a person under five years of age.

## CHAPTER 5.02 - ANIMALS

5.0201 Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. At Large.

- a. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of his immediate family by a leash.
- b. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

2. Leash. A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.
3. Owner. Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to.

5.0202 Running at Large Prohibited. It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by him or under his or their control to be at large and to go in or upon the private premises of others or upon any public property. The fine for an animal running at large is \$50.00. The owner of the animal found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as fine for and in full satisfaction of the violation, the sum of \$50.00. If the owner fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of \$75.00. Upon failure of the owner to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner shall be fined not less than \$100.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.

Allowing an animal to run at large as defined in the provisions of this section, shall also constitute a violation of this Ordinance, per Section 11.0101. Notwithstanding any other provision, any animal not having a visible tag and running at large may be deemed a stray and destroyed immediately.

5.0203 Impoundment. The City Council shall be authorized to enter into a contract with some person, association or Humane Society to establish, operate and maintain an animal shelter for the City. Such contract shall provide for the enforcement of this chapter, for the impounding, destroying and disposal of animals, for a schedule of fees to be charged for services rendered, and for a monthly amount to be paid by the City. The City may, in lieu of the provisions of this section, maintain its own impoundment area or quarters, under the supervision of the City Council.

An owner reclaiming an impounded animal shall pay the actual cost of impoundment plus the following fee: First impoundment shall be \$25.00; second impoundment within a twelve month period shall be \$50.00; any subsequent impoundment within a twelve month period shall be \$100.00. Upon impounding, the owner of such animal may at any time within five working days after the same shall have been impounded, reclaim the animal by paying the expense of keeping such animal in addition to the fee prescribed by this section. If any animal so impounded shall not be reclaimed within five working days and reasonable efforts to locate the owner have failed, the City is authorized to destroy, sell, or otherwise dispose of such animal.

No person shall hinder, delay, or obstruct any law enforcement officer or other authorized official when engaged in capturing, securing or impounding any animal.

5.0204 Compulsory Vaccination of Animals for Rabies. Every dog, cat or other animal susceptible to rabies, held as a domestic pet in the City, six months of age or older, shall be vaccinated against rabies by a licensed veterinarian. Vaccination against rabies shall be given at such intervals that guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the State Veterinarian.

Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have such animal vaccinated against rabies within one month following acquisition or when the animal reaches the age of six months.

Any animal impounded shall not be released to any person until such animal has been vaccinated against rabies; provided, however, no animal so impounded shall be vaccinated if the owner can present a certificate of a current vaccination.

All veterinarians or other qualified persons designated to vaccinate animals against rabies shall provide the owner at the time of vaccination with a certificate or metallic tag showing the date of the vaccination. Whenever metallic tags are so given for vaccination, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

5.0205 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat, or other animal has been notified that the animal has bitten or attacked any person, the owner shall within twenty-four hours place the animal under the care and observation of the animal control officer or a licensed veterinarian for a period of not less than ten days.

At the end of the ten day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be reclaimed by the owner upon paying the expenses incident thereto.

Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies, or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.

No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to have been infected with rabies.

Any person who shall suspect that any animal in the City is infected with rabies, shall report the animal to the animal control officer, the City, or other health authority, describing the animal and giving the name and address of the owner if known.

Whenever the animal control officer, a law enforcement officer or other authorized official shall have determined that there is danger of the existence or spread of rabies in the City, such facts shall be made known to the City Council in writing. The City Council, upon receipt of said facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight hours after the proclamation is issued, all animals found off the premises of the owner unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize said animals fail. All animals seized and impounded shall be held for observation as hereinbefore provided for, not less than ten days, and if cleared by a licensed

veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided.

5.0206

Vicious Animals.

- A. An animal may be declared to be vicious by the animal control officer, a law enforcement officer or other authorized official, under the following guidelines:
  - 1. An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks, or any public grounds or places; or
  - 2. An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery person, or other employed person, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
  - 3. No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- B. When the animal is declared to be vicious, the City shall notify the owner of such declaration in writing. Said notice shall be sent by certified mail, return receipt requested, or by personal service to such owner, occupant or person, or by posting on the property. Failure by any person to actually receive any document sent to him by certified mail or to sign and return any receipt card acknowledging receipt by certified mail shall not invalidate service made upon such person by certified mail. Such notice is deemed completed at the time it is mailed, hand delivered or posted, and any period to reply or abate begins to run from the date of mailing, personal service or posting.
- C. Any mammal, reptile or fowl which is not naturally found in a domestic setting, and because of its size or other characteristic would constitute danger to human life or property is automatically deemed vicious.
- D. The owner of an animal that has been deemed vicious shall comply with the following:
  - 1. Register the animal as vicious with the City and present proof of rabies vaccination within five days of receiving the notice and presenting proof of rabies vaccination on or before March 1<sup>st</sup> of each and every year thereafter.
  - 2. Whenever the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six feet, and under the control of a person over sixteen years of age.

3. When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the City. Minimum standards shall include the following:
  - a. Fencing materials shall not have openings with a diameter of more than two inches.
  - b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
  - c. The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete.
  - d. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
4. A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
- E. The vicious animal shall be impounded by animal control at the owner's expense until all provisions of Section 5.0206(D) are complied with. If the conditions in Section 5.0206(D) are not complied within ten days after receiving notice, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the City.
- F. If a vicious animal has been running at large, or bites a person or bites another animal, the animal control officer, a law enforcement officer or other authorized official shall seize the animal by using such means as are necessary and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be destroyed.

This Section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

- 5.0207 Cruelty to Animals. No person shall maltreat or abuse or neglect any animal or fowl. Any animal control officer, law enforcement officer or authorized official finding an animal or fowl mistreated as described in this section shall have the power to lawfully enter the premises where the animal is kept and demand to examine such animal and to take possession of such animal, when in his opinion, the animal requires humane treatment.
- 5.0208 Poisoning Animals. It shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, the property of another, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poisoned food where such is accessible to any such animal. (SDCL 9-29-11)
- 5.0209 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals or abandon any animal within the City. Animals known to be strays shall be immediately reported to the animal control officer, a law enforcement officer or authorized official. (SDCL 9-29-12)

5.0210 Number of Pets Limited. It shall be unlawful for any person to have or to keep more than five domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

5.0211 Licensing of Dog and Cat Required. Each owner or keeper of a dog or cat of the age of six months or over shall within thirty days after the acquisition of such animal or within thirty days after the time such animal becomes six months old, cause such animal to be licensed by the City.

5.0212 Application for License. Every owner or keeper of a dog or cat within the City must submit an application for an animal license for each such animal owned six months old or older and a renewal application within one year and annually from the month of the first license. The application shall be furnished by the Finance Officer. All applications for license certificates must be accompanied by a rabies immunization certificate and the appropriate fee, as shown in Section 5.0213.

A certificate and tag shall be issued upon receipt of a proper application for license. The certificate at all times must be in the possession of the owner. The owner shall contact the Finance Officer to report change of ownership, loss or death of a licensed animal. If a tag or certificate is lost, either may be replaced for a fee of one dollar. The tag must be worn by all dogs and cats.

5.0213 License Fee Schedule. The fee for licenses shall be as follows:

Dog or cat	\$5.00
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The most current fee schedule specifically addresses dog and cat licenses. Documentation from a veterinarian or other sufficient medical proof must be provided when licensing a neutered or spayed dog or cat. The City Council may revise any or all license fees by resolution. The City Council may in special instances, after a hearing, exempt the license fee in individual cases.

5.0214 License Fee Exemptions. The licensing provisions of this chapter shall not apply to dogs or cats in the custody of a veterinarian, or animal shelter or animal rescuer, or whose owners are nonresidents temporarily within the City for a period not exceeding thirty days. Also, when a blind person, physically disabled or hearing impaired person requests that no fee be charged to license his/her guide dog, or service dog, no fee shall be charged, upon submission of medical documentation attesting to said disability and/or service animal certification from a bona fide and recognized authority.

5.0215 Kennel Licenses Issued. The City Finance Officer, upon receipt of an application showing the owner's name and address, the name, breed, age, color and sex of each dog kenneled by the owner, a certificate signed by a qualified veterinarian that each dog has been vaccinated and payment of the appropriate license fee, as established by the City Council, shall issue a kennel license to the owners of dog kennels. All dogs housed in a licensed kennel shall be exempt from the other licensing provision of this ordinance.

5.0216 General Prohibitions and Duties.

- A. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon the such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.
- B. It shall be prohibited for any person to permit or allow an animal owned by that person or under that person's custody or control to defecate upon public property, park property, public right-of-way, or the property of another.
- C. It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of way, or the property of another. Anyone walking an animal on public or private property other than his own must carry with him visible means of cleaning up any fecal matter left by the animal. Animals used in parades or involved in law enforcement are exempt from this subsection. The owner or person having custody of the animal found in violation of this Section may, within 72 hours of the time when the notice of violation was given, pay to the office of the City Finance Officer, as fine for and in full satisfaction of the violation, the sum of \$50.00. If the owner or person having custody fails to pay the sum within the 72-hour period, he or she may pay to the office of the City Finance Officer, within the next two weeks from the date of violation, as a fine for and in full satisfaction of the violation, the sum of \$75.00. Upon failure of the owner or person having custody to pay either of the sums to the office of the City Finance Officer within the time periods indicated, and upon conviction of a violation of this Section, the owner or person having custody shall be fined not less than \$100.00 plus court costs, which fine shall be collected by the Magistrate Court. The owner or person having custody also has the right to contest the charges or plead "not guilty" within the time periods indicated above, and have the matter transferred to Magistrate Court. The penalties in this Section may be adjusted by resolution of the City Council.
- D. It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another.
- E. It is unlawful for a person, owning or having the care or custody or control of an animal to permit such animal to disturb the peace and quiet of the neighborhood by barking, howling, whining, or making any other loud or unusual noise. Leaving an animal unattended who subsequently disturbs the peace and quiet of the neighborhood shall be in violation of this Chapter.
- F. In the event an animal is making any noise to the disturbance of the peace and quiet of the neighborhood and the person owning or having the care or custody or control over the animal cannot be found to remedy the situation or if found refuses to do so, the animal may be impounded. A notice of the impoundment must be left with the person or in an obvious place on the premises where the dog was removed. A written notice of impoundment must also be sent by certified mail, with return receipt requested, as soon



as possible to the licensed owner of the animal if known; or the lessee of the premises upon which the animal was found, if known; or the record owner of the premises. Such notice is deemed completed at the time it is mailed, and any period to reply or abate begins to run from the date of mailing. The animal may be claimed on any regular work day during regular work hours. The impoundment fee will be assessed prior to release of the animal.

- G. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the City so as to hinder, delay or prevent his or her executing his or her duties pursuant to this Chapter.
- H. No person may set traps in the City for the purpose of apprehending wild or domesticated animals. This section does not prohibit:
  - 1. Trapping mice, rats or other household vermin;
  - 2. The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or
  - 3. The setting of traps in the line of duty by an animal control officer or with written permission from and under supervision of an animal control officer or licensed pest-control operators.
  - 4. The City Council authorizing residents to set traps.

### **CHAPTER 5.03 - FIREWORKS AND FIREARMS**

5.0301 Discharge of Fireworks Prohibited Without Permit. It shall be unlawful for any person to shoot, discharge or explode, or cause to be shot, discharged or exploded, any firecrackers, sky rockets, bottle rockets, blank cartridges, fireworks, or other explosives used for fireworks or fireworks display, in the City of Colton. Nothing in this section shall prohibit the use of a public display of fireworks in the City, provided that any person responsible for such public display shall, prior thereto, receive a permit from the City Council.

Exception: Unless suspended by the City Council, it shall be lawful for a person to discharge fireworks between the dates of July 3<sup>rd</sup> and July 5<sup>th</sup> of each year, between the hours of 11:00 a.m. to 11:00 p.m.

5.0302 Discharging Weapon. No person shall discharge any pistol, gun, revolver, or other firearm, or any bow and arrow, or any device capable of firing a projectile either by air or compressed gas or any other means which would likely cause injury to any person, or discharge any dangerous weapon, within the City limits.

The following uses are exempt from this section:

- A. Proper use of weapons in a licensed shooting range.
- B. Use by law enforcement or animal control officers in the discharge of their official duties, or to persons who are authorized by the City Council.

- C. Use by persons engaged in instructional courses using air guns, BB guns, or bows and arrows if the course has obtained a permit from the City, is conducted by a certified instructor, is covered by adequate liability insurance, and has been approved by the supervising unit if conducted on City property. The City Council may establish conditions for granting a permit to protect the health, safety, and well-being of the general public.
- D. The owner or inhabitant of a parcel of real estate within the City of Colton may use air guns or BB guns to control predators or pests on such property, provided all such activities comply with South Dakota Statute.
- E. Use of any air guns, BB guns or bow and arrow to shoot at an object, such as a padded disk with a marked surface, or other objects such as cans, wood, debris or the like, for the purpose of testing a person's skill or accuracy in the use of an air gun, BB gun, bow and arrow, or other weapon or device.

It shall be a defense to a charge of violation of this section that a person was engaged in lawful self defense, as set forth in SDCL 22-5-1, SDCL 22-5-9, and SDCL 22-18-4.

## CHAPTER 5.04 - MINORS

5.0401 Imposed. It shall be unlawful for any minor under the age of fifteen years to be on or present upon any streets, avenues, alleys, parks, playgrounds or other public grounds or places of amusements or entertainment, or places of business or vacant lots in the City before 6:00 a.m. or after 11:00 pm. on any days of the week, unless such minor is accompanied by his parent, guardian or other adult person having the care or custody of such minor.

It shall be unlawful for any minor over the age of fourteen years and under the age of eighteen years to be on or present upon any streets, avenues, alleys, parks, playgrounds or other public grounds or places of amusements or entertainment, or places of business or vacant lots in the City on the days and at the times as follows unless such minor is accompanied by his parents, guardian or other adult person having the care or custody of such minor:

- A. Monday through Thursday, both inclusive, before 6:00 a.m. or after 11:00 p.m.;
- B. Friday, before 6:00 a.m.;
- C. Saturday, between the hours of 12:30 a.m. and 6:00 a.m.;
- D. Sunday, between the hours of 12:30 a.m. and 6:00 a.m. or after 11:00 p.m.

5.0402 Parents and Guardians Not to Permit Violations. It shall be unlawful for any parent, guardian or other person having the legal care or custody of any minor under seventeen years of age to allow or permit such minor, while in such legal care, custody or control, to go or be in or upon any of the places and during the hours set forth in Section 5.0401.

5.0403 Owners or Managers of Places of Amusement or Business Not to Permit Violations. It shall be unlawful for the owner, manager or person in charge of any show or other place of

amusement or business to permit any minor under the age of seventeen years to enter or remain in such show or other place of amusement or business during the hours specified in Section 5.0401, unless such minor shall be accompanied by his parent, guardian or other adult person having the care and custody of such minor.