

## TITLE FOUR

### IV. Garbage & Refuse

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#### **Chapter 4.01 Definitions**

**4.01.00** "Garbage" means decomposable waste and the accumulation of food remnants, animal and vegetable wastes from facilities both single, family households and larger facilities.

"Refuse" means any solid wastes except carcasses and autos that are not capable of decomposition such as but not limited to paper, rags, metal, rubber, plastic, glass and crockery.

HC Ord. Title 4, 2000, HC Ord. Title 4, 2006

#### **Chapter 4.02 Separation of Garbage and Refuse Required**

**4.02.00** In order to protect the health and sanitation of Hill City, all units that create garbage and refuse shall use containers. Containers for garbage are required to be fly proof, leak proof and have a cover in order to prevent the attraction of flies, rodents, the spread of disease and bad odor. All garbage and refuse shall be bagged prior to collection. All garbage and refuse shall be collected by private sanitation services as hired by the resident or landowner.

SDCL 9-32-1, HC Ord Title 4, 2000, HC Ord Title 4, 2006

#### **Chapter 4.03 No Accumulation of Garbage or Refuse Allowed**

**4.03.00** No accumulation or deposit of refuse or garbage for more than seven (7) days shall be allowed in any street, alley, or vacant lot or other property in the

municipality public or private except in preparation for transportation to landfills or construction as allowed by the Public Works Superintendent.

HC Ord, Title 4, 2000, HC Ord. Title 4, 2006

## **Chapter 4.04 Abandoned and Junk Motor Vehicles**

### **4.04.01 DEFINITIONS**

As used in this title the following words, terms and phrases shall have the meanings herein ascribed:

**A.** Motor vehicles: Any self-propelled vehicle including but not limited to automobiles, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, and equipment operated by a motor including but not limited to boats and off-highway equipment.

**B.** Junk motor vehicles: Any motor vehicle which does not have lawfully affixed thereto unexpired license plates or which is wrecked, dismantled, partially dismantled, inoperable, or discarded.

**C.** Abandoned motor vehicle: Any motor vehicle which is left unattended on any public street or alley, in any public parking lot, or in any other public place for more than twenty-four (24) consecutive hours.

### **4.04.02 STORING, PARKING OR LEAVING DISMANTLED OR OTHER SUCH MOTOR VEHICLES DECLARED NUISANCE; EXCEPTIONS**

The presence of an abandoned, wrecked, dismantled, inoperative, junk or partially dismantled motor vehicle or parts thereof, on private or public property, is hereby declared a public nuisance.

This section shall not apply to any motor vehicle enclosed within a building on private property or to any motor vehicle held in connection with a business enterprise, properly operated in the appropriate zoning district so long as said business stores said vehicles in an enclosed fenced area.

This section shall not apply to any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways, which vehicle remains on private property and covered with an appropriate cover to screen it from view, or any motor vehicle retained on private property by the owner for antique collection purposes and covered with an appropriate cover to screen it from view.

This Section also does not apply to any unlicensed vehicle held in connection with a business enterprise including used auto parts, so long as said

business stores said vehicles in an enclosed fenced area.

**A. PLACES WHERE FENCES ARE REQUIRED**

Any business storing vehicles or used auto parts shall be entirely enclosed by a fence eight (8) feet in height which shall be kept neatly painted in natural earth colors and in good repair at all times, and which will be constructed of a minimum of one inch (1") dimension rough or finished lumber or corrugated iron, so as to exclude such yard from public view. A period of sixty (60) days from the date of the passage of this ordinance is allowed the operators of such yards to construct the fence or fences required by this ordinance.

**B. ADVERTISEMENT ON FENCES**

The fence enclosing such business shall not be used for bill posting or other advertising purposes, except that a space may be used for the advertisement of the business of the owner thereof as provided by the sign ordinance set forth in Hill City Ordinance 9.15. Where such yard fronts on more than one street, the use of space for advertising herein permitted shall extend to each street on which the yard abuts.

**C. CONTENTS NOT TO EXTEND ABOVE THE HEIGHT OF THE FENCE**

Any person or business storing motor vehicles and used auto parts shall not place or deposit the contents to a height greater than the height of the fence surrounding it.

**4.04.03      STORING, PARKING, OR LEAVING DISMANTLED OR OTHER SUCH MOTOR VEHICLES ON PUBLIC PROPERTY PROHIBITED**

No person shall park, store, leave or permit the parking, storing or leaving of any abandoned or junk motor vehicle of any kind, whether attended or not, upon any public property within the city.

**4.04.04      REMOVAL**

Whenever any law enforcement officer finds an abandoned motor vehicle or junk motor vehicle on public property he shall place a written notice on the vehicle that it will be removed to a garage or place of safety unless the owner removes the vehicle from public property within twenty-four (24) hours of the giving of the notice. After the expiration of the twenty-four-hour period, the vehicle may be removed by the removal agency to a garage or place of safety. Nothing in this section precludes the law enforcement department from immediately removing a motor vehicle which causes an obstruction or hazard to traffic.

HC Ord Title 4, 2000, HC Ord Title 4, 2006

**4.04.05      NOTICE TO OWNER**

It shall be the duty of the law enforcement department to notify, by certified or registered mail, the registered owner, and if encumbered, the lien holder, of the removal, storage and present location of any motor vehicle removed under the provisions of this title and that the vehicle can be recovered by payment incident to its removal and storage.

HC Ord. Title 4, 2000, HC Ord Title 4, 2006

**4.04.06 DUTY OF PRIVATE PROPERTY OWNERS**

No person owning, in charge of, or in control of any real property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned or junk motor vehicle of any kind to remain on such property longer than thirty (30) days.

HC Ord. Title 4,2000, HC Ord. Title 4, 2006

**4.04.07 NOTICE TO REMOVE**

Whenever it comes to the attention of the law enforcement department that any person has an abandoned or junk motor vehicle on his property, a notice in writing shall be served by certified mail upon such person ordering the removal of such motor vehicle. The notice shall contain the request for removal within thirty (30) days after the mailing of such notice, and the notice shall advise that failure to comply with the notice to remove shall be a violation of this title.

Upon failure, neglect or refusal of any owner to comply with the notice provided within thirty (30) days after receipt of the mailing thereof, the City is empowered to provide for the removal of such motor vehicle and defray the cost of such removal by a special assessment against the owner of said property. This cost will be submitted to the County Auditor as a special assessment for collection and monies received will be reverted back to the municipality according to the procedures for special assessments.

Law Enforcement is also authorized to issue a notice of violation of this ordinance by written complaint.

HC Ord Title 4, 2000, HC Ord. Title 4, 2006

**4.04.08 RACING OR ANTIQUE VEHICLES**

No owner or occupant of private property shall have an uncovered motor vehicle in operating condition specifically adopted or designed for operation on drag strips or raceways or an uncovered motor vehicle retained on private property for antique collection purposes.

HC Ord. Title 4, 2000, HC Ord. Title 4, 2006

**4.04.09 PENALTY**

Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than two hundred dollars (\$200.00).

**4.04.10 NUISANCES PROHIBITED**

**A.** No person or persons, owner, occupant, or person in charge of any house, building, lot or premises, in any area in the city, shall create, maintain, or commit, or permit to be created, maintained, or committed, any public nuisance as defined in subsection B), or as enumerated in subsection C) of this section.

**B.** Within the meaning of this section, a public nuisance consists in unlawfully doing an act, or omitting to perform a duty, within the corporate limits of the city, or in any public grounds, or parks belonging to the city, or within one mile of the corporate limits of the city not within another municipality, which act or omission either:

1. Annoys, injures, or endangers the comfort, repose, health, or safety of others; or
2. Offends decency; or
3. Unlawfully interfered with, obstructs, or tends to obstruct, or renders dangerous for passage any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street or highway; or
4. In any way renders other persons insecure in life, or in the use of property; and which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

**C.** Prohibited nuisances shall include, but are not limited to, the following enumerations, which are hereby deemed and declared nuisances:

1. Household waste including but not limited to items such as papers, rags, trash, garbage, discarded clothing, shoes, curtains, linen, and other apparel, tin cans, aluminum cans, plastic containers, glass containers, cleaning utensils, cooking utensils, and discarded household fixtures, when such items are stored, collected, piled, or kept on private or public property, and in view of adjacent properties or public right-of-ways.
2. Used building materials and waste, including but not limited to,

such items as lumber, plaster, old iron or other metal, concrete, brick and tile, piles of rock, sand, dirt, or gravel when not used for landscaping purposes, doors, windows, and scrap or salvage building materials, when such items are stored, collected, piled, or kept and are not stored inside a building; except for building materials that are temporarily stored for work on the premises authorized by a valid building permit obtained for the premises and in compliance with City of Hill City Ordinances provided that such used or waste building materials shall not remain on the premises more than thirty (30) days after the expiration of the building permit.

3. Household appliances, fixtures, and furniture including but not limited to items such as stoves, refrigerators, freezers, sinks, cabinets and other kitchen appliances, bedroom furniture, mattresses, tables, chairs, clothes washing and drying machines, bathroom appliances and fixtures, light fixtures, washtubs, when such items are stored, collected, piled, or kept and are not stored inside a building; except that patio furniture or other furniture designed for outdoor use shall not constitute a nuisance when kept in a residential area and in view of adjacent properties or public right-of-ways.

4. Dismantled motor vehicles, motor vehicle bodies, and disassembled parts thereof, disassembled bicycles and bicycle parts, and other mechanical machines or motors or parts thereof when such items are stored inside a building, in compliance with section 1 and 2 of the Ordinances of the City of Hill City regarding Abandoned and Junk Motor Vehicles set forth above.

5. Carcasses of animals and hides. All carcasses of animals remaining exposed one hour after death, excepting legally caught and tagged game, and all green or salted hides left deposited in any open place.

6. Liquid refuse. All slop, foul or chemically polluted water, liquor or beer washings, all filth, refuse or offal, discharged through drains or spouts or otherwise thrown or deposited in or upon any street, alley, sidewalk, public way, lot, park, public square, public enclosure, or any pond or pool of water.

7. Vegetables or vegetable matters emitting noxious odors. All vegetables, vegetable matters, or other articles that emit or cause an offensive, noxious or disagreeable smell or odor; and any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin, or other disease carrying pests, animals, or insects, except that the presence of earthworms in a compost pile shall not constitute a nuisance.

8. Weeds and tall grass.

9. Any other condition the City Council shall deem and declare to be a nuisance.

**D.** Nuisance appeal procedure. Any declaration by the City Council of a public nuisance pursuant to Subsection 9 of this Ordinance may be appealed to the City Council, in writing, within fifteen (15) days after said violator is notified by certified mail of such declared nuisance. Written notice of appeal shall be submitted to the City Finance Officer, P.O. Box 395, Hill City, South Dakota, 57745. Appeals shall be heard at the next meeting of the City Council. The City Council shall have the power, in passing on appeals, to authorize such exception from this title as will not be contrary to the public interest and so that the intent of this section shall be observed.

**E.** Citation for all other nuisances: Law Enforcement is authorized to issue a written complaint for any other nuisance as enumerated above, other than those declared nuisances by City Council.

HC Ord. Title 4, 2000, HC Ord Title 4, 2006

**04.04.11 PENTALTY AND REMEDIES FOR NUISANCES**

**A.** In addition to the abatement remedies prescribed in this Ordinance, any person convicted of maintaining any nuisance in violation of any provision of this title shall be punished as prescribed in 4.06 unless otherwise specifically provided, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues and after said violator has exhausted any appeal of declared nuisance.

**B.** The remedies against a public nuisance, in addition to those prescribed herein, shall be those prescribed by state law.

**C.** A public nuisance may be abated without civil action by the City of Hill City or officer authorized thereto by law. Any private person may likewise abate a public nuisance which is specially injurious to him or any private nuisance injurious to him in any manner by removing or, if necessary, destroying that which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. If a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his land, reasonable notice shall be given to him before entering to abate it. The City of Hill City may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred, provide said special assessment to the County Auditor, and recover said special assessment according to the procedure for special assessments.

HC Ord. Title 4, 2000, HC Ord Title 4, 2006

#### **Chapter 4.05**

#### **Disposition of Automobiles, Animal Carcasses and Refrigerators**

- 4.05.00** No empty refrigerators or junk or abandoned automobiles or animal carcasses or parts thereof may be left abandoned anywhere in Hill City and shall be disposed of under the direction of law enforcement but so as not to endanger the safety and health of inhabitants, especially children.

SDCL 34-28-3 HC Ord 29, HC Ord. Title 4, 2000, HC Ord. Title 4, 2006

#### **Chapter 4.06**

#### **Penalty**

- 4.06.00** Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than two hundred dollars (\$200.00) and/or not more than 30 days in jail.

HC Ord Title 4, 2000, HC Ord Title 4, 2006