

# **Hamlin County Ordinance**

## **for the Declaration and Abatement of Public Nuisances**

### NOTICE OF ADOPTION ORDINANCE 02-12

#### AN ORDINANCE FOR THE DECLARATION AND ABATEMENT OF PUBLIC NUISANCES

BE IT ORDAINED BY HAMLIN COUNTY, PURSUANT to SDCL 7-8-33 and consistent with the purpose of creating and maintaining a compatible relationship of land uses, certain standards are established to protect the public health and safety, adjacent property values and preserve aesthetic values; then therefore,

#### **Section 1. Definitions.**

**Enforcement Officer:** Enforcement officer means any designated representative of Hamlin County, including, without limitation, law enforcement officers or States Attorney.

**Normal Agricultural Operation:** Normal agricultural operation includes any facility used in the production or processing for commercial purposes of crops, timber, livestock, swine, poultry, livestock products, swine products, or poultry products.

**Person:** A person means any one or more of the following:

- a. An owner, occupant or agent,
- b. An assignee or collector of rents,
- c. A contract for deed vendee,
- d. A mortgagor in possession,
- e. A receiver, executor or trustee,
- f. A lessee,
- g. A mortgagee in possession,
- h. Other person, firm or corporation exercising apparent control over a property.

**Public Nuisance:** Unlawfully doing an act or omitting to perform a duty. The specific acts, conditions, and things listed in Section 3 are hereby declared to constitute public nuisances.

#### **Section 2.**

No person or persons, owner, occupant or person in charge of any house, building, lot or premises, in Lake Park 1 District, unless used in a normal agricultural operation, shall create, maintain or commit, or permit to be created, maintained or committed, any public nuisance as defined in Section 1 of this ordinance, or as enumerated in Section 3 of this ordinance.

#### **Section 3.**

The following are hereby declared to constitute public nuisances:

**A. *Abandoned property:*** Any wrecked, dismantled or partially dismantled, inoperable, abandoned and/or unlicensed motor vehicles, abandoned mobile homes, trailers, boats, refrigerators, washing machines and other appliances, plumbing fixtures, furniture, building materials and any other similar articles in such condition.

**B. *Garbage and refuse:*** Household waste, including, but not limited to, items such as paper, 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 rights-of-way.

**Section 4.** *Public Nuisance Penalty 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 five hundred dollar (\$500.00) fine, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**B.** In addition, Hamlin County may also use the remedies of civil action and abatement as set forth in South Dakota Codified Laws (SDCL) 21-10-5 through SDCL 21-10-9.

**Section 5.**

Notwithstanding any provision of this Ordinance to the contrary, it is expressly declared that a person shall not be charged with a violation of this Ordinance and no relief can be sought against the person under the provisions of this Ordinance when the conduct or activity which is alleged to violate this Ordinance is conduct or activity which is authorized by permit, license, authorization, or approval issued by the United States of America, the State of South Dakota, Hamlin County, or any municipality within the County, and any agency or department of those governmental entities. In addition, SDCL 21-10-25.1 to 21-10-25.6 inclusive shall limit the circumstances under which a normal agricultural operation may be deemed a nuisance.

**Section 6.**

*Severability.* If any provision of this Ordinance shall be held invalid, it shall not effect 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.

*Passed and adopted this 27<sup>th</sup> day of December 2012.*

*Randall Rudebusch, Chairperson*

*Dixie Opdahl, County Auditor*