

TITLE 3 – HEALTH AND SANITATION  
Chapter 3.01 - Nuisances  
Chapter 3.02 – Certain Uses Not Permitted

CHAPTER 3.01 – NUISANCES

3.0101 Definitions: The following definitions shall be used within this title

Enforcement Officer means any designated representative of the City of Timber Lake, including, without limitation, City Board, Law Enforcement Officers, or the City Attorney.

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

1. An owner, occupant, or agent,
2. An assignee or collector of rents,
3. A contract for deed vendee,
4. A lessee,
5. Other person, firm or corporation exercising apparent control over a property

Public Nuisance: Unlawfully doing an act, or omitting to perform a duty, which act or omission:

1. Annoys, injures, or endangers the comfort, repose, health, or safety of others; or
2. Offends decency; or
3. Is offensive to the senses; or
4. In any way renders others persons insecure in life, or in the use of property; or
5. Renders the ground, the water, the air, or food a hazard or injurious to human health; or
6. Essentially interferes with the comfortable enjoyment of life or property or tends to depreciate the value of the property of others; or
7. Is declared by State Law to be considered a nuisance;
8. The specific acts, conditions, and things listed in 3.0103 are hereby declared to constitute public nuisances. Such additional enumeration is not deemed to be exclusive.

3.0102 Nuisance – General. No person or persons, owner, occupant or person in charge of any house, building, lot or premises, within the corporate limits of the City of Timber Lake shall create, maintain or commit, or permit to be created, maintained or committed, any public nuisance as defined in 3.0101 of this title.

3.0103 Nuisance Defined.

The following are hereby declared to constitute public nuisances:

1. Breeding places for flies, rodents and/or pests: The unhealthful accumulation or stockpiling of manure, garbage, tires, debris or discarded items.
2. 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.
3. The accumulation of dead animals, animal matter or waste of any kind. Dead animals cannot be left to remain on any public street, alley, public ground or private lot within the City.
4. Obstructing Road, Sidewalk, and Alley Right of Ways: Allowing vehicles, garbage, waste, refuse, or any discarded items or debris to accumulate within the road right of way, so that said items obscure the view of traffic at any intersection or block the passage of emergency vehicles on any public roadway, sidewalk, or alley.

3.0105 Enforcement Procedures.

1. Whenever the Enforcement Officer determines that there has been a violation of this ordinance or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person(s) responsible as prescribed below. Such notice shall:
  - a. Be in writing.
  - b. Delivered personally; or
  - c. Sent by certified or first-class mail addresses to the last known address.
  - d. Include a statement of the violation or violations and why the notice is being issued.
  - e. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure or premises into compliance with the provisions of this ordinance; and
  - f. Inform the person of the right of appeal.
2. The City shall be entitled to recover the cost of the enforcement of this ordinance. Cost incurred by City crews will be at their hourly rate and standard equipment machine rates per hour. Cost incurred from outside sources will be charged from invoice. Abatement costs are to be paid from City Funds, and property owner is to be billed. If not paid within thirty (30) days, special assessment can be made against the real property, or a civil action brought against the property owner, pursuant to SDCL 21-10-6.

3.0106 Means of Appeal.

1. Application for appeal. Any person directly affected by a decision of the Enforcement Officer or a notice or order issues under this title shall have the right to

appeal to the City Board, provided a written application for appeal is filed within twenty (20) days after the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this title or the rules adopted thereunder have been incorrectly interpreted, the provisions of this ordinance do not fully apply, the strict enforcement of this ordinance would create great and undue hardship, or the requirements of this ordinance are adequately satisfied by other means.

2. Notice of meeting. The City Board shall consider the appeal at its next regularly scheduled meeting being at least 14 days from the filing of the appeal. A notice of the time and place of the hearing shall be sent by certified mail to the applicant at least seven (7) days prior to the meeting.

3. Open hearing. All appeal hearing under this section shall be open to the public as required by law. The applicant, the applicant's representative, the Enforcement Officer, and any person whose interests are affected shall be given the opportunity to be heard.

4. Board Decision. The City Board shall modify or reverse the decision of the Enforcement Officer only by a concurring vote of a majority of the total number of elected members.

5. Public Nuisance. If the decision of the Enforcement Officer is upheld, the City Board shall declare the property to constitute a public nuisance and the Board shall direct the Enforcement Officer to institute the appropriate proceedings at law or equity to restrain, correct, or abate the same according to law.

3.0107 Transfer or Ownership. The sale, transfer, mortgage, lease or otherwise disposition of the structure or premises upon which a notice of violation has been received shall not affect the responsibility or relieve the person who has received the prior notice of violation from complying with the provisions of the notice of violation.

3.0108 Littering. It shall be unlawful for any person to throw or let fall on or permitting to remain on any street, alley, or public ground any manure, garbage, rubbish, filth fuel or wood while engaged in handling or removing any such substance.

#### CHAPTER 3.02– CERTAIN USES NOT PERMITTED

3.0401 Stock Yards Not Permitted. It shall be unlawful for any person, firm, or corporation to keep or maintain a stock yard, or enclosure for the keeping and feeding of livestock within the city limits of the City of Timber Lake.

3.0402 Junk Yards Not Permitted. No building, place, or lot where junk, rags, papers, empty bottles, junked automobiles, parts thereof, or other worn-out machinery shall be established or maintained within the City of Timber Lake. Special permission may be given by the City Board.