

**ORDINANCE NO. 1050**

**AN ORDINANCE AMENDING ORDINANCE NO. 809, CHAPTER Q, BY INSERTING SECTION Q-15 VACATION HOMES**

**BE IT ORDAINED** by the City Council, in and for the City of Fort Pierre, South Dakota:

Section 1. That Ordinance No. 809 Chapter Q-15 Vacation Homes be inserted as written below:

**Q-15 VACATION HOMES**

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## Q-15-100 PURPOSE

The purpose of this chapter is to establish minimum standards for Vacation Homes operating within the jurisdiction of the City of Fort Pierre. The established standards are for the safety and welfare of the local residents, property owners, owners, and customers of the Vacation Homes.

This ordinance is to support and enhance the laws and regulations of the State of South Dakota.

## Q-15-101 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply for areas within the jurisdiction of the City of Fort Pierre including the extra-territorial mile:

Words defined in SDCL 34-18-1 have the same meaning when used in this chapter. In addition, the terms in this chapter mean:

1. "Approved," acceptable to the Department of Health based on compliance with applicable standards and public health practices;
2. "Camping unit," any trailer, tent camper, camper, camping cabin, tent, recreational park trailer, or other equipment that may be used by the traveling public at individual campsites;
3. "Campsite," a specific parcel of land intended for occupancy and used by a single camping unit;
4. "Communicable disease," as defined in ARSD 44:20:01:01;
5. "Egress window," a window of sufficient size to meet the requirements of ARSD 44:02:08:15 so that an occupant of a guest room can escape through the window in an emergency;
6. "EPA-certified laboratory," a laboratory that meets the requirements outlined in chapter ARSD 74:04:07;
7. "Guest," an occupant of a rental unit of a lodging establishment;
8. "Guest room," any room used or intended to be used by a guest for sleeping purposes;
9. "Health hazard," a chemical agent, source of filth, cause of sickness, or condition which is a health threat to others or a threat to the public health;
10. "Inspection," an objective examination of a lodging establishment by the department to review the employee practices, sanitary conditions, and health standards in accordance with SDCL chapter 34-18 and this chapter;
11. "Lodging establishment," any building or other structure and property or premises kept, used, maintained, or advertised or held out to the public to be a place where sleeping accommodation are furnished for pay to two or more transient guests;
12. "Operator," any person or organization designated in charge of the day to day operations of a lodging establishment, campground, or food service establishment as defined in SDCL 34-18-1;

13. "Planned Development District," an independent zoning district, wherein the zoning regulation need not be uniform for each class or type of land use, but where the use of land shall be in accordance with a preliminary planned development plan by district;
14. "Primary exit," an exit with a side hinge door leading to the exterior of the structure that is most often used when entering or exiting the structure;
15. "Private water system," a water system that serves a campground, food service establishment, or lodging establishment that is not a public water system regulated by the Department of Environment and Natural Resources;
16. "Public water system," a system that is regulated by the Department of Environment and Natural Resources that meets the definition requirements set forth in ARSD 74:04:12:01;
17. "Single action hardware," a latching mechanism that allows a door to unlock and open with a single turn or movement of the interior knob or lever. This includes doorknobs, lever handles, and panic bars;
18. "Temporary Lodging." The same individual or individuals occupying the Vacation Home for periods of 180 days or less in any calendar year.
19. "Transient guest" shall be any person who resides in a lodging establishment less than twenty-eight (28) consecutive days.
20. "Vacation Home" establishment, any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than 14 days in a calendar year and is not occupied by an owner or manager during the time of rental. This term does not include a bed and breakfast establishment as defined in SDCL subdivision 34-18-9.1(1).

## **Q-15-200 ZONING DISTRICTS PERMITTING VACATION HOMES**

Vacation Homes are permitted by conditional use in the following zoning districts with the special conditions indicated below and additional requirements as specified by the Planning and Zoning (P&Z) Commission and City Council. Upon receiving a Conditional Use Permit, a Vacation Home must also obtain an annual city license as indicated in Section Q-15-301.

The Vacation Home shall not be exempt from any zoning requirements or regulations of the zoning district in which the Vacation Home is located.

Vacation Homes are prohibited in floodways. Vacation Homes are excluded from the Industrial and Sale Barn Districts.

### **General Commercial Zoning District (Q-6-102)**

- Shall be compatible with the adjacent operations.
- Shall be screened as deemed appropriate by P&Z from view from the adjacent properties.
- No parking of Camping Units within Public Right of Way.
- Vacation Home shall have access to an improved public road.

### **Highway Commercial Zoning Districts (Q-6-201)**

- Shall be compatible with the adjacent operations.
- Shall be screened as deemed appropriate by P&Z from view from the adjacent properties.
- No parking of Camping Units within Public Right of Way.
- Vacation Home shall have access to an improved public road.
- SDDOT approved access from the State Highways or access to Vacation Home is from City streets.

### **Park, Riverfront and Fairground District (Q-8-102)**

- Shall be compatible with the adjacent operations.
- Shall be screened as deemed appropriate by P&Z from view from the adjacent properties.
- No parking of Camping Units within the Public Right of Way.
- Vacation home shall have access to an improved public road.

### **Planned Development District (Q-10-102)**

- Shall be permitted by the Planned Development District and by the District by-laws and covenants if any.
- The Planned Development District shall be a minimum of 1 acre in size or be surrounded by property not usable for residential use of an area of 1 acre or more.
- Shall be screened as deemed appropriate by the Planned Development District and P&Z from view from the adjacent properties.
- Shall be compatible with the adjacent operations.
- No parking of Camping Units within the Public Right of Way.
- Vacation home shall have access to an improved public road.

### **Q-15-201 CONDITIONAL USES**

The following uses are permitted by Conditional Use Permit.

- A. Vacation Home
- B. Temporary Lodging
- C. Single Family Home (not permitted in General Business, Highway Commercial or Parks Riverfront and Fairgrounds Districts)

### **Q-15-202 ACCESSORY USES**

The following uses are considered accessory uses to the permitted conditional use permit.

- A. Construction, maintenance, and use of swimming pools
- B. Campsites
- C. Camping Units in designated campsites
- D. Outdoor cooking and dining
- E. Storage buildings for equipment used by the Vacation Homeowner for maintenance of the Vacation Home
- F. Garages, carports, and storage buildings for the renters of the Vacation Home for the duration of the stay for the purpose of storing boats, vehicles and other equipment used while occupying the Vacation Home
- G. Playground

- H. Boat and fishing docks
- I. Boat ramps
- J. Swimming beaches

### **Q-15-203 CERTAIN USES DECLARED INCOMPATIBLE AND EXCLUDED**

The following uses are prohibited:

1. Sublease or rental of the Vacation Home by someone other than Licensee
2. Illegal activities
3. Large parties in excess of occupancy limits specified in the Conditional Use Permit.
4. Behavior and use not in compliance with City Ordinances and state and Federal Laws.

### **Q-15-300 VACATION HOME - CONDITIONAL USE PERMIT**

To operate a Vacation Home within the City of Fort Pierre, the owner of the Vacation Home shall obtain a Conditional Use Permit. To obtain or renew a Conditional Use Permit, an application for a conditional use permit to operate a Vacation Home must be submitted to the Director of Public Works or designee four (4) months prior to start up or expiration and must be approved by the Planning and Zoning Commission for recommendation to the City Council. The Conditional Use Permit will expire as determined by the terms of the Conditional Use Permit. The Conditional Use Permit must be renewed prior to its expiration for continued operation. A Conditional Use Permit is not transferable.

### **Q-15-301 VACATION HOMES – LICENSE**

To operate a Vacation Home within the City of Fort Pierre, the owner of the Vacation Home shall obtain an annual State License prior to obtaining a City License. To obtain or renew a Vacation Home License, the Operator must provide proof of insurance and construct, maintain, and operate the Vacation Home in accordance with this ordinance and other City Ordinances and applicable State laws which may apply. The License application shall be provided by the Finance Officer. The application will be reviewed by the Director of Public Works or designee, who will then forward to the P&Z Commission for recommendation to the City Council for the issuance or denial of the license. The application, a copy of the rental agreement, house rules, approved state license, and other items required to accompany the application shall be due, no later than December 31 of each year the Vacation Home is in operation. The Fee for obtaining a Vacation Home License shall be as indicated in Section S-1-5 related to fees assessed by the City of Fort Pierre.

A Guest Registry must be maintained and contain accurate contact information for each guest that stays at the Vacation Home. Each Vacation Home is required to maintain these records for three (3) years. Periodic inspection by the City will be conducted. A review and verification of the Guest Registry will be required to renew the license of a Vacation Home.

For any licensed Vacation Home, there shall be a re-inspection fee as provided in Section S-1-5 Procedures for Issuance of License and Permits, including Fee Schedule. This re-inspection fee shall be charged each time a Vacation Home is re-inspected. To receive or renew the license, the Vacation Home shall be in compliance with all the requirements of this Chapter and the issued conditional use permit.

All Vacation Home Licenses shall be for one year in duration and shall begin on January 1 of each year and expire December 31 of that year.

The License for the operation of a Vacation Home shall be terminated upon written notice from the City of Fort Pierre for continued violations of this ordinance, or act or inaction by the Vacation Homeowner that jeopardizes the health, safety, and welfare of the residents of the local area/neighborhood or of the City of Fort Pierre.

A Vacation Home license is not transferable. Vacation Home license fees are non-refundable.

### Q-15-302 INSURANCE

The Vacation Home shall obtain and maintain an insurance policy and provide to the City Finance Officer, annually at the time of license renewal, proof of insurance coverage when obtaining the Vacation Home Permit and License. All insurance policies shall list the City of Fort Pierre as an additional insured.

The following minimum insurance coverages shall be required:

- Vacation Home Property Insurance
- (Incident/Aggregate) General Liability Insurance
- (Incident/Aggregate) Other Insurance
- Insurance Limits: Per State Statute
  - Incident: \$1 Million/\$2 Million
  - Aggregate: \$1 Million/\$2 Million
- Excess Policy

Other insurance which may be required per State Statute before a license will be issued include:

- Workers Compensation
- Vehicle Insurance
- Swimming Pool Liability Insurance

Other insurance may be necessary depending on permitted uses, location, and other risk factors.

### Q-15-303 LIABILITY

The City and representatives of the City acting in good faith shall not be held liable, personally or as an entity, for any damage occurring to persons and property as a result of any act or by reason of an act or omission in the discharge of official duties or for the operation of the Vacation Home.

### Q-15-304 BUILDING PERMITS

A building permit is required for every new construction for use as a Vacation Home or renovation of an existing residential structure for purposes of converting its use to a Vacation Home or accessory structure. The building permit shall be obtained from the Building Official. Separate permits are required for gas, plumbing, electrical and mechanical work, grading, drainage, and erosion control within and around the Vacation Home. All work shall comply with the currently adopted zoning, building, gas, plumbing, electrical and mechanical codes. The fees for permit applications shall be the building code fee schedule adopted by the City in effect at the time of the application.

Any building permit exemptions allowed by the current Building and Zoning Codes, or any other Code adopted by the City shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Chapter.

## Q-15-401 OCCUPANT LIMITS

### **Bedrooms:**

A maximum of two (2) persons per bedroom are allowed in a Vacation Home unless the bedrooms are of sufficient size to safely accommodate additional persons. The applicant is required to provide the total number of verified sleeping accommodations with the application for licensure. Sleeping accommodations must be verified by Director of Public Works or designee prior to licensure or renewal of licensure. Minimum bedroom area of any bedroom is 70 square feet for the first person plus 50 square feet for each additional person, or the minimum sleeping room as required in current adopted applicable building and fire code.

### **Total Home Occupancy:**

The maximum number of occupants in a Vacation Home shall be indicated in the Conditional Use Permit, and will be as follows:

Maximum number of daytime guests, between the hours of 6:00 AM and Midnight, is the lesser of the total floor area divided by 50 square foot per person or as allowed by egress capacity.

Maximum number of overnight guests within the Vacation Home shall be limited to the approved sleeping arrangements. The guests staying in Camping Units, if permitted, are not included in the total allowed overnight guests within the Vacation Home.

## Q -15-403 PARKING

There shall be established and maintained for each Vacation Home, one vehicle parking space per bedroom and camping unit. There shall also be one (1) off street vehicle parking space per five (5) allowable guests. Off street parking spaces for overnight guests shall be located on the property or near the Vacation Home. Overnight guest parking on public streets is prohibited. Daytime guests may park on the street. Parking in the front yard is prohibited.

## Q-15-404 PARKING RESTRICTIONS

Each Vacation Home shall have sufficient off-street parking to accommodate the occupant capacity of the Vacation Home. No occupant of the Vacation Home shall park a camper, trailer, or recreational vehicle upon a public street for a continuous period of more than two (2) hours.

Source: Ord 888, 1030

Authority: SDCL 9-30-2, 9-31-1

Cross Reference: N-1-1(e)

Reference: (SDCL 32-30-6(2), 32-30-11.1)

## Q-15-405 PRIVATE ROADWAYS, DRIVEWAYS AND PARKING PADS

Driveways shall be constructed in accordance with City Standards.

Parking pads shall be constructed in accordance with City Standards.

## **Q-15-500 PROPERTY MAINTENANCE**

All Vacation Homes shall be in compliance with the currently adopted Property Maintenance Code and other applicable City Ordinances.

## **Q-15-501 VACATION HOME NUMBERING**

The Vacation Home shall be properly identified with the correct house number and street address with identification being no less than 4 inches in height and readily visible from city streets.

## **Q-15-600 UNAUTHORIZED DISCHARGE**

A Vacation Home shall not allow Camping Units to discharge wastewater (grey or black) on to the surface of the ground, into public streets or directly into the sanitary sewer manholes.

## **Q-15-601 SOLID WASTE REMOVAL**

The storage, collection, and disposal of solid waste in the Vacation Home shall be accomplished so as to prevent fire and health hazards, rodent harborage, insect breeding, accidents and odor. The operator of a Vacation Home may be required to enter into a contract for regular collection with an approved hauler and may be required to show proof thereof.

Leak proof, non-absorbent solid waste containers with tight fitting lids shall be located not more than two hundred (200) feet from the Vacation Home and placed where renters can easily locate.

Solid waste containers shall be screened from other activities by visual barriers such as fences, walls, or natural growth, and should be identified.

Garbage removal shall be in accordance with City Ordinances.

## **Q-15-602 VERMIN CONTROL**

Each building and area of the Vacation Home shall be constructed, equipped, and maintained to prevent the entrance, harborage, or breeding of flies, roaches, rats, mice, and all other insects and vermin. If there is an infestation, the City may require the owner of the Vacation Home to clean, renovate, and fumigate the Vacation Home to eliminate and to prevent the pests prior to continued use. The City may require the Vacation Home to hire a professional exterminator to exterminate pests under the following conditions:

- 1) The infestation is so extensive that it is unlikely that a nonprofessional can eradicate the pests effectively
- 2) The method of extermination of choice can only be carried out by a professional exterminator;
- 3) The City finds the Vacation Home has not been brought into compliance with a prior order to rid the establishment of pests.

The City shall require regularly scheduled professional extermination services following the determination of an excessive pest infestation.

Source: Ord 986

Source: 34 SDR 321, effective June 30, 2008

General Authority: SDCL 34-1-17, 34-18-22.

Law Implemented: SDCL 34-18-22, 34-18-24.

## Q-15-603 FIRE PROTECTION

Any Vacation Home establishment shall meet the following minimum fire safety standards:

- 1) Each floor where ten or more occupants are sleeping shall have access to at least two remote egress exit doors to the exterior of the home;
- 2) Any egress exit door or window that leads to the exterior of the structure shall be capable of unlocking from the interior without the use of a key or special knowledge or effort and free from obstruction;
- 3) There shall be a smoke detector in each sleeping room and outside of each sleeping room within 10 ft of each sleeping room door. There shall be at least one smoke detector on each level of the home. The owner or manager shall test any battery-operated smoke detector at least twice a year;
- 4) Any sleeping room shall be equipped with an operable egress window. Any sleeping room with a direct egress exit door to the exterior of the building is exempt from this requirement; and
- 5) A portable fire extinguisher with a minimum 2-A rating shall be made available on each floor and shall be inspected and tagged annually.

Portable fire extinguishers shall be provided in an accessible area for use and shall be maintained in an operable condition. Each fire extinguisher shall be rated a minimum of 2A10BC, shall be no more than 75 feet from any kitchen and exterior barbeque or area of open flame, must be maintained operational and must be accessible to the occupants/guests at all times.

If capacity exceeds:

- 20 overnight guests, an automatic multiple station Fire Detection and Alarm system with pull stations on each floor and annunciation panel with direct 911 call, installed per South Dakota Adopted Fire Code.
- 30 Overnight guests, A Fire Detection and Alarm System as stated above and an Automatic Fire Suppression System installed per South Dakota adopted Fire Code.

Source: SL 2008, ch 172, § 2; SL 2011, ch 157, § 3.

## Q-15-700 SLEEPING ROOMS

Any building/structure that is provided for use by overnight guests and physically secured to the ground on a foundation system shall meet the following requirements:

- 1) Each sleeping room shall either directly exit to the outside or be equipped with an operable egress window;
- 2) Each window and opening to the outside that is not a door shall be screened to prevent the entrance of vermin and insects;
- 3) Any fuel fired heating equipment located inside the Vacation Home shall be inspected at least once a year by a person in the business of heating system maintenance. A carbon monoxide detector shall be installed on each level of the home and within 10 feet of the door of each sleeping room. A written verification of the inspection shall be kept on file for the Vacation

Home with the date of the inspection, a written statement by the person making the inspection, and that person's signature; and

- 4) Bath house if present must meet all applicable codes.

### **Q-15-701 EGRESS WINDOWS**

Each egress window in the Vacation Home shall have at least a net clear opening of 5.7 square feet. The net clear opening shall be at least 24 inches high and at least 20 inches wide. The egress window shall open from the inside of the guest room without the use of any special tool or knowledge. The egress window shall have a finished sill height of not more than 44 inches above the floor. Egress windows shall be in full compliance with the adopted building code.

Egress windows shall be clearly identified as an exit.

Source: 36 SDR 96, effective December 8, 2009.

General Authority: SDCL 34-1-17, 34-18-22.

Law Implemented: SDCL 34-18-22, 34-18-22.1, 34-18-22.2, 34-18-24.

### **Q-15-702 EGRESS WINDOW WELLS**

Each egress window that is below grade shall lead to a window well. The horizontal dimensions of the window well shall provide at least a net clear area of nine square feet with at least a horizontal projection and width of 36 inches. The vertical height of the window well may not exceed 44 inches without a permanent ladder. All egress window wells shall comply with the current adopted building code.

Source: 36 SDR 96, effective December 8, 2009.

General Authority: SDCL 34-1-17, 34-18-22.

Law Implemented: SDCL 34-18-22, 34-18-22.1, 34-18-22.2, 34-18-24.

#### **Q-15-702.1 EGRESS WINDOW EXCEPTION**

For Lodging establishments constructed before July 1, 2009, each grade level egress window shall have at least a net clear opening of five square feet and shall be at least 24 inches high and at least 20 inches wide.

Source: 36 SDR 96, effective December 8, 2009.

General Authority: SDCL 34-1-17, 34-18-22.

Law Implemented: SDCL 34-18-22, 34-18-22.1, 34-18-22.2, 34-18-24.

### **Q-15-703 GUEST ROOM TOILET AND BATHING FACILITIES**

Each Vacation Home establishment shall provide toilet, lavatory, and bathing facilities. In establishments providing toilet, lavatory, and bathing facilities shared by more than one guest room, the facilities must be provided in the ratio of one water closet, lavatory, and shower or bathtub or bathtub and shower combination for every ten guests.

All facilities must be provided with hot and cold running water under pressure to each lavatory, shower, bathtub, and bathtub and shower combination. The hot water must be a minimum of 110 degrees Fahrenheit and at a maximum temperature of 120 degrees Fahrenheit at the tap. Each shower, bathtub,

and bathtub and shower combination shall be provided with individual control valves of the pressure balance, thermostatic, or combination pressure balance and thermostatic mixing valve type that provide scald and thermal shock protection.

Source: 34 SDR 321, effective June 30, 2008.

General Authority: SDCL 34-1-17, 34-18-22.

Law Implemented: SDCL 34-18-22, 34-18-24.

Cross-Reference: State Plumbing Code, art 20:54.

### **Q-15-705 VENTILATION**

Bathrooms, toilet rooms, and laundry rooms must be provided with either natural ventilation or mechanical ventilation connected directly to the outside. Mechanical clothes dryers must be vented to the outside. No vent shall discharge into the attic or eave space. When vented to the outside air, the discharge may not create a health hazard.

Source: 34 SDR 321, effective June 30, 2008.

General Authority: SDCL 34-1-17, 34-18-22.

Law Implemented: SDCL 34-18-22, 34-18-24.

### **Q-15-706 HEATING EQUIPMENT**

Each facility shall have a heating system capable of maintaining a temperature between 65 degrees Fahrenheit and 75 degrees Fahrenheit. Any heating equipment, if fuel-burning, shall be inspected at least once a year by a person in the business of heating system maintenance (which includes hot water heaters, primary heating sources, and secondary heating sources). A written verification of the inspection must be kept on file in the facility with the date of inspection, a written statement by the person making the inspection, and that person's signature.

Source: 34 SDR 321, effective June 30, 2008.

General Authority: SDCL 34-1-17, 34-18-22.

Law Implemented: SDCL 34-18-22, 34-18-24.

### **Q-15-707 SWIMMING POOLS/SPAS**

Each swimming pool, spa, or other similar recreational facility shall comply with requirements set forth in Department of Health South Dakota Codified Law.

Swimming pools shall be grounded in accordance with the National Electrical Code.

### **Q-15-708 PET KENNELS AND CONTROL OF ANIMALS**

Any pet kennel or pet confinement, if provided, shall be operated, and maintained in a clean, sanitary, and safe manner. No owner or person in charge of an animal may permit it to run at large or to become a nuisance for the Vacation Home or the adjacent properties. The Vacation Homeowner/Manager shall require all renters leaving their animal kenneled at the Vacation Home to provide their contact information to the Vacation Homeowner or Manger in case of an emergency or disturbance. All city leash laws will be enforced.

### **Q-15-709 EXTERIOR LIGHTING**

Adequate lighting for the safe movement of both pedestrians and drivers shall be provided.

### **Q-15-900 INSPECTIONS**

The Director of Public Works or his designee are authorized and directed to make inspections to determine the condition of Vacation Homes located in the city's Planning and Zoning jurisdiction in order that they may perform their duties of safeguarding the health, safety, and welfare of occupants of the Vacation Home.

The Fire Chief or his designee and/or the Building Official or his designee shall have the power to enter at reasonable times upon any Vacation Home for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. It shall be the duty of the owner or occupant of the Vacation Home or the person in charge thereof to give the Fire Department and/or building official free access to such Vacation Home at reasonable times for the purpose of inspections.

### **Q-15-901 HAZARDOUS CONDITION**

If, during a routine inspection, an obvious health hazard or other hazardous condition is discovered which presents an imminent danger to individuals, the department shall require the owner of the Vacation Home establishment to remove or correct the hazardous condition.

Source: 34 SDR 321, effective June 30, 2008.

General Authority: SDCL 34-1-17, 34-18-22.

Law Implemented: SDCL 34-18-22, 34-18-24.

### **Q-15-1000 TERMINATION OF THE PERMIT**

The Conditional Use shall be valid for 1 (one) year or as specified by the Conditional Use Permit, but not to exceed 3 (three) years, at which time, the owner of the property must re-apply for a Conditional Use Permit in order to obtain a license to continue operating the Vacation Home. The owner must request a new Conditional Use Permit no later than 4 (four) months prior to the expiration date of the current permit.

Failure to obtain a Conditional Use Permit for continued operation of a Vacation Home is a violation of this ordinance. Penalties for violations shall be assessed as written in Chapter T. If the owner has not begun operating the Vacation Home for a period of 6 months from the date the approval of the Conditional Use, the Conditional Use Permit shall be terminated. If the owner has not operated the Vacation Home for a period of 6 months under a valid Conditional Use Permit, the Conditional Use Permit shall be terminated. Reapplication for a Conditional Use Permit shall be required.

The Applicant/Owner may terminate this permit in writing at any time during the term of a valid Conditional Use Permit. Terms of termination and restoration of the property will be prepared and approved by all parties. Fees for permit or license are not refundable.

### **Q-15-1100 VIOLATION-PENALTY**

Wherever in this chapter an act is prohibited or is made or declared unlawful, or the doing of any act is required or the failure to do any act is declared to be unlawful, any person who is in violation shall be fined in accordance with the City's general penalty as indicated in City Ordinance Chapter T-1-2. Each day any violation of this chapter continues shall constitute a separate offense.

A violation of these Ordinances constituting a public nuisance as defined under SDCL Chapter 21-10 is subject to abatement. The City shall be entitled to recover its entire costs incurred in abating the nuisance.

### Q-15-1200 APPEALS

A. Any person directly affected by a decision, notice or order of the code official under this ordinance shall have the right to appeal to the Board of Adjustments and Appeals, provided that a written application for appeal is filed with the Director of Public Works or their authorized designee within 30 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Ordinance or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this Ordinance are adequately satisfied by other means.

B. Appeals of decisions of the code official (other than ministerial acts or Imminent Danger notices) shall stay the enforcement of the decision until the appeal is heard by the Board of Adjustments and Appeals.

C. All hearings before the Board of Adjustments and Appeals shall be open to the public. The appellant, the appellant's representative, the code official, any member of the City staff, or any person whose interests are affected shall be given an opportunity to be heard.

D. The Board of Adjustments and Appeals may affirm, modify, or reverse the decision of the code official. The decision of the code official shall only be modified or reversed upon a concurring vote of at least two-thirds of the members of the Board of Adjustments and Appeals. The decision of the Board of Adjustment and Appeals shall be appealable to the circuit court.

Section 2. That all ordinance or parts of ordinances in conflict herewith are hereby repealed to the extent of conflict only.

Ayes:

Nays:

\_\_\_\_\_  
Gloria Hanson, Mayor

ATTEST:  
(seal)

\_\_\_\_\_  
Roxanne Heezen, Finance Officer

Public Hearing/Introduction:

Second Reading & Adoption: