

## CHAPTER 15

### NUISANCES

#### **GENERAL:**

##### **15-101 NUISANCES PROHIBITED**

No person shall create, maintain or permit to be created, committed or maintained any nuisance as defined herein within the City. Each specific act, condition and thing defined in this Chapter as a nuisance shall constitute a nuisance, alone or in combination with others, whether affecting the entire City or a neighborhood of the City, or a considerable number of persons, although the extent of annoyance, injury, damage or danger to persons affected be unequal.

##### **15-102 CERTAIN NUISANCES DEFINED**

Whatever is dangerous to human health, whatever renders the ground, the water, the air, or food a hazard or an injury to human health, and the following specific acts, conditions, and things are, each and all of them, hereby declared to constitute a nuisance; provided, however, that this enumeration shall not be deemed to be exclusive:

1. Imperfect plumbing. Any imperfect, leaking, unclean, or filthy sink, water closet, urinal, or other plumbing fixture in any building used or occupied by human beings.
2. Garbage and refuse. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any animal or vegetable matter which attends the processing, preparations, transportation, cooking, eating, sale, or storage of meat, fish, vegetables, fruit and all other food or food products found within the city which is likely to cause or transmit disease, or which may be a hazard to health.
3. Impure water. Any well or other supply of water used for drinking or household purposes which is polluted or which is so constructed or situated so as to become polluted.
4. Undressed hides. Undressed hides kept longer than 24 hours, except at the place where they are to be manufactured, or in a storeroom or basement the construction of which is approved by the health department.
5. Manure. The accumulation of manure or livestock waste unless it is in a securely tied, closed biodegradable package placed in a leakproof metal container with a tightfitting lid.
6. Breeding places for flies. The accumulations of manure, garbage, or anything whatever which are harboring places and breeding area for flies and rodents.
7. Stagnant water. Any water or liquid in which mosquito larvae exist.
8. Poison ivy. Permitting poison ivy to grow upon any public or private property.

9. Dead animals. The owner of a dead animal or the property owner upon whose property the dead animal is located, permitting it to remain undisposed of longer than 24 hours after its death.
10. Polluting river. Throwing or leaving any dead animal or decayed animal or vegetable matter or any slops or filth whatsoever, either solid or fluid, into any pool of water or into the Bad River.
11. Privies and cesspools. Erecting or maintaining any privy or cesspool.
12. Improper garbage handling. Throwing or letting 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 substances.
13. Bonfires. Burning, causing or permitting to be burned without an approved incinerator upon any private or public property any dirt, filth, manure, garbage, sweepings, leaves, ashes, paper, waste or rubbish of any kind.
14. Burning of garbage. Burning upon any private or public property any garbage, offal, excrement, fresh or decaying fruits, vegetables, fish, meat or bone, or any foul, putrid or obnoxious liquid or substance.
15. Private sanitary landfill. Operating or permitting the operation of a private sanitary landfill.
16. Rubbish. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any combustible refuse matter such as papers, sweepings, rags, grass, tree branches, wood shavings, wood, magazines, cardboard, etc.
17. Waste material. All noncombustible inorganic matter such as ashes, glass, sand, earth, stones, concrete, mortar, metals, tin cans, etc.
18. Livestock waste. Any accumulation of waste manure or straw resulting from the transportation, housing or confining of animals.
19. Graffiti. Any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn, or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, curb, or other permanent structure on public or private property and which has the effect of defacing the property.
20. Abandoned property. Any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding ground for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly, and which does or tends to lower the value of adjacent real property because of its unsightliness. Unsightly trash or junk includes property which is deteriorated, wrecked, or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements outside of a permanent structure, and shall include without being restricted, deteriorated, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, motors, snowmobiles, lawn mowers, motorcycles, campers, refrigerators and other

household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition.

**15-103 ABATEMENT**

The City Council of the City of Philip is herewith authorized and empowered to abate, upon three days written notice, any public nuisance existing by reason of the violation of any term or provision contained **or in Chapter 15**. In the event that an owner, lessee, renter or purchaser of any occupied premises fails to abate such nuisance at his own expense within three days after written notice of the existence of such public nuisance has been mailed by First Class mail, postage prepaid, to the last known address of the owner of the property, the date of mailing of said notice not included, by the City Council, said Council shall be empowered to authorize entry upon such premises and abatement of such public nuisance, and the cost of such abatement shall be claimed against and collected from such person or persons as were legally imposed with the duty of abating said nuisance, or the person or persons who created the same.

**15-104 VIOLATION-PENALTY**

In addition to the remedy of abatement, violation of any provision of this article may be punishable in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council.

**MOTOR VEHICLES:**

**15-201 ABANDONED, DISMANTLED, INOPERATIVE OR JUNK MOTOR VEHICLES**

**Definitions.** For the purposes of this article, the following terms, phrases, words and their derivations have the meaning given herein:

- (a) "Abandoned motor vehicle" means any motor vehicle, as defined in this section, which is left unattended on any public street, alley, public place or parking lot within the city for a period longer than twenty-four hours without notifying the chief of police and making arrangements for the parking of such motor vehicle.
- (b) "Inoperable vehicle" means any motor vehicle, as herein defined, which has not physically moved twenty-five feet in a seven-month period or which is not in operating condition due to damage or removal or inoperability of one or more tires and wheels, damage or removal or inoperability of the engine or other essential parts required for the operation of the vehicle, or which does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, fire or traffic hazard.
- (c) "Junked motor vehicle" means any motor vehicle which does not have lawfully affixed thereto a valid state license plate or plates, or the condition of which is wrecked, dismantled, partially dismantled, inoperable or discarded.
- (d) "Motor vehicle" means any vehicle which is designed to travel along, or on the ground or water and shall include but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golfcarts, campers, trailers, boats and farm equipment.

(e) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

(f) "Private property" means any real property within the city which is privately owned and which is not public property as defined in this section.

(g) "Public property" means any street, alley or highway, or boulevard which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and also means any other publicly owned property of facility.

(h) "Junk yard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(i) "Automobile graveyard" means any establishment or place of business which is maintained, used, or operated, for storing keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(j) "Filling station" means any establishment or place of business which is maintained, used, or operated, for the purpose of selling to the public fuel used to operate motor vehicles.

(k) "Repaired" means to restore to normal working condition such that said motor vehicle can be driven and moved solely under its own power, said restoring taking no longer than a period of six (6) months from the first date the motor vehicle is within the City of Philip in inoperable condition.

## 15-202

### NUISANCE DECLARED

The presence of an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled motor vehicle or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such is accordance with the provisions of this chapter. 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, lawfully licensed by the City and properly operated in the appropriate business zone, pursuant to the zoning laws of the City, or to any motor vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or authorized by the City.

**(1) Storing, parking or leaving 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 in the city.

**(2) Presence on private property—Prohibited.**

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 days.

**(3) Hazard.**

In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept or located on any premises for any length of time.

**(4) Exceptions.** This chapter shall not apply to the following:

- (a) One inoperable motor vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this one inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway longer than 30 days.
- (b) Filling stations, automobile repair shops or any other motor vehicle related to business in compliance with applicable city ordinances may place inoperable vehicles being repaired or offered for sale on the premises.
- (c) Junkyards operated and maintained in compliance with applicable city ordinances.

**15-203 AUTHORITY OF REMOVAL AGENCY GENERALLY**

The city of Philip may remove and salvage abandoned and junk vehicles and other scrap metals and may locate, enumerate and mark; secure authorization for removal; remove, collect and store; and secure transportation to processing centers for any abandoned or junk vehicles and other scrap metals.

**15-204 ENTRY ON LAND FOR PURPOSE OF REMOVAL**

The City of Philip or agents acting on its behalf may enter upon any land for the purpose of removing any abandoned junk vehicles or other scrap metals.

**15-205 NOTICE TO OWNER AND LIEN HOLDERS BEFORE REMOVAL**

The City of Philip shall notify the last record holder of title owner and last record lien holder of any abandoned or junk vehicle or scrap metal, of intention to remove and salvage the vehicle or scrap metal. The notice shall be written and sent certified mail to the last record holder of title and last record lien holders at their last known address and shall give the owner or lien holders five (5) days from the date of the notice to remove the vehicle or scrap metal. At the end of (5) days, if the vehicle or scrap metal has not been removed, the City of Philip may remove the vehicle or scrap metal, and the cost of such removal may be claimed against and collected from such person(s) as were legally imposed with the duty of removing the motor vehicle or scrap metal, or the person(s) who created the nuisance.

**15-206 NOTICE TO OWNER AND LIEN HOLDERS AFTER REMOVAL-CONTENTS**

Within ten (10) days after any abandoned or junk vehicle or other scrap metal has been removed, written notice shall be sent by certified mail to the registered owner, if any, of the abandoned or junk vehicle or scrap metal and to all readily identifiable lien holders of record. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned vehicle and the place where the vehicle is being held, and shall inform the owner and any lien holders of their right to reclaim the vehicle under section 15-206, upon payment in full of all costs of the removal.

**15-207 VESTING OF TITLE IN THE CITY OF PHILIP AFTER NOTICE IS SENT-TIME ALLOWED FOR HOLDER OF TITLE TO RECLAIM**

Notwithstanding any statutes or ordinances to the contrary, title to any abandoned or junk vehicle or other scrap metal shall vest in the City of Philip after a period of thirty (30) days from date on which notice was sent under Section 15-205. The record holder of title fails to claim and remove his vehicle, or other scrap metal within thirty (30) days after mailing of notice, title to the vehicle is irrevocably vested in the City of Philip.

**15-208 RECLAIMING VEHICLE**

In the event that the owner or a lien holder desires to reclaim the vehicle, such person shall notify the City Finance Officer in writing. The City Finance Officer shall inform such person the cost of removal and storage of the vehicle. Upon payment of the costs and proof of ownership or lien, possession of the vehicle shall be turned over to the owner or lien holder. The person reclaiming possession of the vehicle must comply with this provision within the 30-day reclamation period and must also remove the vehicle from storage within said time.

**15-209 APPLICATION FOR CERTIFICATE OR TITLE BY THE CITY OF PHILIP**

The City of Philip shall apply for salvage title for any salvage or junked vehicle as required by the State of South Dakota.

**15-210 DISPOSITION OF VEHICLE**

Upon acquisition of title to a vehicle, the City of Philip may sell or otherwise dispose of the vehicle. The proceeds, if any, shall be deposited by the City of Philip in its general fund and may thereafter be expended as all other such general fund monies.

**LITTER:**

**15-301 LITTER**

**(1) Definitions.**

(a) "Litter" means any quantity of uncontainerized garbage, trash, refuse, debris or other waste material including, but not limited to, cans, bottles, jars, treated or untreated paper, wrappings, ashes, cigarettes, cardboard, rags, yard clippings, leaves, grass, wood, crockery, dead animals, scrap metal, salvaged metal and motor vehicle parts.

(b) "Uncontainerized litter" means any litter which is not enclosed within a building or placed securely in a container designed or reasonably adapted for use as a place for storing litter for the purpose of collection for disposal.

**(2) Uncontainerized litter prohibited.**

Any person being the owner, tenant or person in control of any private property shall at all times maintain the premises free of uncontainerized litter, except for that uncontainerized litter which is left out overnight for purposes of collection.

**(3) Throwing or depositing in or upon streets, sidewalks or public or private places.**

No person shall throw or deposit any litter in or upon any street, sidewalk or other public place or any private property except in public or private containers designed and intended

for the collection of litter. Persons placing litter in such containers shall do so in such manner as to prevent its being carried or deposited by the elements upon any street, sidewalk, or other public place or private property.

**(4) Sweeping into gutters, streets or other public places.**

No person shall sweep into or deposit in any gutter, street, or other public place within the city any accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

**(5) Public rights-of-way–Unlawful deposits.**

(a) It is unlawful for any person to deposit on any street any material which may be harmful to the pavement thereof, or for any person to deposit, or for the owner of the adjacent property to allow, any deposit of any waste material, glass, rocks, dirt or other articles which may do injury to any person, animal or property including any person traveling across the street or right-of-way.

(b) In addition to any penalty provided for the proceeding, if the owner of the adjacent property does not remove the material within five days after receiving notice to remove the items, he shall be liable to the city for all costs incurred by the city in removing the material, glass, rock, dirt, or other articles from the street or right-of-way adjacent to his property.

**(6) Property owner's responsibility to maintain abutting sidewalks and alleys.**

Every person owning or occupying property shall keep the sidewalks and alleys abutting such property free of litter.

**(7) Hauling.**

No person shall drive or move any truck or other vehicle unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from falling, being blown, or otherwise being deposited upon any street, alley, other public place, or any private property.

**(8) Construction sites.**

(a) No person being the owner or person in charge of any property upon which a structure is being constructed or demolished shall permit the accumulation of uncontainerized litter upon such property or permit litter therefrom to become blown or scattered upon such property or any property or public place.

(b) No person being the owner of any property upon which a structure is being constructed or demolished shall fail to provide adequate containers to hold all litter produced upon such property or otherwise appearing thereon.

**(9) Loading or unloading operations.**

No person owning or having charge of any premises upon which objects or materials are being loaded or unloaded from any vehicle or other device for conveyance shall permit any uncontainerized litter resulting from such loading or unloading to accumulate upon such property or to be blown or scattered upon such property or any other property or public place.

**(10) Distribution of handbills.**

No person shall throw or deposit any handbill in or upon any street, sidewalk or public place, nor shall any person throw, deposit or place any handbill upon any vehicle without the specific and immediate consent of the person having charge of such vehicle. This section shall not prohibit the handing out of handbills to persons willing to receive such handbill.

**(11) Violation-Penalty.**

Violation of any provision of this article may be punishable in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council.

**15-401**

**NUISANCE VEGETATION**

**Certain weeds and plants declared nuisances.**

The following named weeds and plants shall be deemed dangerous and unhealthy and are declared to be nuisances: ragweed, pusley, pigweed, nettle, thistle of any kind, sunflower, goldenrod, tumbleweed, burdock, cocklebur, sandbur, wild oats, sticktight, milkweed, mustard and any and all other variety of weeds and vegetation deemed to be noxious, obnoxious, dangerous and unhealthy or deemed to be a nuisance by the building official, by the State of South Dakota, or by South Dakota statute as from time to time amended, and all other weeds and grasses growing upon any lot or parcel of land in the City to a greater height than twelve inches or which have gone or are about to go to seed.

**Duty to correct.**

It shall be the duty of the occupant, person in charge, or owner of any lot or parcel of land in the city to keep such lot, to include any abutting City right-of-way, commonly known as the City boulevard, free of such nuisance vegetation by cutting, spraying or removal, as may be appropriate.

**Violation-Penalty.**

Violation of any provision of this article may be punishable in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council.

**Notice to destroy.**

The City Council is hereby authorized and empowered to notify in writing the owner of any such area, lot or place within the City or the agent of such owner or the occupant of such premises to cut, destroy or remove any such grass, weeds or deleterious or unhealthful growths or other noxious matter found growing, located or lying on such property or upon the sidewalk abutting same. Such notice shall be by certified mail, return receipt requested to the owner, agent or occupant at his last known address.

**Action upon noncompliance.**

Upon failure, neglect or refusal of any owner, agent, or occupant so notified to comply with said notice within ten (10) days after the mailing thereof, the City Finance Officer or Mayor is authorized and empowered to provide for the cutting, destroying or removal of such grass, weeds or deleterious unhealthful growths or other noxious matter and to defray the cost of the destruction thereof by special assessment against the property as provided in this Code or pursuant to state statute.

**Weed removal costs.**



If the owner, agent or occupant of the land fails to cut the weeds as provided for in the preceding section, then the City shall cut the weeds. The cost to the landowner will be established by resolution of the City Council of the City of Philip. The City Council reserves the right and authority to review and adjust the charges established by resolution.

**Costs assessed.**

The City Finance Officer shall cause an account to be kept against each lot for the destruction of noxious weeds upon said lot as herein provided, and upon the completion of the work in destroying such weeds and abating said nuisance the City Finance Officer shall thereupon certify said account showing the amount and description of the property and the owner thereof to the County Assessor who shall thereupon add such assessment to the general assessment, together with the regular assessment, to be collected as a municipal tax for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

**Recovery by City.**

In lieu of spreading the cost of the destruction of such noxious weeds and other deleterious matter against said property in the discretion of the City Council said amount may be recovered in a civil action against the owner, agent or occupant of such property.

**ANIMALS AND FOWL:**

**15-501 ANIMALS AND FOWL**

**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:

“Animal control officer” means the person designated by the commission to be reasonable for the care and maintenance of the animal shelter and to work with other law enforcement officials in the enforcement of this chapter.

“Animal shelter” means a building and facilities therein approved by the city council and the health authority for the impounding of animals.

“Leash” means a cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.

“Owner” means 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 the animal remains or returns to.

“At large” means:

(1) An animal when off or away from the premises of the owner, possessor, keeper, agent, or servant, or a member of his immediate family, unless restrained and controlled by a leash.

(2) 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.

**15-502**

**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.

It shall be the duty of the owner of every dog to keep said dog securely chained or contained within an appropriate fence.

Any dog found in the City running at large or found to be disturbing the peace is hereby declared to be a nuisance and shall be impounded as hereinafter provided.

**15-503**

**IMPOUNDING OF DOGS**

- 1) **Impounding.** The Police Department of the City of Philip may impound all dogs found to be in violation of the provisions of this Ordinance. Provided further, that the Police Department of the City of Philip, with the approval of the City Council of the City of Philip is hereby authorized to employ a sufficient number of persons to capture, convey to the dog pound care for, kill and dispose of, in the manner herein provided, all dogs found to be in violation of the Ordinance.
- 2) **Dogs impounded-how redeemed.** In addition to such penalty as may be imposed for a violation of these ordinances, the owner(s) of any dogs impounded hereunder may redeem the same by paying the following costs and fees:
  - a) Five dollars (\$5.00) per day for the cost of feeding, watering and caring for said dog; and
  - b) A fee of twenty dollars (\$20.00) representing the cost of apprehending, transporting to the pound, and the cost of the various administrative activities involved in administering this Ordinance; and
  - c) Documentation of rabies inoculation; and
  - d) Any other penalties assessed under this Ordinance.
- 3) **Public notice.** Immediately after impounding any dog hereunder, it shall be the duty of the pound keeper to enter upon the records of the pound in a book to be kept by him for such purpose the date of impounding, and a description of the dog impounded.

Public notice of the impounding of such dog shall be given by posting one copy of the description of such dog and date of impounding on the bulletin board in the U.S. Post Office, located in Philip, South Dakota. Any such dog not redeemed by the owner thereof within three (3) days after the posting of such notice by the pound keeper, shall be and is hereby declared to be a public nuisance. Notice by telephone or in person to the last known owner of the impounded dog shall be deemed to be sufficient compliance with this Ordinance.  
Amended Ord. #2005-08; 08/21/05

- 4) **Sale or destruction of impounded dogs.** At the expiration of three (3) days from the date of posting the notice of impounding, if any, such dogs shall be unclaimed or if the owner or claimant thereof shall fail or refuse to comply with the provisions of this Ordinance, for the release of the same, it shall be the duty of the person in charge of such dog pound to destroy such dog and to cause it to be removed and properly buried. Provided, however, in the event that prior to the destruction of such dog:

Any person tenders payment of all fees and expenses which the owner of said dog would be required to pay in order to redeem said dog, then the pound keeper shall sell the dog to such person in lieu of destroying the dog. In the event that more than one person is willing to tender the minimum amount, the pound keeper shall accept sealed bids and shall sell the animal to the highest bidder.

- 5) **Animal bites.** Whenever any animal bites a person, law enforcement officer or any person authorized by the City of Philip to enforce the ordinances pertaining to such animals, shall impound such animal and place the animal at a licensed veterinary clinic, for a period of not less than ten (10) days, for the purpose of rabies observation. The animal shall not be released until the following conditions are met:
- a) A duly licensed Doctor of Veterinary Medicine authorizes the release or otherwise certifies that such animal is rabies free; and
  - b) That proof is presented by the owner of such animal that such animal has been vaccinated against rabies and that such vaccination is still in effect; and
  - c) That the owner of such animal tender to the City of Philip the cost of impounding such animal, the cost of any vaccination or other veterinary expenses incurred by the City of Philip; and
  - d) That the owner of such animal tender to the City of Philip the amount of applicable fines and court costs as may be imposed by ordinance.

If the impounded animal dies during the period of Quarantine, its head shall be sent to the State Department of Health or other appropriate facility for examination of rabies.

#### **15-504 LIVESTOCK AND FOWL RUNNING AT LARGE PROHIBITED**

It shall be unlawful for any person(s) owning or having the care or control of any fowl, cattle, horses, asses, mules, sheep, goats, hogs, or other animals, to permit the same to run at large within the city limits of the City of Philip.

#### **15-505 OFFENSIVE STABLES**

It shall be unlawful to place or maintain any hog pen, chicken coop, stable or similar structure within the city limits and a violation of this ordinance shall constitute a nuisance.

#### **15-506 BARBED WIRE AND ELECTRICAL FENCES PROHIBITED**

Barbed wire and electrically charged fences are hereby declared to be a public nuisance and shall not be constructed or maintained on any property within the city limits. Said fences shall be allowed **only** on the very exterior boundary of the city.

15-507

## RABIES VACCINATION

Every dog within the City of Philip must have a current rabies vaccination, which is at the owner's expense and in addition said owner must provide these records of vaccination to law enforcement or to the City upon request.

## ANIMALS:

15-508

### Vicious Animals

(a) An animal may be declared to be vicious by the City, or the attending physician of the victim of an animal bite or scratch may request such declaration, 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 man, or other employed person, or other person or animal who is on private property by reason of permission of the owner or the 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 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 City declares an animal to be vicious, the animal control officer shall notify the owner of such declaration in writing that such animal must be registered as a vicious animal within five business days after the receipt of such written notice. Said notice shall be served either in person or by mailing such notice by certified mail.

(c) The vicious animal shall be impounded by animal control at the owner's expense; the animal shall be locked in an escape-proof kennel of such design as to prevent the entry of children and the escape of the animal.

(d) Any vicious animal found off the premises of its owner, other than provided for in this article, shall be seized by the animal control officer or any police officer and impounded. If the animal cannot be captured, it may be destroyed. If the animal has been running at large, or bites a person, or bites another animal, the animal control officer or any police officer may order the owner to deliver the animal to the animal shelter within 24 hours and order the owner to appear in court to show cause why this animal shall not be destroyed. If the owner of the animal fails to deliver the animal as ordered, the animal control officer or any police officer shall use such means as is necessary to impound the animal.

#### **Disturbing the peace.**

(a) The owner or custodian of an animal shall not allow the animal to create a disturbance by making loud noises any time of the night or day.

(b) Any animal control officer or police officer may remove and impound any animal which is disturbing the peace when an owner of the animal cannot be located. A notice advising the owner of the impoundment shall be left on the premises.

#### **Cruelty to animals; right of entry.**

No person shall maltreat or abuse or neglect any animal or fowl. Any animal control officer 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 further may take into possession of such animal, when in his opinion, the animal requires humane treatment.

#### **Stray, abandoned or unkept animals.**

No person shall harbor or keep any stray animals. Animals known to be strays shall be immediately reported to the animal control officer.

#### **Poisoning.**

Unless recommended by the health authority, 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, which is 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.

#### **Keeping of animals.**

(a) The keeping of prohibited animals on any personal land in the city. This prohibition includes the domestic fowl of the order Galliformes and Gallinaceous birds (fowl-like birds including chickens), and the order Anseriformes (water fowl). This prohibition also includes horses, cattle, hogs, sheep, goats, ostriches, emus and all other domesticated or undomesticated large animals. (Amended Ord. #2022-17, 09/06/2022)

(b) It is considered a nuisance and shall be unlawful for any person to keep and maintain (other than the care and treatment of injured animals by people licensed for that purpose) or

sell animals or creatures that are native fur bearers, bears, mountain lions, bobcats, lynx, panthers, endangered species, exotic cats, or venomous snakes.

(c) Nothing in this section shall be deemed to prohibit the keeping of (*Felis catus*) the domestic cat, (*Mustela putorius fero*) the European polecat otherwise known as the ferret, or (*Canis familiaris*) the domestic dog, as long as license or permit procedures are followed.

### **Responsibility.**

(a) No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet, or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.

(b) No owner, keeper, caretaker, or attendant of an animal shall allow an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property, the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property.

### **Abandoning of animal.**

No person shall abandon an animal in the city.

### **Enforcement.**

The animal control officer is authorized to enforce all the provisions of this chapter and may issue citations for violations of any section or may issue warning tickets requiring correction of a violation.

### **Failure to comply with warning ticket.**

It is unlawful for any person to fail or refuse to comply with the provisions or requirements of a warning ticket lawfully issued under this chapter.

### **Trapping of animals.**

No person without permission of the city health department shall set, allow to be set, or use any trap for the purpose of catching any animal, which trap could injure or kill any animal, except rodent traps in the interior of a building, and except by persons employed by or agents of the city health department or city parks, and recreation committee for purposes of the city's health and welfare.

### **Payment of fees and charges—Stopping payment on or issuing bad check prohibited.**

No person may avoid payment of license or impoundment fees prescribed by this title or charges for veterinarian services or rabies observation costs incurred under this chapter, by stopping payment on any check or issuing an insufficient funds check.

### **Enforcement—Authority.**

A. The provisions of this title shall be enforced by the Philip police department or the animal control officer.

B. The animal control officer or police department may issue citations for violations of any section of this title or may issue warning tickets requiring correction of a violation.

**Enforcement–Interfere with.**

No person may hinder, delay or obstruct any police officer or the animal control officer in the performance of any duty under this title, or seek to release any animal in the custody of the animal control officer, except as provided herein.

**Violation–Penalty.**

Any person, firm, partnership, association, or corporation violating any provision of this title shall be guilty of a misdemeanor and may be punished in accordance with a schedule of fines and penalties as promulgated from time to time by the City Council.

**ADOPTION OF UNIFORM HOUSING CODE:**

**15-601 SUBSTANDARD BUILDINGS**

Any building or portion thereof that is determined to be an unsafe building under the Uniform Building Code, including any dwelling unit, guest room or sweet of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in the Uniform Housing Code to the extent that it endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to substandard buildings.

**15-602 ADOPTION OF UNIFORM CODE**

The Uniform Housing Code, in its entirety, and all acts amendatory thereto, is and are hereby adopted by the City of Philip for the regulation of use and occupancy, location and maintenance of all residential buildings and structures within the City. A printed copy of such Code shall be on file in the office of the City Finance Officer.

**15-603 RIGHT OF ENTRY**

When it is necessary to make an inspection to enforce the provisions of this ordinance, or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to and in violation of this ordinance that makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

**15-604 ABATEMENT**

Buildings or portions thereof that are determined to be substandard as defined in the Uniform Housing Code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Chapter 11 of the Uniform Housing Code.

**15-605 REPAIR, VACATION AND DEMOLITION**

When a building official has inspected or caused to be inspected a building and has found and determined that such building is a substandard building, the building official shall commence proceedings to cause the repair, rehabilitation, vacation or demolition of the building, all in accordance with the Uniform Housing Code.

**15-606 RECOVERY OF COST OF REPAIR OR DEMOLITION**

The building official shall keep and itemized account of the expense incurred by the City in the repair or demolition of any building done pursuant to the provisions of the Uniform Housing Code. Upon the completion of the work of repair or demolition, said building officials shall prepare and file with the Finance Officer of the City of Philip a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building structure is or was located, and the names and addresses of the persons entitled to notice pursuant to the Uniform Housing Code. The City may thereupon order that said charge shall be made a personal obligation of the property owner or access said charge against the property involved.

**15-607 RIGHT OF APPEAL**

Enforcement of any notice and order of the building official issued under this ordinance shall be stayed during the penalty of appeal therefrom that is properly and timely filed in accordance with the provisions of the Uniform Housing Code.

**ABATEMENT OF DANGEROUS BUILDINGS:**

**15-701 ABATEMENT OF DANGEROUS BUILDINGS**

All buildings or portions thereof which are determined after inspection by the City to be dangerous as defined in the current Uniform Code for the Abatement of Dangerous Buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition and removal in accordance with the procedure specified in said Uniform Code.

**15-702 ADOPTION OF UNIFORM CODE**

The Uniform Code for the Abatement of Dangerous Buildings, in its entirety, and all acts amendatory thereto, is and are hereby adopted by the City of Philip for the regulation of construction and alteration of buildings, and determination and procedures regarding abatement of dangerous buildings within the City, except any



portions which are specifically excepted herein. A printed copy of such Code shall be on file in the office of the City Finance Officer.

Any and all references in the Uniform Code for the Abatement of Dangerous Buildings to “building official”, “health officer”, “fire marshal”, “director of public works” shall be deemed to refer to the City of Philip and/or any representative(s) or agent(s) of the City of Philip acting on behalf of and under the authority of the City of Philip.

**15-703**

**RIGHT OF ENTRY FOR INVESTIGATION AND INSPECTION**

Whenever necessary to make an inspection or when the City or the representative(s) inspecting on behalf of the City, hereinafter referred to collectively as “City”, has reasonable cause to believe that there exists a nuisance in any building or upon the premises any condition which makes such building or premises a nuisance as provided in this article, the City may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the City by this article, provided that: If such building or premises be unoccupied, the City shall first make reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry.

(a) Whenever the City becomes aware of and upon inspection thereof that any condition(s) prohibited in this article have been created or exist on any premises located within the city, the City may give, or cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be made as set forth herein and **not** as set forth in Chapter 4, Section 401, paragraph 401.4 of the Uniform Code for the Abatement of Dangerous Buildings. The notice shall be made by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, at the last known address of the property owner as it appears on the last equalized assessment roll of the county or as known to the City, or shall be made by personal service, or whenever the owner or agent there is not known or cannot be found, and his last known post office address is unknown, a copy of such notice may be posted for twenty-four hours (24) hours upon the premises where the nuisances exists or such notice may be served by one weekly publication in the legal newspaper. The failure of any such property owner to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail, return receipt requested, in the manner provided herein shall be effective on the date of mailing.

(b) If the City has determined that a condition(s) have been created or exist in violation of City code, the City shall order all permits be secured therefore and the work physically commenced within such time as set forth in the Uniform Code referred to in the chapter, and shall order such work completed within such time as the City shall determine is reasonable under all of the circumstances.

**15-704**

**ABATEMENT**

(a) In the event a person shall fail to abate any nuisance created, permitted or maintained by him following written notice to him to do so, the City may cause such nuisance to be abated. The cost may be charged against the owner of personal property abated and/or the owner of the real estate upon which the nuisance was located.

(b) The City may prepare a statement of the expense incurred in the razing, demolishing, removing, reconstruction or other affirmative act necessary to abate the unlawful condition(s) and shall file such statement with the City Finance Officer. Such statement shall refer to the particular premises including any improvements, structures or buildings thereon, upon which the actions taken to abate the unlawful conditions occurred. With regard to the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition or subdivision in which the lot lies or upon which the structures, improvements or buildings were located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified.

**15-705 RIGHT TO RECOVER COSTS OF ABATEMENT**

(a) The City may recover all costs involved in the repair and/or demolition work as provided in this article through the special assessment procedure provided by the state statutes.

(b) When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assignment.

**15-706 RIGHT OF APPEAL**

Any person entitled to notice may appeal from any notice and order or any action of the City under this article pursuant to the provisions as set forth in the Uniform Code for the Abatement of Dangerous buildings.

**AIRTIGHT CONTAINERS, WELLS, ETC:**

**15-801 AIRTIGHT CONTAINERS-WHEN RESTRICTED**

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling, or other structure under his control in a place accessible to children any abandoned or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device from said icebox, refrigerator or container.

**15-802 AIRTIGHT CONTAINER-KEEPING, DECLARED NUISANCE**

The keeping of any discarded icebox, refrigerator or other airtight container is hereby declared to constitute a public nuisance and the same shall be abated as provided by state law and the abatement of such nuisance shall not, in any manner, affect any penalty which may be imposed for the violation of this ordinance.

**15-803 WELLS AND CISTERNS COVERED**

No person owning or in control of any property shall allow upon any such property any well cistern, vault or other pit except the same be covered by a good, safe and substantial covering made of iron or lumber, and securely fastened in such manner that the same cannot be removed by children; provided that any person may have upon his premises a well closed by a high board fence or other substantial enclosure at least five (5) feet high. Any type of well uncovered without a fence is hereby declared a nuisance.

**OTHER NUISANCES:**

**15-901 MUFFLER, EXCESSIVE SMOKE AND NOISE**

No person shall operate any motor vehicle without an adequate muffler, nor operate said motor vehicle in such a manner as to unnecessarily emit excessive smoke or noise from the motor nor needlessly sound the horn or other noise making device.

**15-904 EXCESSIVE NOISES**

It shall be unlawful for any person to willfully make or continue or cause to be made or continued, any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:

- (a) the level of noise;
- (b) whether the nature of the noise is usual or unusual;
- (c) whether the origin of the noise is natural or unnatural;
- (d) the level and intensity of the background noise, if any;
- (e) the proximity of the noise to residential sleeping facilities;
- (f) the nature and zoning of the area within which the noise emanates;
- (g) the density of the inhabitation of the area within which the noise emanates;
- (h) the time of the day or night the noise occurs;
- (i) the duration of the noise; and
- (j) whether the noise is recurrent, intermittent, or constant.