**ORDINANCE 2013-01**

**NUISANCES**

**BE IT ORDAINED THAT THE MUNICIPALITY OF PIEDMONT HAS HEREBY ADOPTED THE FOLLOWING ORDINANCE AND THAT THE FOLLOWING SHALL BE ENACTED IN ITS ENTIRETY AND SHALL READ AS FOLLOWS:**

**TITLE 19: NUISANCES**

**CHAPTERS:**

**19.01: GENERAL PROVISION**

**19.02: GENERAL NUISANCES**

**19.03: WEEDS, TREES, BUSHES, ET CETERA**

**19.04: NON-DOMESTIC ANIMALS**

**19.05: DEPOSITING AND BURNING OF FILTH, ASHES, MANURE, GARBAGE,**

 **REFUSE, FILTHY LIQUIDS AND ET CETERA**

**19.06: FIREWORKS**

**CHAPTER 19.01 GENERAL PROVISIONS**

SECTIONS:

19.01.01: Scope and Purpose

19.01.02: Definitions

19.01.03: Penalty

**19.01.01: SCOPE AND PURPOSE**

The purpose of this Title is to regulate acts, conditions and things that are or may be injurious to

the health and/or safety of the public; or offensive to the senses of a reasonable man; or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of another’s life or property.

**19.01.02: DEFINITIONS**

BIG GAME ANIMAL: Any cloven-hoofed wild animal, mountain lion or wild turkey.

DAMAGED BUILDING: Any structure and/or building that has been destroyed or damaged

by natural disasters or fire, and has not been torn down, salvaged or repaired.

DILAPIDATED BUILDINGS: Any structure, which has become a fire hazard, public health or safety hazard.

FIREWORKS: Any device, including but not limited to, firecrackers, torpedoes, roman candles,

detonating cannons, skyrockets or other similar pyrotechnic displays.

GARBAGE: Debris including, but not limited to cans, bottles, kitchen refuse, and/or an accumulation of animal and vegetable matter which attends the preparation, cooking and eating of food. Excluded is garden compost.

NUISANCE: Anything injurious to the health or safety, or offensive to the senses of a reasonable man, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property.

RODENT HARBORAGE: Any condition which provides shelter or protection for rodents thus favoring the rodents’ multiplication and continuous existence.

RODENTS: Any non-domestic animal, including but not limited to mice, rats, squirrels, muskrats, porcupines, gophers and wood rats.

RUBBISH: Any waste other than garbage; including: paper, boxes, cartons, useless waste or rejected matter. Something that is worthless or nonsensical.

STAGNANT WATER: Any excavation, pond, low-lying area, public or private, in which water has become stagnant and/or has produced mosquito larvae and/or has an offensive odor.

WASTE MATERIAL: Any noncombustible inorganic matter, including but not limited to ashes, glass, sand, earth, stones, concrete, mortar, metals, and tin cans.

WRECKED VEHICLE: Any automobile which because of body damage or operating apparatus is in such a condition to render the start, legal operation or use of said automobile impossible.

**19.01.03: PENALTY**

Any violation of the provisions of this Title is a Class 2 misdemeanor punishable by the

maximum punishment set forth by the laws of the state of South Dakota pursuant to SDCL 22-6-

2. Said punishment may also include payment of any cost and/or restitution authorized by this

Title and/or state law.

In addition, any violation of the provisions of this Title may result in the revocation and/or

suspension of any license issued pursuant to any Section of this Title.

**CHAPTER 19.02 GENERAL NUISANCES**

SECTIONS:

19.02.01: Specific Acts, Conditions, and/or Things Deemed to be Nuisances

19.02.02: Filing a Nuisance Complaint

19.02.03: Courtesy Letter/Notice of Violation

19.02.04: Notice to Complainant and Right to Review

19.02.05: Issuance of Summons and Complaint for Violation

19.02.06: Abatement

19.02.07: Landowner Responsible for Any Costs

19.02.8: Immediate Abatement Required in Certain Cases

19.02.9: Action to be Taken by the City Without Complaint

**19.02.01: SPECIFIC ACTS, CONDITIONS, AND/OR THINGS DEEMED TO BE**

 **NUISANCES**

The following specific acts, conditions, and things are each declared a public nuisance, however, this enumeration shall not be deemed to be exclusive:

A. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any garbage, refuse, rubbish or waste material likely to cause or transmit disease or be a hazard to health. Excluded is garden compost material;

B. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property any abandoned, discarded, or unused furniture, refrigerators, washing machines, dryers, stoves, sinks, toilets, cabinets, or household furnishings/fixtures, and/or storing said items in such a manner as to be visible to the public from adjoining property, public alleys or streets;

C. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public right of way or private property any mobile home, manufactured home or camper trailer, that is/are abandoned, wrecked, dismantled or inoperative, or in the case of mobile or manufactured homes, uninhabitable;

D. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public right of way any automobile or automobiles that are nonlicensed automobiles or because of body damage, or operating apparatus, including tires and wheels, is/are in such a condition to render the start, legal operation, or use of said automobile or automobiles impossible;

E. Any trailer, recreational vehicle, or implement left standing on a public right-of-way for a period of one hundred twenty (120) hours or longer;

F. Planting, maintaining, or permitting to be maintained upon any public property any trees and/or bushes that interfere with the health, safety, or enjoyment of another;

G. Damaged and or dilapidated buildings: Must be repaired, removed or demolished within a ninety (90) day period, unless a longer period is granted by the Piedmont Board of Trustee’s;

H. Undressed hides, which for any reason are kept longer than twenty-four (24) hours; Hides which are kept at a place where they are to be manufactured into items such as gloves, coats, and et cetera and are stored inside an approved structure, which complies with all health regulations for such manufacturing, shall be exempt from this Section;

I. Rodents: Rats, mice, squirrels, muskrats, porcupines, gophers and wood rats;

J. Any dead animal remaining on any public or private ground for a period of more than twenty-four (24) hours;

K. Depositing, placing, letting fall, or throwing materials into a pond, pool or waterway as to pollute said water;

L. Erecting or maintaining any privy or cesspool unless approved by the City Council and the South Dakota Department of Environment and Natural Resources;

M. Parking or allowing a livestock truck, trailer or any other vehicle, which omits an offensive odor or contains an offensive substance or other filth on any public or private grounds;

N. Causing or allowing any offensive, foul odors or stenches that are dangerous or offensive to the neighborhood to be emitted from public or private property;

O. Causing or allowing pieces of paper, garbage, rubbish, newsprint, excelsior, handbills, posters, building paper, advertisements, or other materials to be carried about by the winds;

P. Fireworks Use: Not permitted within the Piedmont City Limits or parcels west of I-90 which are coterminous with the Black Hills Fire Protection District.

Q. APPLIANCES AND OTHER AIRTIGHT CONTAINERS: Leaving or allowing to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his/her control in a place accessible to children, any non-operating ice box, refrigerator or other container without first removing the door or lid for said ice box, refrigerator or container.

R. Depositing or placing any offal, filth, filthy waters, human or animal waste, obnoxious liquid substances, petroleum products such as oil, gasoline, and et cetera on any private lot or public grounds.

**19.02.02: FILING A NUISANCE COMPLAINT**

Unless otherwise stated in this Title, in the event any City representative receives a complaint,

either orally or in writing, he/she shall forward the complaint to the City Finance Officer for investigation.

As part of the investigation, the City Finance Officer shall obtain the following information in writing:

A. Name, address and phone number of the person making said complaint;

B. Address of the property for which the complaint is being filed; and

C. Nature of the complaint.

After obtaining the necessary information from the complainant, the inspecting city official may

request assistance from other City departments or request an investigation by a more appropriate

City employee and/or agent as is necessary based upon the nature of the complaint.

**19.02.03: COURTESY LETTER/NOTICE OF VIOLATION**

Unless otherwise stated in this Title, in the event the City Finance Officer, other employee, and/or agent finds that any violation exists, the City of Piedmont shall send a Courtesy Letter/Notice of Violation to the property owner. The letter shall state the following:

A. Name and address of the property owner;

B. Address and legal description of the property in violation;

C. Nature of the violation;

D. Title, Chapter and Section violated;

E. Demand that the property owner become compliant; and

F. The date a representative will inspect the property for compliance.

**19.02.04: NOTICE TO COMPLAINANT AND RIGHT TO REVIEW**

In the event the City Finance Officer or other employee and/or agent concludes that a violation does not exist, the City Finance Officer or other employee and/or agent shall send a letter to the complainant within fifteen (15) days of advising him/her of said determination. In the event, the complainant is not satisfied with the investigation and subsequent determination; said complainant may file a written request for review. The process shall be as follows:

A. An aggrieved person shall first file a written request for review with the City Finance Officer setting forth the basis he/she believes the decision that a violation does not exist to be in error. The writing shall also include the person’s name and mailing address.

B. Upon receipt of the written request for review, the City Finance Officer shall notify the Board of Trustees.

C. The Board of Trustees shall have thirty (30) days to review the case, and give their decision to the complainant.

**19.02.05: ISSUANCE OF SUMMONS AND COMPLAINT FOR VIOLATION**

If the landowner fails to abate the nuisance or request a review from the Board of Trustees within the given time, the City may issue a complaint and summons to the landowner ordering the landowner to appear in court to answer said violation. Each violation may be considered a Class II Misdemeanor for each day of violation until the nuisance is abated.

**19.02.06: ABATEMENT**

In lieu of or in addition to the issuance of a complaint and summons to appear in court, for

violation of this Chapter, the City shall also have the authority to abate said nuisance as set forth

in SDCL § 21-10-6.

**19.02.7: LANDOWNER RESPONSIBLE FOR ANY COSTS**

Any related expenses, receipts, and administrative, legal (including City’s attorneys’ fees), and/or investigative fees shall be billed to the landowner.

In the event the landowner fails to pay said bill within thirty (30) days, the City Finance Officer may file a special assessment on the property with the Meade County Auditor’s Office.

In the event the nuisance abated is an unsafe or dilapidated building, mobile home, vehicle, junk, trash, debris or similar nuisance arising from the condition of the property, the City may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment.

**19.02.8: IMMEDIATE ABATEMENT REQUIRED IN CERTAIN CASES**

Nuisance cases involving subjects such as, but not limited to, bonfires, campfires, dead animals, undressed hides, fireworks, depositing filth, spoiled foods or similar items which are determined by the City Finance Officer or investigating employee to be an immediate threat to public health and safety shall be abated immediately, unless it is otherwise dictated by the City Finance Officer or other investigation employee of the City.

Sections 19.02.04 through 19.02.07 shall not be applicable to nuisances deemed to be in need of immediate abatement due to the threat to public health and safety.

In the event the violator refuses to comply with the orders of the City, the City may have the nuisance abated immediately at the owner’s expense.

Nothing in this Title shall be deemed to interfere with the City’s authority to immediately abate a nuisance that has been determined by the City to be an immediate threat to public health and safety.

**19.02.9: ACTION TO BE TAKEN BY THE CITY WITHOUT COMPLAINT**

The City Finance Officer may initiate an action without a Complaint:

A. Due to public health and safety concerns, once it has come to the attention of the City that one or more of the above listed nuisance violations have been committed, the City Finance Office may issue a ticket, following the procedures of Sections 19.02.02 to 19.02.10, or the City may serve a Complaint and Summons to appear in court to answer for said violation.

B. In addition, the City Finance Officer or other investigating employee shall have the authority to have the nuisance abated, removed or cleaned up immediately at the cost of the violator;

C. When the City Finance Officer or other investigating employee is dealing with a vehicle, which contains obnoxious, offensive or nauseous substances, he/she shall direct the owner to remove the vehicle. If the owner is unable to be found within a reasonable time, the City Finance Officer or other investigating employee shall have the vehicle towed at the owner/driver’s expense. All towing and storage charges shall be assessed against the owner or driver of the vehicle before possession is returned. For purposes of this provision only, a reasonable amount of time shall be defined to be no longer than thirty (30) days under any circumstances; however, nothing in this provision shall prevent the City from taking immediate action when necessary to protect the health and safety of the public.

**CHAPTER 19.03 WEEDS, TREES, BUSHES, ET CETERA**

SECTIONS:

19.03.01 Weeds and Noxious Vegetation

19.03.02 Overhanging Tree Limbs and Bushes

19.03.03 Notice to Cut Grass, Weeds, Overhanging limbs, Etc.

19.03.04 Removal of Vegetation by the City of Piedmont

19.03.05 Penalty

**19.03.01 WEEDS AND NOXIOUS VEGETATION**

All weeds and plants declared to be dangerous, or noxious weeds by the South Dakota Department of Agriculture or the commission of State Weed control, and all other weeds suffered or allowed to grow during the growing seasons that are declared noxious, dangerous, or unhealthy vegetation are hereby declared a public nuisance. It shall be the duty of the property owner or any lot within the City of Piedmont to cut such noxious vegetation at such time as necessary to prevents its growth.

No landowner shall allow domestic grass, weeds or noxious vegetation to grow to a height of more than eight (8) inches on residential or commercial lots.

**19.03.02 OVERHANGING TREE LIMBS OR BUSHES**

The limbs of trees or bushes hanging less than twelve (12) feet in height above the driving surface of regularly travel roadways shall be declared a public nuisance and shall be removed.

Due to public safety concerns, the full width of sidewalks shall be kept clear of all vegetation between the walking surface and eight (8) feet above the walking surface.

All limbs of trees or bushes that are hanging less than eight (8) feet in height above the walking surface of all sidewalks within the City of Piedmont shall be declared a public nuisance and shall be removed.

The City Finance Officer may declare all trees or bushes, that cause or may in the future cause traffic or visibility problems, a public nuisance, in addition the City may, because of public safety, order said vegetation removed immediately or if it is in a public right-of-way.

It shall be the duty of all landowners to keep all overhanging trees and bushes herein described cut down and removed on all lots owned or occupied by them, and to the middle of the street abutting the land owned or occupied by them.

**19.03.03 NOTICE TO CUT GRASS, WEEDS, OVERHANGING LIMBS, ETC.**

The City Finance Officer at any time during the growing season shall notify landowners in writing by Certified Mail or in person with a return of service. Upon service the landowner shall have ten (10) days to remove the violation.

This notice shall in addition, inform the landowner that he/she is required to keep all vegetation cut and in compliance with City Ordinances throughout the growing season.

Subsequent notices—After receiving the initial notice to cut any overhanging limbs, weeds, trees etc. then landowner shall be required to abate any similar nuisance within five (5) days of written notification.

Notices shall include the following information:

A. Landowner’s name and address;

B. Address of property in violation;

C. Legal description of property;

D. Ordinance section violated;

E. Requirements of the ordinance;

F. Required completion date.

The landowner may appeal the case in writing to the Board of Trustees as stated in ordinance Chapter 2. The landowner must make said appeal within the time frame set for removal of the nuisance, if the landowner fails to make a written appeal within this time frame, the nuisance may be abated as stated in Chapter 2.

**19.03.04 REMOVAL OF VEGETATION BY THE CITY OF PIEDMONT**

If the owner of said property fails to remove or cut vegetation within the given time allowed by

Ordinance, the City Finance Officer may cause such vegetation to be removed.

The City Finance Officer or his designee may enter upon the property for the purpose of

removing or cutting vegetation, which is in violation of this ordinance.

**19.03.05 PENALTY**

All violations of this chapter shall be considered a Class II misdemeanor.

**CHAPTER 19.04 NON-DOMESTIC ANIMALS**

SECTIONS:

19.04.01: Building Materials Not to Provide Harborage for Animals

19.04.02: Notice to Owner from City Finance Officer

19.04.03: Action Required by Owner

19.04.04: Food and/or Feed Protection

**19.04.01: BUILDING MATERIALS NOT TO PROVIDE HARBORAGE FOR**

 **ANIMALS**

No person shall permit to accumulate upon any premises, whether improved or vacant, or upon any open lot, alley, street, or drive, any lumber, boxes, barrels, bricks, stones, refuse, scrap, metal, iron, or other materials that permits harborage for non-domestic animals.

**19.04.02: NOTICE TO OWNER FROM CITY FINANCE OFFICER**

When it has come to the attention of the City Finance Officer either by citizen complaint or by

City staff, the City Finance Officer shall notify the owner in writing by certified mail.

The notice shall contain the following information:

A. Owner’s name and address;

B. The property address and legal description; and

C. Nature of the violation.

**19.04.03: ACTION REQUIRED BY OWNER**

Upon receipt of written notice or order from the City Finance Officer, the owner of any property specified in said notice or order shall take immediate steps for rodent proofing said building and/or property. Unless said work and improvements required for such rodent proofing have been completed by the owner of the property within the time specified or an extension has been granted, the owner shall be deemed to have violated the provisions of this Chapter.

**19.04.04: FOOD AND/OR FEED PROTECTION**

All food and/or feed, whether for human or animal consumption, shall be protected from nondomestic animals by storing in buildings, compartments, containers or rooms which are rodent proof.

**CHAPTER 19.05 DEPOSITING AND BURNING OF FILTH, ASHES, MANURE,**

 **GARBAGE, REFUSE, FILTHY LIQUIDS, AND ET CETERA.**

SECTIONS:

19.05.01: Deposit on Public or Private Grounds Prohibited

19.05.02: Manure

19.05.03: Stagnant Water

19.05.04: Dead Animals

19.05.05: Keeping or Using Putrid Materials, Hides, and et cetera

19.05.06: Unwholesome Business

19.05.07: Scattering Papers

19.05.08: Depositing of Foreign Objects into Local Waterways

**19.05.01: DEPOSIT ON PUBLIC OR PRIVATE GROUNDS PROHIBITED**

No person shall deposit or place any offal, filth, filthy waters, garbage, ashes, waste water, sewage, tin cans, excrement, manure (except when used for brief periods and in a proper manner as a fertilizer), decaying fruit, vegetables, fish, meat, or bones, or any foul, putrid or obnoxious liquid substances (including all gasoline and petroleum or products thereof), on any private lot, public thoroughfares (including all streets, highways, and sidewalks), or public grounds of the City. No person shall throw, let fall on or permit to remain on any street, alley, or public ground, any of the said materials while engaged in handling or removing the same.

**19.05.02: MANURE**

Manure shall not runoff onto adjacent property, city streets, right of ways, or into ditches, creeks, streams, rivers or lakes. Manure storage areas shall be constructed in such a manner as to minimize potential for runoff. Manure storage devices shall contain manure to the site. Allowing such to occur, intentionally or negligently, shall be in violation of this chapter.

 **19.05.03: STAGNANT WATER**

No owner of any lot, or any other person responsible, shall allow the collection of any stagnant water on any lot or premises within the City.

**19.05.04: DEAD ANIMALS**

No owner or possessor of any animal which shall have died, shall suffer the same to lie on any public ground, street, lane or alley or any private lot or place within the City, nor shall any person throw or leave any such animal or any vegetable or animal matter or any slop or filth, whether solid or fluid, into any pool of water in the City, or other place, to the annoyance of any citizen of the City.

**19.05.05: KEEPING OR USING PUTRID MATERIALS, HIDES, AND ET CETERA**

No person shall keep or use or cause to be kept or used any stale, putrid or stinking fat, grease or meat, nor shall any person keep for more than twenty-four (24) hours any undressed hides, except at the place where used for manufacturing. No owner or occupant of any grocery, cellar, tallow chandler, shop, soap factory, tannery, pork or beef-packing house, stable, or barn, shall suffer the same to become foul, nauseous or offensive.

**19.05.06: UNWHOLESOME BUSINESS**

No person shall on the premises owned or occupied by him permit or suffer any nuisance, either by exercising any unwholesome trade, calling or business, or by having or suffering any unwholesome or offensive substances whatsoever to remain on his premises until, by offensive, foul odors, or stenches or otherwise, said premises shall become offensive, hurtful or dangerous to the neighborhood.

**19.05.07: SCATTERING PAPERS**

No person shall throw into, deposit upon or in any manner permit to get in any street, alley or passageway of the City, pieces of paper, garbage, rubbish, newspapers, excelsior, handbills, posters, building paper, lithographs used for advertisement upon bill boards, or any materials likely to be carried about by the winds.

**19.05.08: DEPOSITING OF FOREIGN OBJECTS INTO LOCAL WATERWAYS**

No person shall deposit, place, throw, or let fall into waterways in the City any substance or object whatsoever, including garbage, rubbish, ashes, grass clippings, trees, tree branches, leaves or any other type of litter or material.

**CHAPTER 19.06 FIREWORKS**

SECTIONS:

19.06.01: Limitation

19.06.02: Sale

19.06.03: Use

**19.06.01: LIMITATION**

This Chapter shall not apply to ammunition for firearms nor shall it apply to explosives such as dynamite or TNT, which are used for industrial purposes and are not used or kept for public display.

**19.06.02: SALE**

No person shall sell or possess for sale any fireworks within the boundaries of the City of Piedmont.

**19.06.03: USE**

1. No person shall use, discharge or cause to be discharged, any fireworks within the City of Piedmont, except as herein permitted;
2. Nothing in this Ordinance shall prohibit a public display and discharge of fireworks, providing such licensed individual, firm, partnership or corporation planning to make a public display and discharge of fireworks, shall first secure approval from the City of Piedmont and Chief of the Fire Department upon which jurisdiction falls.
3. This Ordinance extends to and shall cover all of the territory within the corporate limits of the City of Piedmont and its one mile jurisdiction, including lands coterminous with the Black Hills Fire Protection District, County of Meade, and State of South Dakota.

Dated this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Philip C. Anderson, President

Piedmont Board of Trustees

ATTEST: (SEAL)

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 City of Piedmont Finance Officer

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