

TITLE 14 DECLARATION AND ABATEMENT OF NUISANCES

CHAPTER 14.01 DECLARATION AND ABATEMENT OF NUISANCES

14.0101 This Ordinance is for the declaration and abatement of public nuisances in the unincorporated areas of Brown County.

14.0102 Pursuant to the SDCL 7-8-33 and consistent with the purpose of creating and maintaining a safe and healthy environment for the public welfare of Brown County residents and their property.

14.103 Public Nuisance.

What is a public nuisance? Unlawfully doing an act, or omitting to perform a duty, which act or omission either: (1) injures, or endangers the comfort, repose, health, or safety of others; (2) a hazard or an injury to human health; and in addition (3) specific acts, conditions, and things that are declared to constitute a public nuisance.

Whoever shall create, commit, maintain, or permit to be created, committed, or maintained (1) any of the enumerated conditions, specific acts, things, and situations or (2) otherwise violates the general provisions of this ordinance is guilty of a public nuisance and the place, contents, area, thing, or all of the foregoing, are declared a public nuisance and shall be enjoined and abated as provided by state statute and/or county ordinance.

It will be the responsibility of the Zoning Administrator or an Official designated by the Brown County Commission, to enforce these public nuisance ordinances in Brown County. All nuisances / condemnations will be handled on a complaint basis only.

14.0104 Definitions.

Abandoned property - Any deteriorated, dilapidated and/or abandoned property in unusable condition having no value other than nominal scrap or junk value.

Breeding place for flies, rodents and/or pests - The unhealthy and unnecessary accumulation of manure, garbage, tires, debris or discarded items which is a potential breeding area for flies and rodents.

Building official - As used in this Title it shall mean the Zoning Administrator, Sheriff's Deputy, or an Official authorized by the Brown County Commissioners with the enforcement of this Title.

Building - Any structure designed or intended for the support, enclosure, shelter, or protection of persons or property.

Buildings, which are abandoned, boarded up, partially destroyed, or partially constructed and uncompleted subsequent to the expiration of a building permit. Any building which poses a health hazard to anyone or anything that might inhabit it. Any residential

structures that are found to be deteriorated to the point that they may endanger or injure a person's life are considered to be a nuisance.

Residential Development Area - An area of land that is located in a residential zoning district or an area consisting of three (3) or more dwelling units within a 500 foot radius.

Premises - A lot or parcel of land, improved or unimproved.

Other - Any like and similar condition or conditions.

14.104 Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this Title, or whenever the Official (as defined in Section 14.0104), or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which is prohibited under this Title, Official or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed by this Title. If such building or premises is occupied, a reasonable effort will be made to locate the owner of the building or premises and demand entry. If such entry is refused, the Zoning Administrator or Official or an authorized representative shall have recourse of every remedy provided by law to secure entry.

No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as herein provided, to properly permit entry therein for purposes of inspection and examination pursuant to this Title.

14.105 Notification.

Whenever notification is given that any condition or conditions prohibited in this Title exist on any premises located in Brown County, the Zoning Administrator or Official or an authorized representative shall give cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting, or maintaining such nuisance to abate the same within a reasonable period of time.

14.106 Owner Unknown - Notice Waived.

Whenever the owner, occupant, or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found, the Zoning Administrator or Official shall proceed to abate the nuisance without notice. In either case the expenses of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

14.107 Right of Appeal.

The owner or any person affected shall have the right of appeal to the Brown County Commission for investigation and review of the Zoning Administrators or Official's determination. Such appeal shall be filed in accordance with Title 1, Chapter 1.03 and shall state the objection of the person filing the same, shall be filed with the Zoning Administrator within ten (10) days after the date of posting, publishing, serving, or

mailing of the Notification, and shall be presented to the Brown County Commission by the Zoning Administrator who shall proceed in accordance with the Abatement Notice, or as modified by the Commission; or not at all, and its decision thereon shall be final and conclusive.

14.0109 Failure to Abate.

In the event a person fails to abate such nuisance the Zoning Administrator or Official shall prepare a statement of the expenses incurred in the razing, demolishing, removing, reconstruction, or other affirmative act necessary to abate the unlawful condition occurred.

14.110 Abatement by State Law.

In addition to the method of abatement of nuisances provided in this Title, the County may abate any nuisance found within the County in the manner provided by State Law.

14.111 Penalty and Remedy.

Any person who maintains, commits, or fails to abate a public nuisance as required under the provision of this Title shall be subject to a maximum penalty of thirty (30) days in jail, or a two hundred dollar (\$200) fine, or both. Each day that the nuisance continues shall constitute a separate offense.

In addition, the County may use the remedies of a civil action and abatement as set forth in SDCL 21-10-5 through SDCL 21-10-9.