

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. HEALTH AND SANITATION

92. PARKS AND RECREATION

93. PUBLIC NUISANCES

94. STREETS AND SIDEWALKS

95. ABANDONED, NUISANCE AND JUNKED VEHICLES

96. FIRE PREVENTION AND PROTECTION

97. TREES

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Compulsory licensing
- 90.02 Compulsory immunization for rabies
- 90.03 Responsibility of owning, maintaining or attending animals, fowl and insects
- 90.04 Responsibility of owner to place animal for observation
- 90.05 Disturbance of peace
- 90.06 Stray, abandoned or unkept animals
- 90.07 Dangerous animals
- 90.08 Dangerous animal licensing
- 90.09 Banning of specific breeds of dogs and cats
- 90.10 Running at large prohibited
- 90.11 Cruelty to animals; disposition of abused animals
- 90.12 Livestock and poultry
- 90.13 Impoundment
- 90.14 Kennel regulations

Pit Bull, Doberman Pinscher, and Rottweiler Dogs

- 90.25 Registration of new Pit Bull, Doberman Pinscher, and Rottweiler dogs
- 90.26 Registration of existing Pit Bull, Doberman Pinscher, and Rottweiler dogs
- 90.27 Registration fee
- 90.28 Definition
- 90.29 Determination of Pit Bull, Doberman Pinscher, and Rottweiler dogs
- 90.30 Confinement and leashing of Pit Bull, Doberman Pinscher, and Rottweiler dogs
- 90.31 Signs
- 90.32 Insurance
- 90.33 Identification photographs
- 90.34 Reporting requirements
- 90.35 Display of tags required
- 90.36 Offspring
- 90.37 Irrebuttable presumption
- 90.38 Failure to comply

- 90.99 Penalty

GENERAL PROVISIONS**§ 90.01 COMPULSORY LICENSING.**

(A) *License required.* Each animal over the age of 3 months shall be licensed by the town.

(B) *Application for license.* The owner or keeper of any animal 6 months of age or older shall submit to the Finance Officer a license application for each animal, the license fee and rabies immunization certification.

(C) *Terms and license fees.* The initial license fee shall be \$5 for a new license. The Board of Trustees shall set the terms and the cost of the licenses periodically by resolution.

(D) *Display of tags.* An animal shall at all times display the license tag. The license shall be worn by all animals on a collar, harness or chain when off the premises of the owner. If the animal wears a collar or harness, the license tags shall be affixed to the collar or harness in a manner to allow the tag to be easily seen.

(E) *Notification of loss or death of animal.* The owner or keeper of the animal shall notify the town of the loss or death of an animal.

(Ord. 2001-123, passed 8-8-2001)

(F) *Fine.* Any person in violation of the compulsory licensing requirement shall be fined \$50 for each offense. A new offense will be deemed to occur every 24 hours. Any landlord that allows an unlicensed dog to be located on the premises by a tenant shall be responsible for payment of the fine in the event that said occupant fails to pay the fine. The fines shall be taxed by special assessment against the property upon which the animal is primarily housed.

Penalty, see § 10.99

§ 90.02 COMPULSORY IMMUNIZATION FOR RABIES.

(A) Every dog, cat or other animal held as a domestic pet in the town, 6 months of age or older, shall be immunized against rabies by a licensed veterinarian or other qualified person designated by the Board of Trustees.

(B) Immunization against rabies shall be given at intervals to guarantee immunity, and the minimum time period between vaccinations shall be determined by the available vaccine and based upon the recommendations and approval of the state veterinarian.

(1) Any owner acquiring a dog, cat or other animal by purchase, gift, birth or otherwise, shall have the animal immunized against rabies within 1 month following acquisition or when the animal reaches the age of 6 months.

(2) Any animal impounded shall not be released by the Animal Control Officer to any person until the animal has been immunized against rabies, provided, however, no animal so impounded shall be immunized if the owner can present a certificate of a current immunization having been previously performed.

(3) All veterinarians or other qualified persons designated to immunize animals against rabies shall provide the owner at the time of immunization with a certificate or metallic tag showing the date of the immunization.

(4) Whenever metallic tags are so given for immunizations, the metallic tags shall be worn by all animals on a collar, harness or chain when off the premises of the owner. (Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.03 RESPONSIBILITY OF OWNING, MAINTAINING OR ATTENDING ANIMALS, FOWL AND INSECTS.

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

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

(C) *Fecal cleanup requirements.* Anyone walking an animal on public or private property other than his or her own must carry with him or her visible means of cleaning up any fecal matter left by the animal. Animals used in parades or involved in law enforcement are exempt from this section. (Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.04 RESPONSIBILITY OF OWNER TO PLACE ANIMAL FOR OBSERVATION.

(A) When any person owning or harboring a dog, cat or other animal has been notified that the animal has bitten or attacked any person, the owner shall within 24 hours place the animal under the care and observation of the Animal Control Officer or a licensed veterinarian for a period not less than 10 days.

(B) At the end of the 10-day observation period, the animal shall be examined by a licensed veterinarian and if cleared by the veterinarian, may be reclaimed by the owner upon paying the expenses incident thereto.

(C) Any animal impounded or placed for observations, showing active signs of rabies, suspected of having rabies or known to have been exposed to rabies, shall be confined under competent observation for a time as may be deemed necessary to determine a diagnosis.

(D) Any person who shall suspect that any animal in the town is infected with rabies, shall report the animal to the Animal Control, Animal Control Officer, the Police Department or other health authority, describing the animal and giving the name and address of the owner if known.

(E) No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to have been infected with rabies.

(F) Any person within the town receiving information or reports of suspected rabies in wild animals or domestic animals shall report that information to the Police Department of the town.

(G) Any rabid animal may be destroyed by the Animal Control Officer or Police Department.

(H) Whenever the veterinarian, Police Department, Animal Control shall have determined that there is danger of the existence or spread of rabies in the town, those facts shall be made known to the Board of Trustees in writing. The Board of Trustees, upon receipt of the facts, may by proclamation, in the interest of public safety and general welfare of the citizenry, order all animals muzzled when off the premises of the owner. Forty-eight hours after the publication of the proclamation all animals found off

the premises of the owner unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable efforts to seize the animals fail. All animal seized and impounded shall be held for observation as hereinbefore provided for not less than 10 days, and if cleared by a licensed veterinarian, may be claimed by the owner upon paying the expenses incidental thereto. Any animal not claimed may be disposed of as hereinbefore provided.

(Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.05 DISTURBANCE OF PEACE.

The owner or custodian of an animal shall not allow that animal to create a disturbance by making loud noises at any time of the day or night. Upon complaint, the owner will be notified by the Police Department and the owner shall abate the nuisance. If convicted upon failure to abate the nuisance, the owner will be guilty of further violations, for each day that the condition is allowed to exist or goes uncorrected. Any officer may remove and impound any animal which is disturbing the peace when the owner of the animal can not be located. A notice advising the owner of the impoundment shall be left at the premises. Any person having custody or control of any female dog or cat in heat shall be required to keep the dog or cat confined in a building, secure enclosure, veterinary hospital or boarding kennel so that it cannot attract or come in contact with another animal on public or private property except for controlled breeding purposes.

(Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.06 STRAY, ABANDONED OR UNKEPT ANIMALS.

No person shall harbor or keep any stray animals within the town. Animals known to be strays shall be reported to the Police Department immediately. It shall be unlawful to abandon animals.

(Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.07 DANGEROUS ANIMALS.

The following animals are hereby declared to be dangerous animals:

(A) An animal may be declared vicious by the health authority or the attending physician of the victim of an animal bite or scratch in cooperation with the health authority, after taking the following into consideration:

(1) The nature of the severity of the incident, whether the animal has shown a propensity to display dangerously aggressive behavior and is able or likely to inflict injury to another person or animal;

(2) Multiple incidents; whether the animal has bitten, scratched, attacked or otherwise caused personal injury in the past; and

(3) Whether the animal is diagnosed as carrying, or having the potential to carry, infectious, contagious diseases or otherwise carry or inject any venom poison.

(B) After the declaration, the owner of the animal shall be notified in writing of the declaration and shall not allow the animal off the premises of its owner unless muzzled and on a leash and in charge of a person over 16 years of age. Any vicious animal found off the premises of its owner, other than provided in this chapter, shall be seized by the Animal Control Officer or police officer and impounded.

(Ord. 2001-123, passed 8-8-2001)

§ 90.08 DANGEROUS ANIMAL LICENSING.

(A) *Dangerous dog requirements.* All owners of a dangerous animal are required to:

(1) Obtain a dangerous animal license from the Town Finance Officer which must be renewed annually on the anniversary of the license;

(2) Prove that the animal has been spayed or neutered and has been vaccinated against rabies;

(3) Keep the animal confined at all times within the owner's residence or in an outdoor kennel constructed with sufficient materials and a roof enclosure to ensure that the animal shall not escape therefrom, and any time that the animal is removed from either the owner's residence or kennel, it shall be securely leashed and muzzled at all times.

(4) Maintain a \$100,000 in liability insurance that covers injury or damage to persons or property that may be caused by the animal; and

(5) Comply with any additional requirements as may be set by resolution of the Board of Trustees.

(B) *Dangerous animal license.* All dangerous animals must have a dangerous animal license in addition to the regular license. An application for the license may be obtained from the Town Finance Officer. The license fee for the dangerous animal license shall be set by the Board of Trustees annually. Any animal/dog that is kept within the Town of Pickstown that is not in compliance with this chapter shall be destroyed immediately.

(Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.09 BANNING OF SPECIFIC BREEDS OF DOGS AND CATS.

(A) **BANNED BREEDS OF DOGS AND CATS** are banned entirely and may not be owned or possessed in the Town of Pickstown, South Dakota. **BANNED BREEDS** are defined as any 1 of the following:

- (1) American Pit Bull Terrier;
- (2) Staffordshire Bull Terrier;
- (3) American Staffordshire Terrier;
- (4) Any dog whose sire or dam is a dog or a breed of dog herein;
- (5) Any dog whose owner registers, admits or otherwise identifies the dog of being of a banned breed;
- (6) Any dog conforming, or substantially conforming, to the breed of American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier as defined by the United Kennel Club or American Kennel Clubs;
- (7) Any dangerous dog which is found at large; or
- (8) Any breed of wolf, fox, coyote, bobcat, lynx, lion or any animal that is crossbred with any similar undomesticated animal.

(B) Any animal not in compliance with this chapter shall be considered a dangerous animal or potentially dangerous animal as such may be instantly impounded by any officer or designated officer of the town and disposed of pursuant to § 90.13. Notwithstanding the foregoing, § 90.13 shall not apply in the event that said animal is harming or creating an unreasonable risk of harm to any human being, other pets or animals, or any personal property. In which case, the nonconforming animal may then be disposed of without notice in the most humanely manner possible under the circumstances. The town officer may enter upon private property in order to confiscate the animal. (Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.10 RUNNING AT LARGE PROHIBITED.

(A) *Definition and penalties.* No owner of any dog, cat or other animal held as a domestic pet in the town shall permit the animal to run at large at any time, and any animal found at large may be impounded as hereinafter provided and/or, the owner may be penalized as provided in the provisions of this chapter. The term ***RUNNING AT LARGE*** shall mean intentionally left outside of the enclosure of a legal fence, and off the lands owned or controlled by the owner of the animal.

(1) The Board of Trustees shall be authorized to appoint some person or persons, whose duty it shall be to impound any animals running at large, contrary to the provisions of this chapter. Any police officer will likewise have that power. Upon impounding, the owner of the animal may at any time within 3 working days after the same shall have been impounded, reclaim the animal by paying the expense of keeping the animal. If any animal so impounded shall not be reclaimed within 3 working days and all efforts to locate the owner have failed, the Animal Control Officer is authorized to destroy, sell or otherwise dispose of the animal.

(2) No person shall hinder, delay or obstruct the Animal Control Officer, his or her assistants, or any law enforcement officer when engaged in capturing, securing or impounding any animal or animals.

(3) The Board of Trustees shall be authorized to enter into a contract with some person, association or Humane Society to establish, operate and maintain an animal pound in and for the Town of Pickstown. The contract shall provide for the appointment of an Animal Control Officer and his or her duties, for the enforcement of this title, for the impounding, destroying and disposal of animals, for a schedule of fees to be paid by the town. The town may, in lieu of the provisions of this section, maintain its own impoundment area or quarters, under the supervision of the Board of Trustees and the Animal Control Officer.

(4) Any owner allowing their animal to run at large as defined in the provisions of this section, if convicted, shall be guilty of a misdemeanor, punishable by a fine of not more than \$200 and imprisonment of not more than 30 days.
(Ord. 2001-123, passed 8-8-2001)

(B) *Fines.* The fines for animals running at large are as follows:

- (1) First offense: \$10;
- (2) Second offense: \$40;
- (3) Third offense: \$80; and

(4) Upon a fourth offense, the town shall have the authority to euthanize or otherwise destroy the animal. Destruction of the animal shall not occur if the owner agrees to permanently remove the animal from the municipal boundaries of the Town of Pickstown. Multiple offenses shall be based upon any dog owned by the dog owner. A person owning more than 1 dog may be charged and penalized for multiple offenses, even though different dogs are causing the chapter violation. (Ord. 2003-136, passed 9-10-2003) Penalty, see § 10.99

§ 90.11 CRUELTY TO ANIMALS; DISPOSITION OF ABUSED ANIMALS.

(A) No person shall willfully or negligently mistreat or abuse or neglect in a cruel or inhumane manner any animal or fowl. 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, on the property of another, with the intent to injure or destroy the animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any animal.

(SDCL § 9-29-11)

(B) In cases where an animal or animals have been seized by the Animal Control Officer based upon cruelty, neglect or abandonment, the animal(s) may be adopted to another owner or humanely euthanized thereby extinguishing all property rights of the existing owner following the procedures as hereinafter provided.

(C) Upon seizure of the animal or animals, the Animal Control Officer shall serve notice upon the existing owner, if the identity of the existing owner is known, informing, the existing owner of the Animal Control Officer's intent to have the animal disposed of.

(D) The existing owner shall have 3 business days to:

(1) Declare in writing and deliver to the animal shelter keeping the animal or animals:

(a) Notice of the existing owner's intent to maintain ownership of the animal or animals and to object to the adoption or euthanasia thereof; and

(b) Notice that the existing owner shall pay where due all impoundment, board and veterinary costs until a time that the animal or animals shall be released to the existing owner or be adopted or euthanized.

(2) Pay all impoundment, board and veterinary costs up to the date of the owner's declaration of intent to maintain his or her ownership of the animal or animals to the animal control shelter.

(E) Upon all notification of the existing owner's intent to maintain ownership of the animal or animals and the objection to the adoption or euthanasia thereof the existing owner shall continue the payments to the animal control shelter for impoundment, board and veterinary costs on a weekly basis until a time that the animal or animals shall be released to the existing owner or be adopted or euthanized.

(F) If the existing owner of the animal or animals fails to declare hereinbefore stated intent or fails to make any payment in a timely manner, or if the identity of the existing owner is unknown or notification to the existing owner cannot be made, ownership of the animal or animals will revert to the animal shelter.

(Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.12 LIVESTOCK AND POULTRY.

No person shall keep or maintain any building or enclosure where livestock is kept, unless the same be at all times kept in a clean and sanitary condition. No person shall place, keep or maintain any live hogs within the town.

(Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.13 IMPOUNDMENT.

(A) *Impoundment facility.* The town is authorized to maintain its own impoundment area or quarters, under the supervision of the Board of Trustees. The town may also enter into a contract with any person, business or association to operate and maintain an impoundment facility for the town. The contract may be on terms that the Board of Trustees determines.

(B) *Impoundment and destruction of animal.* Whenever an animal has been seized and impounded, the owner has 3 business days to claim the animal by paying the impoundment fee, paying any fines imposed and by providing proof of immunization as required by town code.

(C) *Notice to owners of license animals.* The town shall notify the owner of an animal who has been licensed within 24 hours of the impoundment, if possible.

(D) *Destruction of animals.* If an impounded animal shall not be claimed and all efforts to locate the owner have failed, the town is authorized to destroy, sell or otherwise dispose of the animal. If the animal has been seized due to cruelty, neglect or abandonment, the animal may be disposed of after notice shall be served upon the existing owner, if the identity is known, informing the owner of the intent to dispose of the animal.

(E) *Notice of objection to disposal.* The owner shall have 3 business days after notice to the town of his or her objection to disposal, of intent to maintain ownership and intent to pay in full all impoundment and treatment of costs. In addition, the owner shall pay all costs up to the date of notice of intent, including any fines and pays in advance weekly any costs of impoundment and treatment. If the owner fails to comply with this section, the town may dispose of the animal. (SDCL § 9-29-12) (Ord. 2001-123, passed 8-8-2001) Penalty, see § 10.99

§ 90.14 KENNEL REGULATIONS.

It shall be unlawful for any person to have or keep more than 2 domestic pets or animals over the age of 3 months, except fish, on any lot or premises in the town or under its authority. Notwithstanding the foregoing, no pet or animal shall be kept or maintained in town for breeding purposes whatsoever, even if the number and age otherwise complies with the provision herein. No kennel shall be allowed to operate in the Town of Pickstown. The town humane society and veterinarian offices are exempt from the provisions of this section. Penalty, see § 10.99

PIT BULL, DOBERMAN PINSCHER, AND ROTTWEILER DOGS

§ 90.25 REGISTRATION OF NEW PIT BULL, DOBERMAN PINSCHER, AND ROTTWEILER DOGS.

Any owner, keeper or harbinger of a Pit Bull, Doberman Pinscher, or Rottweiler dog within the town shall register the Pit Bull, Doberman Pinscher, or Rottweiler dog with the Animal Control Officer within 10 days of moving to the town or of obtaining a Pit Bull, Doberman Pinscher, or Rottweiler dog and be subject to the standards and requirements set forth within this subchapter. The Pit Bull, Doberman Pinscher, or Rottweiler dog shall be re-registered with the Animal Control Officer every 2 years from the date of registration. (Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.26 REGISTRATION OF EXISTING PIT BULL, DOBERMAN PINSCHER, AND ROTTWEILER DOGS.

Any owner, keeper or harbinger of a Pit Bull, Doberman Pinscher, or Rottweiler dog within the town, upon the effective date of this subchapter, shall register the Pit Bull, Doberman Pinscher, or Rottweiler dog with the Animal Control Officer and be in complete compliance with this subchapter within 30 days of the effective date of this subchapter. The Pit Bull, Doberman Pinscher, or Rottweiler dog shall be re-registered with the Animal Control Officer every 2 years from the date of registration. (Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.27 REGISTRATION FEE.

The registration of a Pit Bull, Doberman Pinscher, or Rottweiler dog shall include a registration fee of \$100. The registration shall not be considered complete until this fee is paid.
(Ord. 2010-163, passed 2-10-2010)

§ 90.28 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PIT BULL, DOBERMAN PINSCHER, ROTTWEILER DOG.

- (1) A Pit Bull breed of dog;
- (2) A Doberman Pinscher breed of dog;
- (3) A Rottweiler breed of dog;
- (4) Any dog of mixed breed or of other breeds than above listed which breed or mixed breed is known as a Pit Bull, Doberman Pinscher, or Rottweiler dog; and
- (5) Any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.
(Ord. 2010-163, passed 2-10-2010)

§ 90.29 DETERMINATION OF PIT BULL, DOBERMAN PINSCHER, AND ROTTWEILER DOGS.

If any owner of any dog alleged to be subject to the provisions of this subchapter disputes whether the dog falls under the definition set forth herein, the owner of the dog may file a written petition with the Animal Control Officer requesting that a determination be made as to the breed of the dog. The dog shall then be observed by the Animal Control Officer and 2 veterinarians for the purpose of determining the dog's breed. Whether or not the dog meets the definition of "Pit Bull, Doberman Pinscher, or Rottweiler dog" under the provisions of this subchapter shall be determined by the Animal Control Officer and the 2 veterinarians and in the event determination is made that the dog does fall under the definition set forth herein, the dog shall become in compliance with all provisions of this subchapter within 5 days of the determination and may be impounded and held by the Animal Control Officer until compliance. Any expenses for this determination shall be paid by the owner of the dog.
(Ord. 2010-163, passed 2-10-2010)

§ 90.30 CONFINEMENT AND LEASHING OF PIT BULL, DOBERMAN PINSCHER, AND ROTTWEILER DOGS.

(A) Any Pit Bull, Doberman Pinscher, or Rottweiler dog shall be securely confined indoors, in a securely enclosed and locked pen or kennel approved by the Animal Control Officer, or in a fenced area approved by the Animal Control Officer, except when leashed as provided herein. Any pen, kennel, structure or fence shall be secure to assure that any Pit Bull, Doberman Pinscher, or Rottweiler dog confined therein cannot escape in any manner, including by digging under, climbing over or by force. Any structure or fence used to confine any Pit Bull, Doberman Pinscher, or Rottweiler dog shall be locked with a key or combination lock when the animal is within the structure or fence. Any structure or fence erected to confine any Pit Bull, Doberman Pinscher, or Rottweiler dog shall comply with all zoning and building regulations of the town. Any such structure shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(B) No person shall permit a Pit Bull, Doberman Pinscher, or Rottweiler dog to be kept on a porch, patio or in any part of the house or structure that would allow the dog to exit the building of its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(C) No person shall permit a Pit Bull, Doberman Pinscher, or Rottweiler dog to go outside its kennel or pen or approved fenced area unless the dog is securely leashed with a leash no longer than 4 feet in length. No person shall permit a Pit Bull, Doberman Pinscher, or Rottweiler dog to be kept on a chain, rope or other type of leash outside the kennel or pen or approved fenced area unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, and the like.

(Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.31 SIGNS.

Any owner, keeper or harborer of any Pit Bull, Doberman Pinscher, or Rottweiler dog shall, within 10 days of the effective date of this subchapter, display in a prominent place on their premises a sign easily readable by the public stating the breed of the dog on the property.

(Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.32 INSURANCE.

Any owner, keeper or harborer of any Pit Bull, Doberman Pinscher, or Rottweiler dog shall, within 10 days of moving to the town or obtaining a Pit Bull, Doberman Pinscher, or Rottweiler dog, provide proof to the Animal Control Officer of public liability insurance in a single incident amount of \$100,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons

which may result from the ownership, keeping or maintaining of such animal. The insurance policy shall provide that no cancellation of the policy will be made unless 10 days written notice is first given to the Animal Control Officer for the town.

(Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.33 IDENTIFICATION PHOTOGRAPHS.

Any owner, keeper or harborer of a Pit Bull, Doberman Pinscher, or Rottweiler dog shall, within 10 days of moving to the town or of obtaining a Pit Bull, Doberman Pinscher, or Rottweiler dog, provide to the Animal Control Officer 2 color photographs of the animal clearly showing the color and approximate size of the animal.

(Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.34 REPORTING REQUIREMENTS.

Any owner, keeper or harborer of a Pit Bull, Doberman Pinscher, or Rottweiler dog shall, within 10 days of the incident, report the following information in writing to the Animal Control Officer as required hereinafter:

- (A) The removal from the town or death of a Pit Bull, Doberman Pinscher, or Rottweiler dog;
 - (B) The birth of offspring of a Pit Bull, Doberman Pinscher, or Rottweiler dog;
 - (C) The new address of a Pit Bull, Doberman Pinscher, or Rottweiler dog owner should the owner move within the corporate town limits.
- (Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.35 DISPLAY OF TAGS REQUIRED.

It shall be the responsibility of the owner of the Pit Bull, Doberman Pinscher, or Rottweiler dog to place a collar around the neck of each dog to which the registration tag furnished by the Animal Control Officer shall be securely fastened. The tag shall be used by the Animal Control Officer to identify whether or not any Pit Bull dog has been properly registered pursuant to this subchapter.

(Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.36 OFFSPRING.

Any offspring born of any Pit Bull, Doberman Pinscher, or Rottweiler dog within the town shall be in compliance with all town ordinances within 8 weeks of birth.

(Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.37 IRREBUTTABLE PRESUMPTION.

There shall be an irrebuttable presumption that any dog registered with the town as a Pit Bull, Doberman Pinscher, or Rottweiler dog or any of those breeds discussed within this subchapter is in fact a dog subject to the requirements of this subchapter.

(Ord. 2010-163, passed 2-10-2010)

§ 90.38 FAILURE TO COMPLY.

It shall be unlawful for any owner, keeper or harbinger of a Pit Bull, Doberman Pinscher, or Rottweiler dog within the town to fail to comply with the requirements and conditions set forth in this subchapter. Any dog found to be the subject of a violation of this subchapter shall be subject to immediate seizure and impoundment. In addition, failure to comply may result in the revocation of the license of such animal resulting in the immediate removal of the animal from the town or resulting in the animal being permanently placed in the control of the Animal Control Officer with the final disposition of the Pit Bull, Doberman Pinscher, or Rottweiler dog at the discretion of the Animal Control Officer.

(Ord. 2010-163, passed 2-10-2010) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) In addition to the penalties set forth in § 10.99, any persons violating or permitting the violation of any provision of §§ 90.25 through 90.38 may be subject to the revocation of the registration of any Pit Bull, Doberman Pinscher, or Rottweiler dog. Revocation of the registration shall result in the Pit Bull, Doberman Pinscher, or Rottweiler dog being immediately removed from the town and/or the dog being placed in the immediate and permanent control of the Animal Control Officer with final disposition of the animal being at the discretion of the Animal Control Officer. In addition, any person who violates §§ 90.25 through 90.38 shall pay all expenses including shelter, food, handling, veterinary care, restitution, and testimony necessitated by the enforcement of §§ 90.25 through 90.38.

(B) In addition to the penalties set forth in § 10.99, any person who violates the provisions of §§ 90.25 through 90.38 shall also be deemed to have engaged in a public nuisance as defined in SDCL Chapter 21-10.

(Ord. 2010-163, passed 2-10-2010)

CHAPTER 91: HEALTH AND SANITATION

Section

91.01 Health; generally

§ 91.01 HEALTH; GENERALLY.

(A) The Town Board President, Finance Officer and the Health Nurse shall be appointed by the governing body to constitute the Board of Health of the Town of Pickstown. The Town Board President shall be the President, the Fiscal Officer shall be the Clerk and the nurse so appointed shall be the Superintendent of the Town Board of Health. The President and Clerk and the Board shall serve without additional compensation and the Superintendent may receive for his or her services a reasonable sum to be fixed by the governing body.

(B) The Board of Health shall have the power to do all things necessary for the prevention of the spread of diseases which they should deem to be detrimental to the community, and they shall enforce quarantine restrictions as shall, in their discretion, be deemed necessary for the protection of the citizens of Pickstown.

(C) The commission of each and every 1 of the acts prohibited in this section is hereby declared to be a public nuisance.

(D) No owner of any premises within the corporate limits of the town shall knowingly permit any of his or her premises therein to go unkept to the extent that unhealthy growths of weeds or other herbage shall develop there, or that stagnant water should develop into a breeding habitat for mosquitoes.

(E) Should any person permit their premises or property within the town to maintain, or develop thereon, unhealthy and unsightly conditions, it shall be determined by the Board of Trustees of the Town of Pickstown to constitute a violation of the public nuisance ordinances of the Town of Pickstown. Upon a determination by the Board of Trustees of the Town of Pickstown, based upon input as may be provided to them by the Town's Board of Health or otherwise, the premises or property shall be subject to Chapter 93.

(Ord. 99-112, passed 4-15-1999)

(F) No person living within the corporate limits of the town shall permit any outdoor toilet facilities or outhouses of that nature, to remain on his or her premises.

(1986 Code, Title 24, § 1) Penalty, see § 10.99

CHAPTER 92: PARKS AND RECREATION

Section

92.01 Recreation regulations; generally

§ 92.01 RECREATION REGULATIONS; GENERALLY.

(A) The Town of Pickstown shall have the power to establish, maintain and operate golf courses, tennis courses, ball grounds and other athletic amusements and necessary facilities and connections therewith as a part of the recreation system and to charge fees for the use thereof.

(B) The Town of Pickstown may purchase or otherwise obtain land within or without the corporate limits for the purpose of providing recreation facilities.

(C) The Town Board of Trustees may appoint a Director of Recreation. He or she shall hold office at the pleasure of the Board of Trustees and receive a salary as may be determined. The Director shall have charge, supervision and direction of the recreation program as determined by the governing board. The town may also appoint and employ other employees as it may deem necessary and shall prescribe their fees and duties.

(D) Real or personal property or the income thereof may be granted, bequeathed, devised or conveyed to the town for the recreational purposes upon conditions that may be prescribed by the grantors, donors or devisors thereof and agreed to by the governing body of the town.

(E) No action shall lie against the governing body of the town to recover for injuries sustained by any persons through negligence of the officers or employees of the town while engaged in the operation of a system of public recreation and playgrounds; provided that nothing herein contained shall operate to prevent any employee of the town from maintaining any action to recover damages for injuries received in the course of his or her employment.

(F) The town shall have authority to furnish free musical concerts to the public.

(G) Concession permits shall be issued by the Board of Trustees and the permit fees shall be set by resolution of the Board of Trustees.

(1986 Code, Title 40, § 1)

CHAPTER 93: PUBLIC NUISANCES

Section

- 93.01 Public nuisances; generally
- 93.02 Rodent control
- 93.03 Fencing in residential yards
- 93.04 Mowing of occupied and unoccupied lots

§ 93.01 PUBLIC NUISANCES; GENERALLY.

(A) *Public nuisances.* A public nuisance consists of unlawfully doing an act, or omitting to perform a duty within the town or in any public grounds or parks belonging to the town or within 1 mile of the town, which act or omission either:

(1) Annoys, injures or endangers the comfort, repose, health or safety of others;

(2) Offends decency;

(3) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake or navigable river, bay, stream, canal or basin or any public park, square, street or highway; or

(4) In any way renders other persons insecure in life, or in the use of property;

(5) And which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

(B) *Nuisances defined and prohibited generally.*

(1) No person shall create, commit, maintain or permit to be created, committed or maintained, any nuisance as defined herein.

Pickstown - General Regulations

(2) Whatever is dangerous to human health, whatever renders the grounds, water, air or food a hazard or an injury to human health, whatever is offensive to and an unreasonable interference with the communities aesthetics, visual sensibilities and overall general appearance, and the following specific acts, conditions and things are, each and all of them, hereby declared to constitute nuisances.

(a) *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.

(b) *Garbage and refuse.* Depositing, maintaining or permitting to be maintained or to accumulate upon any public or private property, any household waste water, sewage, garbage, tin cans, offal or excrement, any decaying fruit vegetables, fish, meat or bones of any foul, putrid or obnoxious liquid substance.

(c) *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 that it may become polluted.

(d) *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 whose construction is approved by the Health Department.

(e) *Manure.* The accumulation of manure, unless it be in a properly constructed fly-proof pit, bin or box.

(f) *Breeding places for flies.* The accumulation of manure, garbage or anything whatever in which flies breed.

(g) *Stagnant water.* Any excavation in which stagnant water is permitted to collect.

(h) *Weeds.* Permitting weeds to grow to maturity on any private property, including vacant lots.

(i) *Poison ivy.* Permitting poison ivy to be or to grow upon any private property.

(j) *Dead animals.* For the owner of a dead animal to permit it to remain undisposed of longer than 24 hours after its death.

(k) *Polluting bodies of water.* Throwing or leaving any dead animal or decayed animal or vegetable matter or any slops or filth whatever, either solid or fluid, into any pool of water.

(l) *Privies.* Erecting or maintaining any privy except sanitary privies, the plans of which are approved by the State Health Department and the Board of Trustees of the Town of Pickstown.

(m) *Garbage handled improperly.* 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 those substances.

(n) *Rodents.* Accumulations of junk, old iron, automobiles or parts thereof or anything whatever in which rodents may live or breed or accumulate.

(o) *Bonfires in public places.* Burning, causing or permitting to be burned in any street, alley or public ground any dirt, filth, manure, garbage, sweepings, leaves, ashes, paper, rubbish or materials of any kind.

(p) *Deteriorating influence on neighborhood.* Any accumulation of furniture, appliances, junk, car parts, wood, debris, objects or materials that has a blighting or deteriorating influence on the neighborhood.

(q) *Maintenance of real property.* The keeping of any lot, whether residential, commercial, industrial or whatever nature, within the town so as to:

1. Cause neighborhood blight;
2. Adversely affect other properties and/or property values;
3. Erode the visual environment of the neighborhood or community;
4. Cause or substantially contribute to erosion; or

5. Support, sustain or maintain a bare lot. A **BARE LOT** is any lot without adequate ground cover, grass or other suitable vegetation due to the use or application of any chemical, herbicide or any other action, material or substance with the intent, purpose, result or effect of avoiding or circumventing any town ordinance relating to or concerning the mowing of lawns and/or lots. (Ord. 99-112, passed 4-15-1999)

(r) *Empty or vacant buildings.* Empty or vacant buildings which have door, windows or openings that allow entrance of vermin or invite vandalism or create a health or safety hazard. (1986 Code, Title 34, § 11)

(C) *Enforcement of this chapter.*

(1) The Town of Pickstown Building Inspector (hereinafter referred to as Building Inspector), or the Town Board of Health is hereby appointed to assist the Town Trustees in enforcing and in implementing the provisions of this chapter by making inspections to make an initial determination, in their opinion, as to if a public nuisance exists, and shall promptly refer those findings to the Town Trustees.

Pickstown - General Regulations

(2) To accomplish these duties, the Building Inspector or Board of Health may enter any building, structure or premises, whenever deemed necessary to inspect the same, or when the Building Inspector has reasonable cause to believe that there exists within or upon the same, any condition defined by the town code as constituting a public nuisance. Entry may be at any reasonable time, provided that the Building Inspector shall first: present proper credentials to demand entry if the building, structure or premises are occupied; or if unoccupied, make a reasonable effort to locate the owner or other person having charge or control of the building, structure or premises and demand entry. If entry is then refused, the Building Inspector or Board of Health shall have recourse as provided by law to secure entry. A determination may be made solely on the basis of a visual inspection of the exterior of the building, structure or premises, without the necessity of entering the same, if visual inspection reveals any conditions as defined in any town ordinance as constituting a public nuisance.

(3) Upon referral to them, the Town Trustees shall make a determination as to whether or not the condition(s) of the building or premises as reported to them shall be declared a public nuisance as defined by town's public nuisance ordinance, and if so, that the condition(s) shall be abated in accordance with the procedures as specified in this chapter.

(D) *Abatement of public nuisance.*

(1) After a finding that a public nuisance exists, the Town Trustees or other duly authorized representative shall give written notice so any person creating, permitting or maintaining any public nuisance, as defined in town ordinances upon any premises or property, that the public nuisance is to be abated forthwith. The notice shall provide that the nuisance shall be abated by the person or persons in control of the affected premises or property within 15 days after the mailing of the notice, except that in cases where the Board of Health determines that the nuisance constitutes a health or safety hazard, the notice may require abatement of the nuisance to be immediate, or within a time that shall be deemed by the Town Trustees to be reasonable and practical under the circumstances. Notice shall further provide:

(a) A sufficient street address or legal description upon which the building, structure or premises are located;

(b) A statement that the Building Inspector or Board of Health has referred the building, structure or premises to the Town Trustees as a public nuisance and that the Town Trustees have determined the condition(s) to constitute a public nuisance in violation of town ordinances, citing specifically each ordinance and provision thereof, which has been violated;

(c) A statement of the specific action(s) required to abate the public nuisance; and

(d) The time limitation under which the action(s) must be completed.

(2) Any action(s) required to be taken in abatement of a public nuisance shall be in accordance with any applicable building code, or any other applicable federal, state or local requirements.

(E) *Service of notice.*

(1) Any notice required to be given shall be served upon the person having record title, legal interest or control of the building, structure or premises, and upon tenants (if any).

(2) Service of any required notice shall be made either personally or by mailing a copy of it by certified or registered mail, postage prepaid, return receipt requested (or by similar or comparable means). If no address of the person(s) appears to be or is known to the Town Trustees, a copy of the notice shall be published 2 consecutive times in the official, legal newspaper of the Town of Pickstown. Service by publication is deemed effective on the date of final publication. The failure of any person to receive the notice shall not affect the validity of any proceedings taken under authority of these ordinances. Service by mail in the manner hereto provided shall be effective on the date of mailing.

(F) *Enforcement of trustees determination of existence of public nuisance/ penalty for violation.* If a person or persons shall refuse or neglect to abate any public nuisance after notice has been provided as required by the public nuisance ordinance, the Town Trustees may:

(1) Declare the building, structure or premises as injurious or hazard, and order the vacated and proper notice be posted upon the property;

(2) Order the immediate repair, maintenance or cleaning of the building, structure or premises to the extent necessary to abate the condition(s) rendering the property dangerous, hazardous and a public nuisance as set forth in the notice;

(3) Cause the condition(s) upon the building, structure or premises determined as a dangerous, hazardous and a public nuisance to be abated by the town at the expense of the owner, or person in control of the building, structure or premises as have received proper notice of the public nuisance proceedings; and

(4) Recover the total cost of the repairs, maintenance or cleaning of the condition(s) determined to constitute a public nuisance and incurred by the town through any means available under the laws of the State of South Dakota, including, but not limited to:

(a) Taxing of the cost thereof by special assessment against the property upon which the public nuisance occurred; and

(b) Upon request by the person(s) required to abate the public nuisance, and upon agreement by all person(s) to comply with the abatement notice and order of the Town Trustees if allowed additional time, the Town Trustees may, in its discretion grant an extension of time, not to exceed 10 days, within which to comply with the notice and orders of abatement, if the Town Trustees determine that the extension will not create a perpetuate a situation dangerous or hazardous to life or property.

(Ord. 99-112, passed 4-15-1999) Penalty, see § 10.99

§ 93.02 RODENT CONTROL.

No person shall permit their premises or property to deteriorate to a condition whereby it becomes a natural harbor or inducement for rats or other rodents. When, in the determination of the Board of Trustees of the Town of Pickstown, a condition is found to exist, the premises or property shall be determined to constitute a public nuisance, and shall be subject to the provisions of § 93.01. (Ord. 99-112, passed 4-15-1999) Penalty, see § 10.99

§ 93.03 FENCING IN RESIDENTIAL YARDS.

(A) No fencing shall be allowed between any residence and the street.

(B) Fencing shall not exceed 5 feet in height without approval by the Board of Trustees and concurrence from adjoining neighbors.

(C) All deviations from fencing policies must be approved by the Board of Trustees.

(D) **RESIDENTIAL DISTRICT** includes all those areas of the town which are used primarily for personal living quarters and residences of persons and families. (1986 Code, Title 33, § 10)

§ 93.04 MOWING OF OCCUPIED AND UNOCCUPIED LOTS.

(A) *Mowing of lawns.* All residents of the Town of Pickstown are required to keep their lots, whether residential, commercial, industrial or whatever nature, mowed and in a clean and orderly manner. If the lot or lots are not maintained as provided above, the municipality may mow and maintain the lots, and charge the owner of the lot for the reasonable charges and expenses thereof. In addition, anytime the grass or vegetation on the lot or lots exceeds 8 inches in height, the lot shall be mowed upon notice from the Town Finance Officer. Upon notice of the Town Finance Officer to the owner of the lot, the lot shall be mowed within 5 days thereafter. Failure to mow the lot within the required time period shall result in the town mowing and maintaining the lot at the expense of the owner as provided above.

(B) *Reasonable charge for municipal maintenance.* The municipality may, from time to time, set specified rates for the mowing of lots that is required for municipal maintenance when the landowner fails to take reasonable action to maintain the lot. The rates and charges shall be published annually in the minutes of the Town of Pickstown proceedings. In the event of failure of the Town of Pickstown to change any rates on an annual basis, then the last proceeding rates established for the previous year shall be applied.

(C) *Lien on property.* Whenever the Town of Pickstown shall be required to mow and maintain a lot or lots for any landowner, the reasonable charges and expense thereof shall become a lien upon the property involved subject to enforcement according to the laws of the State of South Dakota. (Ord. 95-93, passed 8-22-1995; Am. Ord. 2012-175, passed 3-14-2012)

CHAPTER 94: STREETS AND SIDEWALKS

Section

- 94.01 Removal of snow and ice
- 94.02 Culverts, waterways and drainage

§ 94.01 REMOVAL OF SNOW AND ICE.

(A) *Removal of snow on public streets.*

(1) *Implementation.* The town will start the removal of snow after there is an accumulation of 2 or more inches, with the weather permitting or at other times as directed by the Board of Trustees. During blizzard periods, only emergencies that are a danger to human life will be considered for snow removal.

(2) *Plow routes.* Plowing will be completed according to the town's comprehensive plan.

(3) *Parking.* Vehicles and equipment must be removed prior to plowing. Within 12 hours of the snowfall, vehicles must be removed for plowing. If they are not removed, vehicles will be ticketed and towed at the owner's expense.

(4) *Public roadways.* All snow removal from private property onto public roads or rights-of-way shall be prohibited.

(B) *Removal of snow on sidewalks.*

(1) *Implementation.* It shall be the duty of the lessee or occupant of first or ground floor or person having charge, or, if there be no lessee, occupant or person having charge, then the owner of each and every parcel of real estate in the Town of Pickstown, abutting or bordering upon any street, avenue, highway or other public place, to remove or cause to be removed, all snow and ice from the sidewalk in front of or adjacent to premises to the full paved width of the sidewalk, within 12 hours of daylight after the snow or ice shall have fallen or accumulated thereon, unless because of excessive accumulation, the time for removal be extended by the proper authority.

(2) *In case of intense freezing.* In case the snow and ice on the sidewalk shall be frozen so hard that it cannot be removed without injury to the pavement, the lessee, occupant, person having charge or

owner of every parcel of real estate shall, as soon thereafter as the weather shall permit, thoroughly clean the sidewalk.

(3) *Snow must be broken up.* It shall be unlawful for any person to throw or put, or cause to be thrown or put, any snow or ice into any street, avenue or other public place in the town unless the same shall be broken up and spread evenly over the surface of the street, avenue or other public place.

(4) *When town to do work.* Whenever any owner, lessee, occupant or person having charge of any parcel of real estate, shall fail or neglect to remove snow and ice from any sidewalk, as provided in this chapter, the Trustees without notice, shall have the ice and snow removed therefrom. A bill for the expense incurred thereby shall be presented by the Trustees to the owner, personally, by leaving the same at his or her residence or place of business, or if he or she is a non-resident, by mailing the same to his or her last known address, or, if the name of the owner or his or her place of residence cannot be determined or ascertained, after due diligence, by posting the same in a conspicuous place on his or her premises and if he or she shall file each year immediately preceding the time for the making of the work, together with a statement as to the property in front of or on which the cleaning was done, with the

Finance Officer, who shall, in the preparation of the assessment roll of general taxes, assess the amount upon the property, and the same shall be levied, corrected, enforced and collected in the same manner, by the same proceedings at the same time, under the same penalties, and having the same lien upon the property assessed as the general town tax and as a part thereof. The imposition and collection of any fine or penalty described by this section shall not be a bar to the right of the town to collect the cost of removing and cleaning of snow and ice from the sidewalks as herein provided.

(1986 Code, Title 27, § 4) (Am. Ord. 2013-182, passed 7-10-2013 Penalty, see § 10.99

§ 94.02 CULVERTS, WATERWAYS AND DRAINAGE.

(A) *Purpose.* Whereas, the Town of Pickstown, being a relatively new town of the State of South Dakota, and not having extensive curb and gutter along and adjacent to streets and alleys, and desiring to regulate the flow and/or accumulation of water along drainage canals or ditches adjacent to the towns streets within its community; as well as the preservation of the yards, open spaces and general aesthetic value of the community; and in an effort to promote the public health, safety and general welfare of the Town of Pickstown, by the legitimate exercise of its police powers and following ordinance is hereby ordained and established by the Town Board.

(B) *Location of culverts.* The location of any culverts, pipes, tubes or other apparatus used by any owner of any land or lots located within the municipal boundaries of the Town of Pickstown for the purpose of continuing natural drainage adjacent to any town street or alley through any driveways, walkways or any other unnatural barrier shall be approved by the Town Board of Trustees prior to installation. The landowners shall be responsible for excavating all culverts to the proper grade as determined by the Building Inspector and Board of Trustees.

2013 S-9

Streets and Sidewalks

25

(C) *Size requirements.* Any and all culverts, pipes, tubes or other apparatus used by any land owner for the purpose of continuing the natural drainage adjacent to any street or alley through or across any driveways, sidewalks, walkways or any unnatural barrier shall comply with the specifications of the drainage study.

(D) *Maintenance.* It shall be the obligation of the adjoining landowner to maintain any and all culverts installed by the landowner adjacent to his or her property and keep culverts clear of debris and open for clear passage of water, and to reduce the risk of accumulation of water in any waterway or ditch adjacent to his or her land. In the event the landowner fails to keep the culvert open as provided above, the Town of Pickstown may take all necessary steps to clear the culvert and charge the landowner a reasonable fee for the same.

(E) *Retroactive effect.* This section shall be applied retroactively to apply to culverts installed after August 10, 1986.

(Ord. 93-79, passed 6-9-1993; Am. Ord. 2010-165, passed 7-14-2010)

CHAPTER 95: ABANDONED, NUISANCE AND JUNKED VEHICLES

Section

Junk Dealers

95.01 Regulating junk dealers

Abandoned, Wrecked, Dismantled, or Inoperative Vehicles

95.15 Definitions

95.16 Storing, parking or leaving vehicles declared a nuisance

95.17 Exceptions

95.18 Presence on private property prohibited

95.19 Racing or antique vehicles

JUNK DEALERS

§ 95.01 REGULATING JUNK DEALERS.

(A) **JUNK DEALER** shall include any person who shall be engaged in the business of buying, selling, receiving, storing, collection or dealing in scrap metals, secondhand parts of motor vehicles or machinery, or machinery which is being kept for the purpose of being dismantled or discarded, bottles, scrap rubber, rags, paper, bones or junk in general. In reference to used cars and secondhand parts of cars, this section shall not be deemed to apply to bonafide secondhand automobile dealers, but the mere fact that the owner or operator of the establishment reconditions or sells some secondhand cars shall not eliminate his or her establishment from the effects of this section.

(B) No junk dealer shall establish or engage in the business of a junk dealer as herein defined in any location within the town.

(C) It shall be prohibited to have inoperable vehicles on streets of property for more than 30 days. No inoperable vehicle shall be left on streets, on blocks or any unsafe manner which could cause injury to any person. Failure to remove vehicles by the owners shall result in a \$25 fine. The cost of removal will be assessed to the owner.

(1986 Code, Title 29, § 6) Penalty, see § 10.99

ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE VEHICLES**§ 95.15 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ABANDONED MOTOR VEHICLE. Any motor vehicle as deemed hereinabove which is left unattended on any public street, alley, public place or parking lot within the municipality for a longer period than 24 hours without notifying the chief of police and making arrangements for the parking of such motor vehicle.

JUNKED MOTOR VEHICLE. Any car bodies, wrecked cars, abandoned and unusable cars, car bodies or equipment of any type, except in authorized junk vehicles.

MOTOR VEHICLE. Any vehicle which is self propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf-carts, campers and trailers.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PROPERTY. Any real property within the municipality which is privately owned and which is not public property as defined herein.

PUBLIC PROPERTY. 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 or facility.

REMOVAL AGENCY. Any public body, private or nonprofit organization authorized by the municipality to remove and salvage abandoned or inoperable motor vehicles.

VEHICLE. Any conveyance which is designed to travel along the ground or in the water and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, pull trailers, go-carts, golf carts, boats, campers and trailers.

§ 95.16 STORING, PARKING OR LEAVING VEHICLES DECLARED A NUISANCE.

(A) The presence of an abandoned, discarded, wrecked, burned, dismantled, inoperable, junked or partially dismantled vehicle or parts thereof on private or public property is hereby declared a nuisance, which may be abated as such in accordance with the provisions of this subchapter.

(B) It is unlawful to keep or place any of such vehicles or vehicle parts:

(1) Upon public streets or property except on an emergency basis; or

(2) Upon private property of any person owning, in charge of, or in control of any real property in the municipality, whether as an owner, tenant, occupant, lessee or otherwise, for longer than 14 days unless it is within a carport, fully enclosed building or structure. A tarpaulin, tent or other similar temporary structure shall not be deemed to satisfy the requirements of this section.

(C) In no event shall an inoperable vehicle that constitutes an imminent health, safety or fire hazard be kept located on any premises.

Penalty, see § 10.99

§ 95.17 EXCEPTIONS.

This subchapter shall not apply to:

(A) One inoperable vehicle kept on private property without being shielded from public view if licensed and kept on a private driveway. If this inoperable vehicle is in a state of externally visible disrepair or disassembly, it shall not be kept on the private driveway for longer than 14 days.

(B) Filing stations, automobile repair shops or any other motor vehicle related business in compliance with applicable municipal ordinances may place inoperable vehicles being repaired or offered for sale on the premises.

(C) Junkyards operated and maintained in compliance with municipal ordinances.

§ 95.18 PRESENCE ON PRIVATE PROPERTY PROHIBITED.

No person owning, in charge of or in control of any real property within the municipality, 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 30 days.

Penalty, see § 10.99

§ 95.19 RACING OR ANTIQUE VEHICLES.

No owner or occupant of private property shall have an uncovered motor vehicle inoperable condition specifically adopted or designed for operation on drag strips or raceways or an uncovered motor vehicle retained on private property for antique collection purposes.

Penalty, see § 10.99

CHAPTER 96: FIRE PREVENTION AND PROTECTION

Section

- 96.01 Identifying fire districts and zones
- 96.02 Fireworks and firearms
- 96.03 Refuse burning

§ 96.01 IDENTIFYING FIRE DISTRICTS AND ZONES.

(A) *Fire Zone.* All commercially zoned properties shall be considered to be the Fire Zone of the Town of Pickstown, Charles Mix County, State of South Dakota.

(B) *Application for permit to build.* Any person desiring to erect, alter or repair, remove or place any building within the Fire Zone or Fire District shall apply to the Board of Trustees for a permit to do so and shall furnish plans and specifications sufficient for the Board of Trustees to determine whether the building, alteration or repair is in compliance with the terms of this section, and if granted, the permit shall be signed by Finance Officer under the seal of the town and a record of the granting of the permit shall be kept in the records of the meeting of the Town Board at which the permit was granted. No application will be allowed until a time that the Town Board becomes fully organized. Upon resolution of the Town Board, permits to build will become authorized. Permit fees shall be established by resolution.

(C) *Materials.* No person shall erect, or cause to be erected, or place within the Fire Zone of the Town of Pickstown, any building or part thereof unless the entire outside walls are constructed of stone, brick, cement or other hard or incombustible material, and roofed with slate, tin, zinc, iron, cement, asbestos, magnesia or other fireproof roofing; nor repair or rebuild any wooden building which becomes damaged by fire or otherwise, or decayed, to the extent to 50% or more of the value thereof, and no building shall be repaired so as to be raised higher or occupy a greater space than before repair.

(D) *Definition of WOODEN BUILDINGS.* A **FRAME** or **WOODEN BUILDING** of which the external or division walls are constructed in whole or in part of wood, and having more wood on the exterior than that required for the door and window frames, doors, sash, shutters, verandas and steps, and all frame buildings and sheds, although the sides and ends are proposed to be covered with corrugated iron or other metal, or veneered with brick, shall be deemed a wooden building under this section.

Pickstown - General Regulations

(E) *Extent of damage.* The amount of the extent of damage or decay or deterioration which may be done to any building, when in doubt, may be determined by 3 disinterested persons, residents of the town, 1 of whom shall be appointed by the governing body, 1 by the owner of the building or his or her agent, and the 2 thus chosen shall select a third. If the owner or his or her agent refuse to make a selection, the Trustees shall select for him or her, and the decision of the persons thus chosen shall be final and conclusive and shall be reported to the governing body.

(F) *Abatement of certain buildings.* Any building or additions to buildings hereafter constructed or erected within the Fire Zone in violation of the terms of this section are hereby declared to be a public nuisance, and it shall be the duty of the Trustees to forthwith abate the same, and the cost of abating the nuisance shall be collectable from the owner of the property and may be established as a lien upon the real estate, building and material thereof.

(G) *Exits in public buildings defined.* Every public building designated to accommodate 200 people or more shall have at least 2 exits, each at least 3 feet in width, and the doors at all exits shall open outwards, and no chairs or seats shall be allowed in the aisles when the audience is present.

(H) **PUBLIC BUILDING** *defined.* Every building used as an opera house, theater, dance hall, lodge hall, and any place where public meetings or assemblies are held, is hereby declared to be a **PUBLIC BUILDING** within the meaning of this section.
(1986 Code, Title 29, § 6) Penalty, see § 10.99

§ 96.02 FIREWORKS AND FIREARMS.

(A) Sales of fireworks shall be allowed within the Town of Pickstown, in accordance with state law, (SDCL §§ 34-37 *et seq.* as amended), effective immediately upon the passage of this section.

(B) It shall be unlawful for any persons, firm or corporation to discharge any fireworks, torpedoes, roman candles, skyrockets or any kind of fireworks upon any street, alley or other public ground within the Fire Zone(s) of the Town of Pickstown. Trustees may designate areas within the town boundaries for discharge of fireworks.

(C) Any persons, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine not exceeding \$10 for the first offense and for any subsequent offense, a fine of not exceeding \$250 per day or 30 days in the county jail, or both fine and imprisonment, in the ruling of the court.

(D) It shall be unlawful for any person to discharge any firearms or guns within the limits of the Town of Pickstown except for the Law Enforcement Officer or other appointed officer.

(E) The Board of Trustees may rule, under adverse or dry conditions that the discharge and sale of fireworks be prohibited within the town.
(Ord. 96-97, passed - -) Penalty, see § 10.99

§ 96.03 REFUSE BURNING.

(A) *Refuse burning restriction.* Open burning shall be allowed within the Town of Pickstown only by permit from the Fire Chief.

(B) *Air pollution control.* That the air pollution control regulations for the State of South Dakota adopted by the South Dakota Air Pollution Control Commission on January 17, 1972, and amendments thereto, are hereby adopted by the Town of Pickstown and copies of the regulations are placed in the office of the Finance Officer of the Town of Pickstown, South Dakota.
(1986 Code, Title 31, § 8) Penalty, see § 10.99

CHAPTER 97: TREES

Section

- 97.01 Definitions
- 97.02 Authority and jurisdiction
- 97.03 Planting
- 97.04 Tree care
- 97.05 Diseased trees and tree hazards
- 97.06 Costs and penalty
- 97.07 Notice
- 97.08 Exceptions

§ 97.01 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARK TREES. Trees, shrubs, bushes, and all other woody vegetation in public parks including municipal properties.

PERSON. Any person, firm, partnership, association, company, organization or political subdivision of any kind.

PRIVATE COMMUNITY FOREST. All trees within the municipal boundaries but not owned by the town.

PUBLIC COMMUNITY FOREST. All street and park, trees, and other trees owned by the town as a total resource.

STREET TREES. Trees, shrubs, bushes, and all other woody vegetation on land lying between the property lines on either side of all streets, avenues, alleys or public right-of-way within the town including tree belt areas.

(Ord. 2011-173, passed 10-12-2011)

§ 97.02 AUTHORITY AND JURISDICTION.

The Town Board of Trustees shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to insure the public safety and to preserve the aesthetics of such public sites. The Board of Trustees shall have the authority to determine the type and kind of trees to be planted upon public streets or in parks; and may assist in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the corporate limits or within the area over which the town has jurisdiction, whether the same be on private or public property, and to make recommendations from time to time as to desirable statutes concerning the tree program for the town. The Town Board has the authority to delegate this authority to town employees and/or the Superintendent of Parks.

(Ord. 2011-173, passed 10-12-2011)

§ 97.03 PLANTING.

(A) The town is responsible for tree planting in all town parks and established control of street tree planting on boulevards. Private planting of trees is not subject to town control, but the town encourages desirable species and planting practices.

(B) The town will issue annually a desirable species list for tree planting in the town. The list will contain a minimum of 10 species in order to provide a diversity of tree types.

(1) Sidewalk distance: 4 feet;

(2) Street corner distance: 30 feet (measure from curb or curb line);

(3) Hydrant and utility line distance: 10 feet.

(Ord. 2011-173, passed 10-12-2011)

§ 97.04 TREE CARE.

(A) The town will be responsible for all tree care aspects of park trees and will accomplish insect and disease control for street trees when determined by the town authority that a pest is a serious threat to other trees and for which there is an adequate control measure.

(B) For any trees or shrubs now situated on or hereafter planted in the public right-of-way, it shall be the duty of the abutting property owner to maintain trees in a safe and healthy condition and in every way in compliance with the provisions of this chapter. Further, it shall be the duty of each property owner to maintain all trees on his or her property in a healthy and safe condition. If the property owner

fails to so maintain the trees, the town after 30 days written notice to maintain the trees, may perform the required maintenance or removal and charge the costs of the same to the property owner for collection in the same manner as other special assessments.

(C) *Harmful activities prohibited.* Unless otherwise specifically authorized by the Town Board, no person shall intentionally damage, cut or carve any tree, attach wire, nails, advertising posters or other contrivances to any tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or to set fire or permit any fire to burn when such fire or the heat therefrom will injure any portion of any tree.

(D) *Pruning and clearance.* It shall be the duty of any persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such a manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view of any street or alley intersection except where such services are provided for by utility firms.

(1) Sidewalk height clearance: 8 feet;

(2) Street height clearance: 14 feet;

(E) *Removal of stumps.* All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The town shall only be responsible for the removal of those stumps of trees the town removes. Private property owners will have 6 months to remove stumps. Failure to remove stumps will be considered a nuisance violation.

(Ord. 2011-173, passed 10-12-2011)

§ 97.05 DISEASED TREES AND TREE HAZARDS.

(A) No tree shall be allowed to harbor any safety hazard to the general public, whether that tree be public or private or to harbor any insect, disease or other pest that would be injurious or fatal to any tree in the town. Such trees include those injurious to sewer, water, electrical, telephone or gas lines and those interfering with traffic and traffic control signs, those obstructing light from any street light and those that are dead or have broken or dead limbs that are unsafe.

(B) Nuisance diseases/pests include but are not limited to:

(1) Dutch Elm Disease fungus;

(2) Ceratocystic Ulml;

(3) European Elm Bark Beetle;

Pickstown - General Regulations

- (4) Scolytus Multistratus;
- (5) Native Elm Bark Beetle;
- (6) Hylurgopinus Rufipes

(C) No elm shall be stored in wood piles or within the town. No elm may be used as firewood. No elm wood may be hauled into or through the town.
(Ord. 2011-173, passed 10-12-2011)

§ 97.06 COSTS AND PENALTY.

The owner shall bear the entire cost of removal or pruning of trees determined to be a hazard by disease or physical hazard.
(Ord. 2011-173, passed 10-12-2011)

§ 97.07 NOTICE.

(A) Notice shall be given in writing from the Town Office, with 30 days to comply. In the event the owner, occupant or person fails to comply with the order, the town will have cause to declare a nuisance and take the appropriate action.

(B) Incident cost shall be assessed to the owner.

(C) The Finance Officer upon failure to receive costs of the incident, may send appropriate certification to the Charles Mix County Auditor for collection with and in the same manner as general property taxes.
(Ord. 2011-173, passed 10-12-2011)

§ 97.08 EXCEPTIONS.

Any exception to this chapter must be given to the Board in writing prior to action contradictory to this chapter.
(Ord. 2011-173, passed 10-12-2011)