

TITLE 5 – OFFENSES

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CHAPTER 5.01 – ALCOHOLIC BEVERAGES

- 5.0101 License Required. No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend, or otherwise concoct, within the City any alcoholic beverage as defined by statute, without having a license therefore as required by South Dakota Law, or as amended. All provisions in this Chapter concerning dealers shall apply to anyone operating under a management contract with the City under a Municipal Liquor License. (SDCL 35-2)
- 5.0102 Application and License Fee. When applicable, application for licenses under the jurisdiction of the City shall be submitted as prescribed by South Dakota law. The annual fee for licenses shall be as established in South Dakota law. (SDCL 35-2-1.2)
- 5.0103 License Restrictions. Applications for licenses for the sale of off sale or on sale liquor shall have the necessary fees attached upon being submitted to the City Council as required by South Dakota law, and the granting and retention of licenses will be as provided by South Dakota law and local regulations, with no licenses to be granted to any applicants determined by the City Council not to be residents of the City, except that the provisions of this Section shall not be applicable to any licensees who have heretofore been approved and doing business at this time. The provisions of this Section shall be applicable, however, at any time in the future when the business of present licensees change ownership. Licenses shall be considered for residents of the City only upon such changes in ownership referred to hereinbefore. (SDCL 35-2-1.1)
- 5.0104 Location of Business. The City Council shall not issue any license to any person where the location of such business would not be considered desirable. (SDCL 35-3-1)
- 5.0105 Hours of Business. It shall be unlawful to sell or offer for sale, retail, or to give away, in or upon any on-sale licensed premises, any alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m., except it shall be unlawful on Sunday after the hour of 2:00 a.m., on Memorial Day after 1:00 a.m. and on Christmas Day at any time. Every on sale dealer shall flash the lights of his or her place of business each day at 1:45 a.m. as a warning that within fifteen (15) minutes such place of business will close. At 2:00 a.m. every on sale dealer shall clear the premises of customers and patrons and shall not sell, serve, or allow to be consumed on the premises any alcoholic beverages. (SDCL 35-4-81)

- 5.0106 Exception to Hours of Business. Notwithstanding 5.0105 above, the City Council may prescribe in the license of any on-sale licensee, that said licensee has the right to sell, serve or allow to be consumed alcoholic beverages between 1:00 p.m. and 12:00 midnight on Sunday, providing licensee has facilities for the serving of prepared meals from a fixed restaurant with a simultaneous seating capacity of at least thirty-five (35) and the sale, service or consumption is in conjunction with the operation of said restaurant.
- 5.0107 Hours of Sale. No off sale licensee shall sell or allow to be sold alcoholic beverages between the hours of 12:00 midnight and opening of business for the following day (not earlier than 7:00 a.m.), nor any holidays designated under South Dakota Codified Law or designated by resolution of the City Council. (SDCL 35-4-81.1)
- 5.0108 Sanitation Facilities. Every on sale dealer shall maintain upon his licensed premises, toilets properly connected with the City sewer system with separate facilities for men and women. In each such facility there shall be maintained running water and towels for use by the users of such facilities (or approved sanitary drying facilities). Every licensee shall have such facilities equipped and maintained so as to pass state and/or local health requirements at all times. (SDCL 34-18-22)
- 5.0109 Revocation of License. Whenever any person shall as clerk, servant, agent, or employee of any other person or establishment violate any of the provisions of this Chapter he shall also be deemed as guilty as a principal. Failure to comply with all existing requirements, including the provisions of this Chapter, shall provide cause for revocation of any licenses granted under the provisions of South Dakota law. (SDCL 35-2-10)
- 5.0110 Open Containers. It shall be unlawful to drink any beer or alcoholic beverage or to possess any glass, can, or other container containing beer or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3)
- 5.0111 Beer Allowed. The possession and consumption of beer shall be allowed at the City Park unless otherwise provided by the City Council or in these ordinances. (SDCL 35-1-5.3)
- 5.0112 Purchase, Possession or Consumption of Alcoholic Beverages by a Minor. It shall be unlawful for any person under the age of twenty-one (21) to purchase, attempt to purchase, possess or consume alcoholic beverages from a licensee, unless it is done in the immediate presence of a parent or guardian or spouse twenty-one (21) years of age or older or by prescription or direction of a duly licensed practitioner or nurse of the healing arts for medicinal purposes.
- 5.0113 Persons Under twenty-One (21) Barred from On-sale Premises: Exceptions to Ordinance.

- A. No on-sale licensee may permit any person less than twenty-one (21) years old to loiter on the licensed premises or to sell, serve, dispense or consume alcoholic beverages on such premises. However, an on-sale licensee pursuant to subdivision (4), (6), (11), (14) or (17) of SDCL 35-4-2 (as amended) may permit eighteen (18) year olds to sell and serve or dispense alcoholic beverages if not less than fifty percent of the gross business transacted by that establishment is from the sale of food and the licensee or an employee that is at least twenty-one (21) years of age is on the premises when the alcoholic beverage is sold or dispersed. For the purpose of this section, the term, "to sell and serve alcoholic beverages". Means to take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct of waiting tables. The term does not include tending bar or drawing or mixing alcoholic beverages.
- B. No off-sale licensee licensed under subdivision (18) of SDCL 35-4-2 may permit any person less than twenty-one (21) years old to sell, serve or dispense alcoholic beverages on the licensed premises unless such sales of alcoholic beverages constitutes less than fifty percent of the gross business transacted by that establishment.
- C. An on-sale licensee issued a license pursuant to subdivision (17) of SDCL 35-4-2 whose sale of alcoholic beverages constitutes more than fifty percent of the gross business transacted by that establishment may erect a physical barrier to allow for multiple uses of the premises by persons of all ages provided persons under the age of twenty-one (21) are not permitted access to the area reserved for the sale of malt beverages. For the purpose of this section, a physical barrier includes, but not limited to, a wall, fence, rope, railing or other physical feature erected for the sole purpose of restricting the free flow of foot traffic and access to certain area of a premises.
- D. No off-sale licensee licensed under subdivision (3) or (5) of SDCL 35-4-2 (as amended) may permit any person less than twenty-one (21) years old to sell, serve or dispense alcoholic beverages on the licensed premises.

CHAPTER 5.02 – OFFENSES AGAINST PUBLIC WELFARE

- 5.0201 Disorderly Conduct. A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place: (SDCL 9-29-3, 22-13-1)
- A. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health;
 - B. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;

- C. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed under law;
- D. Interferes with another's pursuit of a lawful occupation by acts of violence;
- E. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by the City Police or other lawful authority known to be such;
- F. Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his own safety or the safety of others;
- G. Resists or obstructs the performance of duties by the City Police or any other authorized official of the City when known to be such an official;
- H. Incites, attempts to incite, or is involved in attempting to incite a riot;
- I. Addresses abusive language or threats to any member of the City Police Department, any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have direct tendency to cause acts of violence. Words merely causing displeasure, annoyance, or resentment are not prohibited;
- J. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition;
- noise* K. Makes or causes to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;
- L. Fails to obey a lawful order to disburse by a police officer, when known to be such an officer, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is eminently threatened;
- M. Throws a stone, snowball or any other missile upon or at any vehicle, building, tree or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground.

As used above, the following definitions shall apply:

- A. "Public place" – Any place to which the general public has access in the right resort for business, entertainment, or other lawful purpose, but not necessarily mean a place devoted solely to the use of the public.

It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

- B. "Riot" – A public disturbance involving (i) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of another person or to the person or any other individual or (ii) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.
- C. "Inciting riots" – Shall mean, but is not limited to, urging or instigating other persons to riot, but shall be deemed to mean the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness, or the right to commit, any such act or acts.

This Section shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or lawful means of expressing public opinion not in contravention with other laws.

- 5.0202 False Report of a Crime. No person in the City shall make to, or file with, the Police Department of the City any false, misleading, or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the City. (SDCL 22-11-9)
- 5.0203 Injury or Removal of Public or Private Property. No person shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or movable or personal property belonging to the City or to any person in the City. (SDCL 22-34-1)
- 5.0204 Tampering in General. No person in the City shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fire plug or hydrant, typographical survey marker or monument, or any other personal property erected or placed by the City. (SDCL 22-34-1)
- 5.0205 Tampering with Service Connections. It shall be unlawful for any person to connect, disconnect, or otherwise tamper with any service connection of any franchised cable television company without the express prior approval from a designated agent of said Cable Television company.
- 5.0206 Indecency. As used in this Section, the following definitions shall apply: (SDCL 22-24-27)
 - A. "Obscene" – To the average person applying contemporary community standards, taken as a whole, that the predominant appeal of the matter appeals

to the prurient interests and (i) depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or (ii) depicts or describes patently offensive representations or descriptions of masturbation, excretory functions, or lewd exhibits of the genitals; and which, taken as a whole, lacks serious literary, artistic, political or scientific value.

- B. "Prurient Interest" – Shameful or morbid interest in nudity, sex or excretion which goes substantially beyond customary limits of candor in description or representation.
- C. "Material" – Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statute or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.
- D. "Dissemination" – To transfer possession of, with or without consideration.
- E. "Knowingly" – Being aware of the character and content of the material.
- F. "Promote" – To cause, permit, procure, counsel or assist.

It shall be unlawful for any person within the City to:

- A. Knowingly disseminate, distribute or make available to the public any obscene materials; or
- B. Knowingly engage or participate in any obscene performance made available to the public; or
- C. Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of the prurient appeal; or
- D. Provide service to patrons in such a manner as to expose to public view:
 - 1. His or her genitals, pubic hair, buttocks, perineum, anal region, or pubic hair region;
 - 2. Any device, costume or covering the appearance of which simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - 3. Any portion of the female breast at or below the areola thereof; or
- E. Knowingly promote the commission of any of the above listed unlawful acts.

- F. Appear in any public state in a state of dress intended to deceive others as to his or her sex, or make any indecent exposure of his or her person.
- 5.0207 Certain Uses Prohibited. No person shall put up, erect, hang, post, or suffer to remain so placed, any sign, poster, notice or other advertising matter, upon any telephone, traffic sign, or electric light pole in the City. (SDCL 9-29-1)
- 5.0208 Resisting and Officer. It shall be unlawful for any person to resist, hinder or interfere with any police officer, any member of the Law Enforcement or any person duly empowered with police authority, while in the discharge or apparent discharge of his duties.
- 5.0209 Impersonating a Law Enforcement Officer. No person not duly authorized by law shall exercise the duties of a law enforcement officer, wear a law enforcement uniform and/or badge, represent himself to be a law enforcement officer or attempt to exercise the duties of a law enforcement officer.
- 5.0210 Displaying License Unlawful. No person shall display in public, any City license or permit which has been suspended or revoked, or which has not been lawfully procured.

CHAPTER 5.03 – ANIMALS

5.0301 General.

A. Definitions.

1. "At Large"

- a. An animal when off the premises of the owner and not under the control of the owner, possessor, keeper, agent, servant, or member of his immediate family by a leash.
- b. An animal when on the premises of the owner, possessor, keeper, agent, or servant and not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises or from reaching the sidewalk.

2. "Leash"- A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.

3. "Owner"- any person harboring or keeping an animal or who is head of the household or owner or manager of the premises where such animal remains.

B. Running at Large. It shall be unlawful for any person to allow any dog, cat or other animal held as a domestic pet to run at large at any time.

C. Impoundment. A law enforcement officer or animal control officer shall impound any animal found running at large within the City. Once the owner of said animal

is ascertained, said owner shall be notified of the impoundment within 24 hours. Owner shall be liable and responsible for all impound fees or charges.

- D. Liability. Animal control officers and police officers shall not be responsible for any injury or disease of any animal resulting from the enforcement of this chapter.
- E. Failure to claim. Any impounded animal not claimed by the owner within three days after receiving notice shall become the property of the City and shall be placed for adoption in a suitable home or humanely euthanized.
- F. Conditions for release. The owner of any dog or cat found running at large without a license tag affixed to its collar shall be subject to a fine of \$50. The dog or cat will not be released from impound until the \$50 fine has been paid and a license has been issued under the provisions of 5.0310.
- H. Violation. Any owner who allowed his/her animal to run at large is in violation of this chapter and subject to prosecution of a Class II misdemeanor. Any violation of this chapter shall be documented by the animal control officer or police officer involved in said incident by issuing a warning ticket or filing a complaint stating the alleged violation.

5.0302 Compulsory Immunization of Animals for Rabies. Every dog, cat, or other animal held as a domestic pet in the City, six (6) months of age or older, shall be immunized against rabies by a licensed veterinarian or other qualified person designated by the City Council. Immunization against rabies shall be given at such 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. (SDCL 9-32-1)

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

Any animal impounded shall not be released by the Pound Master to any person until such 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.

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. Whenever metallic tags are so given for immunizations, such metallic tags shall be worn by all animals on a collar, harness, or chain when off the premises of the owner.

5.0303 Responsibility of Owner to Place Animal for Observation. When any person owning or harboring a dog, cat or other animal has been notified that said animal has bitten or attacked any person, the owner shall within twenty-four (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 ten (10) days.

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

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

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

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. Any person within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to the City or Animal Control Officer. Any rabid animal may be destroyed by the Animal Control Officer upon authorization in writing by the City Council.

Whenever the Animal Control Officer or Sheriff's Department shall have determined that there is a danger of the existence or spread of rabies in the City, such facts shall be made known to the City Council in writing. The Council, upon receipt of said 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 (48) hours after the publication of said 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 said animals fail.

All animals seized and impounded shall be held for observation as hereinbefore provided for fourteen (14) 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. (SDCL 9-29-12)

5.0304 Vicious Dogs.

- A. Findings and Policy. The City Council of the City of Valley Springs, South Dakota finds that vicious dogs are so dangerous that they constitute a threat to children and others in the city. Vicious dogs occasionally escape from the yard or building in which they are kept, by slipping under a fence, jumping over a fence, slipping out through a door or gate temporarily opened or unlatched, breaking the leash or chain, or pulling up the anchor for the chain or leash. Children too young to read may wander too close to a dog, even in the presence of "beware of the dog" signs. It is the policy of the City that children and others should not have to assume risk of a vicious dog having an opportunity to attach or to kill.

The City Council finds that the benefits to a dog owner in owning a dangerous dog are outweighed by dangers to children and to the general public.

- B. Definitions. As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

City – The City of Valley Springs

Vicious Dog – Any dog that has bitten or attacked any person, and any dog that has attempted to bite or to attack any person. A dog shall be deemed to be attempting to attack if it is restrained by a leash, fence or other means, and it is clear from the dog's excited actions that only the presence of the leash, fence or other means of restraint is preventing the dog from making an immediate attack.

- C. Keeping of Vicious Dogs Prohibited. No person shall keep any vicious dog anywhere in the city.
- D. Duty of Landlords and Agents. No landlord or landlord's agent shall knowingly permit any tenant to move in a vicious dog into any building or premises owned or controlled by such landlord or agent. No landlord or landlord's agent shall knowingly permit any person to keep any vicious dog in any building or premises owned or controlled by such landlord or agent. Any landlord or agent learning of any vicious dog in any building or premises owned or controlled by such landlord or agent. Any landlord or agent learning of any vicious dog in any building or premises owned or controlled by such landlord or agent shall notify the person having such dog to remove the dog from the city immediately.
- E. Exclusions. It is not the intent of this ordinance to prohibit the police department from using any trained dog that may attack on command, provided that each such dog must be in the presence of its handler or confined in accordance with police department policy at all times.
- F. Impoundment and Rabies. This ordinance shall not prohibit the temporary impoundment of any dog. This ordinance shall not prohibit the holding of any vicious dog suspected of rabies or any vicious dog that has bitten a person, provided that such vicious dog may be held in a secure place operated or supervised by a licensed veterinarian.
- G. Nuisance, Injunction. Any violation of this ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this ordinance. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

- 5.0305 Disturbance of Peace by Animals. The owner of an animal shall not allow such animal to disturb the peace and quiet of the neighborhood through barking or any other manner possible.
- A. The owner or custodian of an animal shall not allow the animal to create a disturbance by making loud noises any time of the night or day.
 - B. Any person having custody or control of any female animal in heat shall be required to keep the same confined in a building, secure enclosure, veterinary hospital, or boarding kennel so that it cannot attract or come into contact with another animal on public or private property except for controlled breeding purposes. Upon complaint such owner will be notified by the Police Department and said owner shall abate such nuisance. If convicted upon failure to abate such nuisance, said owner will be guilty of further violations for each day that such condition is allowed to exist or goes uncorrected. (SDCL 9-29-13)

5.0306 Cruelty to Animals. No person shall willfully or negligently maltreat 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 such animal, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any such animal. (SDCL 40-1)

5.0307 Stray, Abandoned, or Unkept Animals. No person shall harbor or keep any stray animals within the City. Animals known to be strays shall be reported to the Police Department immediately. The keeping of animals and fowls on any lot in the City shall not be on a commercial basis or on a scale objectionable to the adjacent property owners, without a permit from the City Council.

The provisions of this section shall not be applicable to those existing at the time of the effective date of this ordinance, particularly insofar as permit requirements are concerned. (SDCL 9-29-13, 40-1)

5.0308 Responsibility of Owner. Any person who creates or maintains any condition, or operate any equipment, or keeps any animal, fowl, pet or insect in such a way that such condition, operation or keeping causes or is likely to cause the transmission of diseases from animals or insects to man shall be in violation of this ordinance.

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

5.0309 Livestock in City. 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 swine within the City, unless such animals are kept as household pets, and are not used for any commercial purpose.

For the purpose of this section, the term "Livestock" shall mean any animals except common household pets such as dogs, cats, mice, rats, hamsters, gerbils, guinea pigs, pot-bellied pigs, rabbits, ferrets, fish, and birds. (SDCL 9-29-13)

5.0310 Dog and Cat License Required. All dogs and cats kept, harbored, or maintained by their owners in the City shall be licensed and registered if over six (6) months of age. Dog and cat licenses shall be issued by the Finance Officer upon payment of an annual license fee of four dollars (\$4.00) for each neutered male or spayed female, and eight dollars (\$8.00) for each unneutered male or unspayed female.

Before any license shall be issued under this Section, the applicant shall furnish a certificate of vaccination issued by a veterinarian licensed to practice within this State evidencing the vaccination of the dog for which the license is desired, and that the dog has been vaccinated against rabies and that such vaccination will be good for the license year.

The owner shall state at the time application is made for such license and upon printed forms provided for such purpose his or her name and address, and the name, breed, color and sex of each dog and cat to be licensed. The provisions of this Section shall not be intended to apply to dogs and cats whose owners are nonresidents temporarily within the City, nor to dogs and cats brought into the City for the purpose of participating in any dog show, nor to "seeing eye" dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

Upon payment of the license fees, the Finance Officer shall issue to the owner a license certificate and metallic tag for each dog and cat so licensed which shall have stamped thereon the number for which it was issued corresponding with the number on the certificate. Every owner shall be required to provide each dog and cat with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog and cat tag is lost or destroyed, a duplicate will be issued by the Finance Officer upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of a one dollar (\$1.00) fee for such duplicate. Dog and cat tags shall not be transferable from one dog to another and no refunds shall be made on any dog and cat license fee because of death of the dog and cat or the owner's leaving the City before expiration of the license period. (SDCL 9-29-12)

5.0311 Number of Pets Limited. It is unlawful for any person to have or to keep more than four domestic pets over the age of six months, except birds and fish, on any lot or premises in the City, unless such person residing on or in the lot or premises has a valid kennel license issued by the City. Humane societies, veterinarian offices, and retail pet stores are exempt from the provisions of this section.

CHAPTER 5.04 – FIREWORKS, FIREARMS AND EXPLOSIVES

- 5.0401 Discharging Firearms Prohibited. No person shall discharge or shoot off any gun, pistol, or any other firearm within the City, unless permitted by the City Council in firing ranges. (SDCL 22-14-7, 9-29-3)
- 5.0402 Fireworks Prohibited. The use, throwing, lighting, firing, display, or sale of fireworks within the City shall be prohibited. The term fireworks as referred to in this Section shall include firecrackers, torpedoes, Roman candles, toy cannons, detonating canes, blank cartridges, sky rockets or other pyrotechnic displays, but shall not include or apply to ammunition for firearms nor to dynamite and devices for exploding the same used in any industry or for the same. (SDCL 34-37, 9-33-1)
- 5.0403 Exceptions Provided. The provisions of this Chapter shall not apply to police officers of the City or to any person, firm or corporation duly licensed by the City Council in accordance with Chapter 4.01 of this ordinance, to discharge fireworks for public entertainment at any public celebration in the City. The discharge of only permissible fireworks, as defined by SDCL 34-37-5, shall be permitted on July 4th of each year from the hours of 10:00 a.m. until 11:00 p.m. and provided further that the use or discharge of all fireworks may be banned by resolution of the City Council or Order of the Fire Department because of dry climatic conditions or other emergencies.

Does not
Prohibit
BB or
Pellet Guns

use of
gunpowder propellant
to discharge or activities
call on 6-26-15

CHAPTER 5.05 – MINORS [MINORS SDCL Title 26]

- 5.0501 Curfew Hours and Exceptions. It shall be unlawful for any person under the age of sixteen (16) to be on the streets, alleys, or public grounds of the City between the hours of 9:30 p.m. and 5:00 a.m. on the following day, unless accompanied by parents or legal guardian, or unless such person shall be upon some necessary errand by written permission of a parent, guardian, or employer and said person so permitted to be outdoors shall have with him or her such written permission and shall upon request of any police officer of the City exhibit the same to said police officer. An exception to the curfew will be made in the case of activities officially sponsored by schools, churches, or the City, when the curfew will extend one-half (1/2) hour beyond the time said activities end. (SDCL 9-29-13)
- 5.0502 Responsibility of Officers. It shall be the duty of any police officer of the City to arrest and detain any person who violates any of the provisions of this Chapter and to keep such person detained until his or her parents, guardian, or person in control will appear before the police or other authorized personnel to answer to the charge of having violated this Chapter.
- 5.0503 Responsibility of Parents or Guardians. It shall be unlawful for the parents, guardian or other adult person having the care and custody of a minor under the age of sixteen (16) years to knowingly permit such a minor to be or remain in or upon the public streets, alleys, parks, playgrounds, public grounds, public places, public buildings, public places of amusement and entertainment, vacant lots or other

unsupervised public places within the City between the hours of 9:30 p.m. and 5:00 a.m. of the following day, except if the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or when the minor is upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian or other adult person having the care and custody of the minor.

CHAPTER 5.06 – STREET DANCES

- 5.0601 Non-Profit Organizations. Street dances held within the City of Valley Springs or within one (1) mile from the outer boundary of the City shall be conducted by Non-Profit Organizations only. Each sponsoring organization must obtain a permit and license at least thirty (30) days prior to each event. The sponsoring organization must submit proof of liability insurance to the City before such an event can take place and adhere to all implemented street dance policies as set forth by the City Council.
- 5.0602 Restriction of Age Attending. It shall be unlawful for any person conducting a street dance in the City of Valley Springs to permit or allow any person under the age of sixteen (16) years unaccompanied by his or her parent, step parent or legally appointed guardian to enter or remain within the boundary designated for holding the street dance.

CHAPTER 5.07 – PUBLIC NUILITY AND REGULATING STRIP DANCING

- 5.0701 Prohibited Generally. It is a violation of this ordinance for any person to knowingly or intentionally, in a public place:
- (1) Engage in sexual intercourse;
 - (2) Engage in deviate sexual conduct;
 - (3) Appear in a state of nudity; or
 - (4) Fondle the genitals of himself, herself or another person.
- 5.0702 Definitions.
- (1) Nudity or State of Nudity – The showing of the bare human male or female genitals, anus or pubic area with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of the areola; or the showing of the covered male genitals in a discernibly turgid state.
 - (2) Public Place – Any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit) and whether open to the public at large or where entrance is limited by a cover charge or membership requirement, bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by an religious, social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent

or temporary in nature, shall not be deemed to be a public place. Public place shall not include movie theaters, enclosed single sex public rest rooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor shall it include a person appearing in a state of nudity in a modeling class operated by: (1) a proprietary school licensed by the State of South Dakota; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation, or an accredited private college.

- 5.0703 Operations. It shall be unlawful for any person or entity maintaining, owning or operating any public place to operate and knowingly, or with reason to know, permit or allow any person to appear nude in such public place or to permit unlawful touching as prohibited by Section 5.0704 thereof.
- 5.0704 Physical Contact. It shall be unlawful for any male or female dancer, stripper or performer to engage in any physical contact with patrons or customers while dancing or performing, to include but not limited to, placing of money in the dancers' or strippers' wearing apparel. All such dancers or performers shall be confined to a stage or designated area separate and apart from the seating area for patrons and customers.
- 5.0705 Refuse Admittance. It shall be a violation of this Ordinance for any person or entity to refuse admittance without fee to any on duty police officer at any time when patrons or customers remain in said premises.
- 5.0706 Underage Admittance. No person under twenty-one (21) years of age shall be permitted access to any public place defined herein which shall permit nude dancing, which otherwise complies with the provisions hereof.
- 5.0707 Conduct. The contents of this ordinance shall constitute contemporary community standards as they pertain to public nudity and obscene live conduct. ^{nudity clubs}
- 5.0708 Penalty. A violation of this Ordinance shall be punishable by a fine of up to two hundred (\$200) dollars, or thirty (30) days in jail, or both for each offense.
- 5.0709 Violations. Operation of an establishment in violation of this Ordinance shall constitute a public nuisance and in addition to all other remedies provided herein, the City Attorney may, by civil process, seek permanent abatement of said nuisance.