

## CHAPTER 54: GARBAGE AND RECYCLING

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#### **Statutory reference:**

*Municipal garbage disposal systems, see SDCL §9-32-11*

### **§ 54.01 DEFINITIONS.**

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

**ANIMAL WASTE.** Any accumulation of manure or straw which has been used for the transportation, housing or penning of animals.

**GARBAGE.** All refuse or accumulation of animal and vegetable matter which attends the preparation, transportation, cooking, eating, sale, disposal or storage of meat, fish, vegetables, fruit and all other food or food products.

**HAULING UNIT.** The container in which garbage is transported. It may be permanently affixed to a chassis or may be temporarily attached, such as a roll-off unit.

**LITTER.** Garbage, rubbish, waste material or animal waste improperly disposed of by discarding, abandoning, allowing to accumulate, scattering or depositing the same outside an approved container.

**RUBBISH.** All combustible refuse matter, such as contaminated or nonrecyclable paper, sweepings, rags, contaminated cardboard, and similar materials.

**TRASH.** All waste paper, rags, refuse, leaves, cans, other containers and all accumulations of waste not defined as garbage.

**YARD WASTE.** Grass clippings, garden waste, and leaves.

### **§ 54.02 LICENSE FOR COLLECTION AND HAULING OF GARBAGE.**

It shall be unlawful for anyone to engage in the business of collecting and hauling garbage or trash

from any place within the city without first having obtained a license. All applications for licenses shall be in writing and shall give the name and address of the person or firm proposing to enter into the business, together with the number and type of vehicles to be used. The application may be given to the Finance Officer, any member of the governing body or may be presented at any regular meeting in person. The city shall act on all license applications and, if any are refused, the reasons therefore shall be stated in writing. All licenses shall be annual and shall expire December 31, of each year. The annual fee for each vehicle engaged in this business shall be set by the city annually. Penalty, see § 10.99

**§ 54.03 REVOCATION OF LICENSE.**

In addition to any penalties provided elsewhere in this code, the city may, upon a showing of sufficient cause, revoke any license granted for the collection of garbage. Conviction for violating any or the provisions of this chapter shall be sufficient cause.

**§ 54.04 HEARING; REVOCATION; APPEAL.**

(A) (1) If the city determines that facts exist for revocation of a license, the city shall notify the licensee in writing of the intent to revoke the license, including the grounds therefor, by personal delivery, or by certified mail. The notification shall be directed to the most current business address on file with the city. Within five working days of receipt of the notice, the licensee may provide to the Finance Officer or person appointed by the city, in writing, a response that shall include a statement of reasons why the license should not be revoked. Within three days of the receipt of the licensee's written response, the Finance Officer or person appointed by the city shall notify the licensee in writing of the hearing date on licensee's revocation proceeding.

(2) Within ten working days of the receipt of licensee's written response, the City Commission or person appointed by the city shall conduct a hearing at which the licensee shall have the opportunity to be represented by counsel and present evidence and witnesses on his or her behalf. If a response is not received by the Finance Officer in the time stated or, if after the hearing, the City Commission or person appointed by the city finds that grounds exist for revocation, the decision shall become final five days after the City or person appointed by the city sends, by certified mail, written notice that the license has been revoked. The notice shall include a statement advising the licensee of the right to appeal the decision to a court of competent jurisdiction.

(3) If the City Manager or person appointed by the city finds that no grounds exist for revocation of a license, then within five days after the hearing, the City Manager or person appointed by the city shall withdraw the intent to revoke the license, and shall so notify the licensee in writing by certified mail of that action and shall contemporaneously issue the license.

(B) When a decision to revoke a license becomes final, the licensee whose license has been revoked, shall have the right to appeal the action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of the revocation, the city shall immediately issue the licensee a provisional license. The provisional license shall allow the licensee to continue operation of the business and will expire upon the court's entry of a judgment on the licensee's action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement.

(Ord. 1051, passed 4-16-2018)

**§ 54.05 VEHICLES USED FOR COLLECTING.**

(A) Collectors of garbage shall provide themselves with a suitable vehicle covered on the top so as to prevent the escape of odors and contents.

(B) The vehicles shall be thoroughly washed whenever necessary to prevent them from becoming dangerous or offensive to public health.

Penalty, see § 10.99

**§ 54.06 LOADING OF VEHICLES.**

Vehicles used for transporting garbage, rubbish, animal waste and waste materials shall be loaded so that no materials shall fall off or be blown off the vehicle while in transit. Loosely loaded vehicles with open boxes must be tarped. Penalty, see § 10.99

**§ 54.07 YARD WASTE COLLECTION.**

Yard waste shall be collected by licensed commercial garbage haulers. Yard waste shall be deposited in a proper container, a Kraft-type paper bag designated for yard waste, or a 32-gallon rigid watertight container with a tightly fitted cover, and placed at a location, other than curbside, designated for collection by the licensed commercial garbage hauler contracted to remove the same. All yard waste and containers therefore shall be kept in an inconspicuous place except when placed for collection. Yard waste shall be collected or removed at a minimum of once a week.

Penalty, see § 10.99

**§ 54.08 GARBAGE CONTAINERS.**

The occupant of every dwelling house or apartment and of every place of business and building shall provide a suitable container in which the occupants shall deposit all garbage accumulating upon the premises, which garbage containers shall be kept in an unobtrusive manner except to facilitate scheduled pickup. Garbage cans shall be provided with tightly fitting covers. The vicinity of garbage cans shall be kept free from garbage.

Penalty, see § 10.99

**§ 54.09 LITTERING PROHIBITED.**

(A) *Generally.* It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk, lake, stream, river, pond, body of water or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles, or any form of litter or waste matter.

(B) *Duty of business owners, occupants.*

(1) *Generally.* The owner or occupant of any store or other place of business situated within the city shall exercise reasonable diligence at all times to keep his or her premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials thrown or left on the premises, and to take reasonable measures to prevent the materials from drifting or blowing to adjoining premises.

(2) *Receptacles.* Garbage receptacles of sufficient size and number shall be kept accessible to

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all persons on the premises where the articles may be placed.

(3) *Signs.* Every business establishment shall place upon its premises in a conspicuous place, in close proximity to the receptacles referred to in division (B)(2) above, a sign which shall, in essence, convey to all persons a request that they use the receptacles for the separate disposal of garbage.

(C) *Duty of person.* It shall be unlawful for any person going upon the premises of another to in any manner dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials except in receptacles provided for the purposes.

(D) *Removal of litter by city.* If the occupant, person in charge or owner of any real property within 14 days fails to remove litter from real property after notice from the city to do so, the city may cause the litter to be removed and for the purpose may enter upon any real property. The cost of removal may be assessed against the real property.

(E) *Litter on sidewalk.* The owner or occupant of any lot or private ground abutting upon any public sidewalk shall not allow rubbish, debris or obstruction of any kind to be or remain on the sidewalk along the abutting property.

Penalty, see § 10.99

***Statutory reference:***

*Arrest for violation of city litter ordinance; notice to appear; time; refusal to give written promise to appear, see SDCL §34A-7-15*

*Littering prohibited, see SDCL §§ 34A-7-6 et seq.*

*Ordinances to regulate litter, see SDCL § 34A-7-14*

*Refuse in public places and streams, SDCL §9-32-10*

### **§ 54.10 BURNING GARBAGE.**

No garbage or other matter that gives off an offensive odor during combustion shall be burned in the city. Penalty, see § 10.99

### **§ 54.11 CUSTOMER INFORMATION.**

All licensed garbage collectors/haulers shall at least annually provide customers with written information regarding volume of base-rate structure and garbage, and yard waste service.

Penalty, see § 10.99