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ORDINANCE NO. 134

AN ORDINANCE ENTITLED, "Nuisances"

BE IT ORDAINED BY THE CITY OF COLOME, SOUTH DAKOTA:

Section I: Statutory definitions.

A. SDCL 21-10-1 states "A nuisance consists of unlawfully doing an act, or omitting to perform a duty, 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 renders dangerous for passage, any lake or navigable water, bay, stream, canal or basin, or any public park, square, street, highway; (4) In any way renders other persons insecure in life, or in the use of property."

B. SDCL 21-10-3 defines a public nuisance as "one 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. Every other nuisance is private.

Section II: Definition of Additional Terms Used in This Ordinance.

A. Abandoned Property includes any junk car, car bodies or equipment of any type, except in an authorized junk yard, or any accumulations of other unsightly trash or junk which would constitute a health hazard, a rodent harborage, a breeding area for insects or rodents, a dangerous place for children to play in and around or which tends to be unsightly and which does or tends to lower the value of adjacent real property because of its unsightliness.

B. Unsightly trash or junk includes property which is deteriorated, wrecked, or derelict property in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected outside of a permanent structure from the elements, and shall include without being restricted to deteriorated, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, motors, snowmobiles, lawn mowers, motorcycles, campers, refrigerators and other household appliances, furniture, household goods and furnishings, scrap metals or lumber or other similar articles in such condition.

C. Junk motor vehicle includes any motor vehicle required by law to have a license affixed thereto but either does not have a license affixed thereto or having a license affixed thereto which has been expired for more than one (1) year, or which is wrecked, dismantled, partially dismantled, inoperable or in an unusable condition.

D. Motor vehicle means any self-propelled vehicle including, but not limited to, automobiles, motorcycles, motor scooters, trucks, tractors, go-carts, campers and motor homes.

E. Dangerous Buildings includes any building or structure (including mobile homes), or any portion thereof, which has any or all of the conditions or defects hereinafter described:

1. If it constitutes a public nuisance as defined by state statute or the decisions of the Courts of this State.

2. If it has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe.

3. If it is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

4. If it has been wrecked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

5. If it, because of (i) dilapidation or deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

6. If it, for any reason, is manifestly unsafe for the purpose for which it is being used.

7. If it, exclusive of the foundation, shows thirty-three (33) percent damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its nonsupporting members, enclosing or

outside walls or coverings.

8. If it has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

9. If it has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure.

10. If it, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion, less than fifty (50) percent or in any supporting part, member or portion, less than sixty-six (66) percent of the (i) strength; (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in case of newly constructed building of like area, height and occupancy in the same location.

11. If it is used or intended to be used for dwelling purposes, which, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Colome City Council to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease.

12. If, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, it is determined by the City Council to be a fire hazard.

13. If a portion thereof remains on a site after demolition or destruction of the main portion of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

F. Animals means any mammal, bird, reptile, amphibian or fish, except humans.

G. Public Property includes any property owned by the State of South Dakota and/or its subdivisions located in the Town of Colome. Also included are all streets and alleys in the Town of Colome.

Section III: Nuisance declared. It shall be unlawful for any person, firm or corporation to create, commit, maintain or permit to be created, committed or maintained any nuisance as defined herein within the City. The following specific acts, conditions and things, each and all of them, are hereby declared to constitute a nuisance and are therefore unlawful:

A. To maintain or own any abandoned property as defined in Section II, A of this Ordinance.

B. To maintain or own any unsightly trash or junk as defined in Section II, B of this Ordinance.

C. To own or maintain junk vehicles, as defined in Section II, C of this Ordinance, on public property, or to own or maintain, on private property, for a period longer than thirty (30) days, any junk vehicles as defined in Section II, C of this Ordinance, unless said junk vehicle is enclosed within a building on private property or to any vehicle held in connection with a business enterprise, properly operated, or to any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways and covered with an appropriate cover to screen it from view while the vehicle remains on private property.

D. To own or maintain any abandoned buildings as defined in Section II, E.

E. To maintain animals as defined in Section II, F of this Ordinance within the municipal boundaries of the Town of Colome, except as herein provided:

1. The maintenance of coops, structures or enclosures or the keeping therein of chickens, ducks, geese, turkeys, pigeons or other fowl unless more than one hundred sixty feet (160') of any building occupied or intended to be occupied by human beings as a residence and upon a parcel or lot, the size of which shall not be less than three (3) acres for each ten (10) of said animals and which shall be under the immediate care, custody or control of the owner or person having the custody and control of said animals.

2. No horses, cows, mule, donkeys, swine, sheep or goats shall be permitted or allowed to stray or, in any other manner, to be at large in or upon an unenclosed lot or place, public or private. Such animals may be permitted upon the streets if under the immediate care, custody or control of the owner or other person having the custody and control of said animal. Such animals shall otherwise be kept in an enclosed private lot at least ten (10) acres for each of said animals with the fencing to be constructed in such a manner as to prevent such animals from going beyond the boundaries of the private lot or land. Said animals shall not be kept within one hundred sixty feet (160') of any building or structure occupied or intended to be occupied by human beings as a residence.

3. The ownership of any live swine or pigs, except such species of swine or pig that have been specifically bred for household pets and which shall therefore be kept in the residence and shall be limited to one (1) in number.

4. No wild animals may be kept within the municipal boundaries.

5. The keeping or harboring of any animal which constantly makes loud noises or causes obnoxious odors to the disruption and enjoyment of the peace and quiet of the neighborhood or annoys any person in the neighborhood who is of ordinary sensibility.

6. The keeping of any dangerous and/or potentially dangerous animals.

F. To leave upon public property, any abandoned property, as defined in Section II, A of this Ordinance, any unsightly trash or junk, as defined in Section II, B of this Ordinance, or any junk vehicles, as defined in Section II, C of this Ordinance, or animal, as defined in Section II F of this Ordinance, for a period of time in excess of twenty-four (24) hours without first obtaining the consent of the City Council of the City of Colome or its duly authorized representative.

Section IV: Notice to abate. Whenever it has come to the attention of a Law Enforcement Officer, the Mayor or the City Council, that a violation of Section III of this Ordinance has occurred, written notification shall be given by the Finance Officer to the offender or offenders as follows: