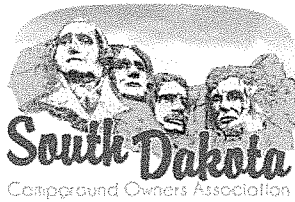


Arlington SB 179 2-17-22



South Dakota Campground Owners Association (SDCOA)

www.SouthDakotaCampgroundOwnersAssociation.org

info@CampInSouthDakota.com

(605) 593-1557

PO Box 824, Pierre SD 57501

Executive Director, Mary Arlington

February 17, 2022

House Local Government Committee
Pierre SD 57501

SDCOA's Position: Opposition to the SB 179

We opposed this bill in the Senate Committee. A vote to 41st-Day the bill produced a tie vote. A new motion created a win when the Chair opted to vote yea with a closing remark that it was merely to allow another body to decide. He opposed the bill again on the Senate floor.

Having heard misinformation from proponents at the Senate Committee and on the Senate floor, we hope to clarify at least some of it in our oral testimony.

We are attaching three sets of pages:

1. The application process that allows one to become a licensed campground owner.
2. The history of the code since 1890, to show its changes over time.
3. Photographs of some east river campgrounds that are owned and operated by private sector businesses, whether C-corps, S-corps, LLCs, or partnerships.

Governor Noem has made it clear throughout her years of public service that the best thing the government can do for small businesses is to *step out of the way*, and even find ways to help them invest in their businesses for everyone's success. This year she pivoted on her stand when she supported the Department of Game, Fish & Parks project to expand camping at Custer State Park. Fortunately, the people spoke loud enough that nine out of 11 House Committee members voted against funding the expansion.

SB 179 brings us back to a public hearing to defend the private business sector of campgrounds which is, once again, being targeted by the public sector. We wonder when legislators will seek to build a public lumber yard, grocery store, barber shop, car dealership, and shoe store.

We'll close this handout with a quote from *DakotaNewsNow* 2/16/2022 news story:

Owner Bruce Aljets says, "Perhaps had a family like mine stepped up in Aberdeen, Wylie Park Campground would also be a private business that pays its share of community taxes."

(<https://www.dakotanewsnow.com/2022/02/16/government-owned-campgrounds-could-hurt-private-campgrounds-business>)

The application process that allows one to become a licensed campground owner.

The licensing process is explained on the following 3 pages. Please note specifically two steps:

STEP 2 requires 30 days' notice before construction even starts.

STEP 5 says, "The department issues a campground license once the application is processed, plan review is completed, and final inspection determines compliance."

Therefore, this is definitely not a 20-minute process per license and per new campground. It's not unheard of for the process to take multiple years to achieve.

Per the SD Dept of Health, as found on <https://doh.sd.gov/food/restaurants-lodging/campground.aspx>

CAMPGROUND LICENSURE

STEP 1 — COMPLETE CAMPGROUND LICENSING PACKET

Download the following materials or call the Office of Health Protection at 605-773-4945 to request a packet.

- Administrative Rules of South Dakota [44:02:14](#)
- Department of Health License [Application](#)
- Campground Facilities Plan Review [Questionnaire](#)
- Water Recreational Facilities (pools, spas) Plan Review [Questionnaire](#)
- [Recommended Standards for Swimming Pool Design and Operation](#)
- [Suggested Health and Safety Guidelines for Public Spas and Hot Tubs](#)

STEP 2 — MEET REQUIREMENTS

1. South Dakota Codified Law [34-18-23](#) requires campgrounds to notify the department of construction and alteration projects.
 - 30 days before construction starts, submit a scaled drawing of the campground to the Office of Health Protection (recommended scale 1/8" = 1 foot).
 - Complete [plan review questionnaire](#) and submit with the plan to:
SD Department of Health - Office of Health Protection - 600 E. Capitol - Pierre, SD - 57501-2536
2. If the establishment uses private sewer or water systems, they must be approved by the [South Dakota Department of Agriculture and Natural Resources](#), 605-773-3351.
3. Complete, **notarize**, and submit application with correct fee 30 days before completion of construction to:
SD Department of Health - Office of Health Protection - 600 E. Capitol - Pierre, SD - 57501-2536

STEP 3 — DEPARTMENT OF HEALTH REVIEW

1. Department reviews layout plan and plan review questionnaire.
2. Department sends a written notification regarding approval or changes required.
3. Department approves campground plan once it complies with ARSD [44:02:14](#).

Questions? [Contact a Health Protection Advisor in your region.](#)

STEP 4 — STATE INSPECTION

During construction and before the business opens, the department conducts an onsite inspection to determine compliance with administrative rules.

STEP 5 — APPROVAL FOR LICENSING

The department issues a campground license once the application is processed, plan review is completed, and final inspection determines compliance.

ADDITIONAL INFORMATION LINKS

[Governor's Office of Economic Development](#), Business Start-Up information

[South Dakota Plumbing Commission](#)

[South Dakota Electrical Commission](#)

[South Dakota Department of Revenue](#)



SOUTH DAKOTA DEPARTMENT OF HEALTH

CAMPGROUND LICENSE APPLICATION

PLEASE TYPE OR PRINT IN BLUE OR BLACK INK (SEE BACK FOR INSTRUCTIONS)

SECTION 1: ESTABLISHMENT INFORMATION

ESTABLISHMENT NAME		LIST PREVIOUS ESTABLISHMENT NAME		OLD LIC. #	
CORPORATION/OWNER NAME		CORPORATE CONTACT/ PHONE		ESTABLISHMENT PHONE	
CELL PHONE		ESTABLISHMENT PHYSICAL ADDRESS (NO PO BOX #'S)		CITY	STATE
IF RURAL LOCATION, GIVE DIRECTIONS FROM NEAREST CITY		COUNTY		ZIP	
MAILING ADDRESS (IF DIFFERENT THAN PHYSICAL ADDRESS)		CITY		STATE	ZIP
EMAIL ADDRESS					
APPLICATION IS FOR: <input type="checkbox"/> NEW BUSINESS <input type="checkbox"/> CHANGE OF OWNERSHIP		DATES OPEN - IF SEASONAL From: _____ To: _____		PROPOSED OPENING DATE _____	
		WATER SUPPLY <input type="checkbox"/> Public <input type="checkbox"/> Private <input type="checkbox"/> Rural		SEWER SYSTEM <input type="checkbox"/> Public <input type="checkbox"/> Private	

SECTION 2: CAMPGROUND LICENSING FEES

Total # of Campsites	FULL YEAR FEE: Jan 1 – Dec 31	HALF YEAR FEE: July 1 – Dec 31 ¹	FEE TOTAL Complete all that apply
Campground Fee: <input type="checkbox"/> 2 - 25 sites <input type="checkbox"/> 26 - 100 sites <input type="checkbox"/> 101 - 200 sites <input type="checkbox"/> 201 - 300 sites <input type="checkbox"/> 300 + sites	<input type="checkbox"/> \$100.00 <input type="checkbox"/> \$138.00 <input type="checkbox"/> \$175.00 <input type="checkbox"/> \$213.00 <input type="checkbox"/> \$250.00 Includes the inspection fee ²	<input type="checkbox"/> \$ 50.00 <input type="checkbox"/> \$ 69.00 <input type="checkbox"/> \$ 87.50 <input type="checkbox"/> \$106.50 <input type="checkbox"/> \$125.00 Includes the inspection fee ²	<div style="border: 1px solid black; width: 100px; height: 30px; margin: 0 auto;"></div>
Initial License Fee³: See Reverse Side For Explanation	<input type="checkbox"/> \$100.00	<input type="checkbox"/> \$100.00	<div style="border: 1px solid black; width: 100px; height: 30px; margin: 0 auto;"></div>

SECTION 3: WATER RECREATION FEES

Number of Pools and Hot Tubs Pools _____ Hot Tubs _____	FULL YEAR FEE:			HALF YEAR FEE:			
	None	One	Two or More	None	One	Two or More	
	<input type="checkbox"/> \$0	<input type="checkbox"/> \$40.00	<input type="checkbox"/> \$65.00	<input type="checkbox"/> \$0	<input type="checkbox"/> \$20.00	<input type="checkbox"/> \$32.50	
Is Your Pool Or Hot Tub Associated With Another Licensed Establishment? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, Please Name Other Licensed Facility _____							TOTAL ALL FEES ABOVE THIS IS THE AMOUNT YOU OWE <div style="font-size: 2em; font-weight: bold;">\$</div> <div style="border: 2px solid black; width: 100px; height: 40px; margin: 0 auto;"></div>

SECTION 4: SIGNATURE

Being first duly sworn, I, as the owner or the owner's agent with legal authority to bind the owner, verify that the information contained in this application is true and complete, and I consent to allow inspections of the food service, lodging, or campground establishment by authorized inspectors during normal business hours upon the presentation of identification.

Owner/Agent Signature	Date:
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Subscribed and sworn to before me this _____ day of _____, 20____. (Seal)

My commission expires:

INSTRUCTIONS

A. No license will be issued until an on-site inspection is conducted and the campground is found to be in compliance. Construction plans and plan review questionnaire(s) are required for new campgrounds or changes to existing campgrounds 30 days prior to initiating construction. The plans must be submitted to:

SD Dept. of Health, Office of Health Protection, 600 E Capitol Ave, Pierre, SD 57501-1700.

B. Fill out the application completely. An incomplete application cannot be processed. It will be returned to the sender, and may result in the denial of a license.

- **Section 1: Establishment information** – Please enter the establishment name, previous establishment name (if applicable), the previous license number (if applicable) along with all ownership information, physical address, directions to the establishment, mailing address, and email address in the top section of the application. Please indicate whether the application is for a new business or a change of ownership. If the establishment is only open seasonally, please enter the dates open for business along with the initial proposed opening date. Also indicate the type of water and sewer system used by the establishment.

Section 2: Licensing Fees – Enter the total number of campsites and select the appropriate full year or half year fee based on the number of campsites. If unsure, please call 605-773-4945 for assistance.

¹**Half-year license fees apply only to campgrounds with an initial opening date occurring after July 1st and before December 31st. Enter appropriate fee amount in the fee total column.**

²**Please note the amounts listed include the mandatory inspection fees.**

³**The initial license fee will always apply unless this application is for a CHANGE OF OWNERSHIP of a campground that has operated within the last 12 months and no renovations have taken place or are planned in the immediate future.**

- **Section 3: Water Recreation Fees** – This section pertains to the number of pools or hot tubs the campground provides. Please enter the number of pools and hot tubs, select the appropriate full year or half year fee and enter the amount in the fee total column. **Half-year fees apply only to establishments with an initial opening date occurring after July 1st and before December 31st.** If your pool or hot tub is utilized by another licensed establishment, please check yes and indicate the name of the establishment. Add up all fees in the fee total column and enter the total in the amount you owe box.
- **Section 4: Signature** - The owner's signature must be notarized by a duly appointed notary public.

C. Submit the completed license application and the required license fee (checks payable to **SD Department of Health**, starter checks will not be accepted) to:

**SD Department of Health
Office of Health Protection
600 East Capitol Ave
Pierre, SD 57501-1700**

The South Dakota Department of Health will issue or renew a license only after payment of the required fee, ascertainment that the facts set forth are true and complete, and satisfactory evidence of the applicant's ability to comply with the provision of SDCL Chapter 34-18 and the rules promulgated thereunder.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE DEPARTMENT OF HEALTH AT (605)773-4945

LICENSE EXPIRES DECEMBER 31st OF EACH YEAR

The history of the code since 1890, to show its changes over time.

1890

7. To lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks and public grounds and vacate the same.

44. To purchase, condemn, hold and improve public parks within or without the limits of the city, and provide for the protection, improvement and preservation of the same.

Notice that public parks are for protection, improvement and preservation. No mention of camping, lodging, or accommodations.

1903

7. To lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks and public grounds, and vacate the same.

44. To purchase, condemn, hold and improve public parks within or without the limits of the city, and provide for the protection, improvement and preservation of the same.

Henderson vs. Hughes Co., et al., 13 S. D. 576.

1913

7. To lay out, establish, open, alter, widen, extend, grade, pave or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks and public grounds and vacate the same.

44. To purchase, condemn, hold and improve, public parks within or without, or partly within and partly without the limits of the city and provide for the protection, improvement, preservation, regulation and government of the same; and to create a park board or boards or to abolish the same. Any such public park that may be wholly or partly without the limits of the city shall for the purposes of this act be considered as within the limits of this city and shall in all respects be subject to the provisions of this act, and the

laws and ordinances and control of the city shall extend and apply thereto and the jurisdiction of such courts as are, or may be, established in the city, shall extend over such park, the same as if such park were wholly within the limits of the city.

1919

(98) TO ESTABLISH, MAINTAIN, AND REGULATE PUBLIC PARKS.

CROSS-REFERENCE: § 45.1409, personal injury claim presented.

"PARK" DEFINED. In determining use to which "park" may be devoted, less strict construction is adopted where property is purchased or condemned by municipality than on dedications made by individuals. "Park" is a pleasure ground set apart for recreation of the public to promote its health and enjoyment. *LeFevre v. City of Brookings*, 65 S. D. 190, 272 N. W. 795.

Notice "Park" is for recreating; no mention of camping, lodging, or accommodations.

1939

(98) TO ESTABLISH, MAINTAIN, AND REGULATE PUBLIC PARKS.

CROSS-REFERENCE: § 45.1409, personal injury claim presented.

"PARK" DEFINED. In determining use to which "park" may be devoted, less strict construction is adopted where property is purchased or condemned by municipality than on dedications made by individuals. "Park" is a pleasure ground set apart for recreation of the public to promote its health and enjoyment. *LeFevre v. City of Brookings*, 65 S. D. 190, 272 N. W. 793.

LIABILITY FOR DAMAGES: NEGLIGENCE OF TOWN. A town engaged in maintaining a baseball park was not relieved of liability, on ground that it was in the exercise of a governmental function, for death of spectator at ball game who was fatally injured when struck by automobile which was driven over embankment which had no guard rail. *Jensen v. Juul*, 66 S. D. —, 278 N. W. 6, 115 A. L. R. 1280.

OUTSIDE CITY: NOT ULTRA VIRES. Act of city authorities in maintaining a park outside the city is not ultra vires, in view of statute authorizing the acquisition and management of parks within or wholly without the city. *Norberg v. Hagna*, 46 S. D. 568, 195 N. W. 438.

1970

(H. B. 680)

AMENDING LAW RELATING TO MUNICIPAL PARKS AND RECREATION FACILITIES.

AN ACT Entitled, An Act to amend SDCL 9-38-1, 9-38-7, 9-38-43, and 9-38-80, all relating to parks and recreation.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. That SDCL 9-38-1 be, and the same is hereby, amended to read as follows:

9-38-1. Every municipality shall have the power to establish, improve, maintain, and regulate public parks, public squares, parkways, boulevards, swimming pools, camping, and other facilities in connection therewith within or without the municipality, and to issue its bonds therefor, as provided by this title. No municipality shall establish camping or tourist accommodation facilities after the effective date of this act; provided, further, that camping and tourist accommodation facilities established prior to the effective date of this act are deemed to have been established under the then existing authority to establish public parks, and municipalities may continue to maintain and regulate such facilities.

Notice 1970, 90 years into its history, "camping or tourist accommodation" finally appears.

We also see the first effective date being added: 1970.

1971

(H. B. 680)

AMENDING LAW TO PERMIT CERTAIN SMALLER CITIES TO ESTABLISH CAMPGROUNDS.

AN ACT Entitled, An Act to amend SDCL 9-38-1, relating to municipal parks and recreation.

Be It Enacted by the Legislature of the State of South Dakota:

That SDCL 9-38-1 be amended to read as follows:

9-38-1. Every municipality shall have the power to establish, improve, maintain, and regulate public parks, public squares, parkways, boulevards, swimming pools, camping, and other facilities in connection therewith within or without the municipality, and to issue its bonds therefor, as provided by this title. No municipality having a population in excess of twelve hundred shall establish camping or tourist accommodation facilities after July 1, 1970; nor shall any municipality having a population of less than twelve hundred establish any campground if there is an existing campground, inspected and approved by the South Dakota Department of Health, located within twenty miles of such municipality; provided, further, that camping and tourist accommodation facilities established prior to July 1, 1970 are deemed to have been established under the then existing authority to establish public parks, and municipalities may continue to maintain and regulate such facilities.

Approved March 26, 1971.

Notice it now mentions populations of less than 1,200 and the private sector parks are within 20 miles.

1990

CHAPTER 64

(SB 11)

EXPANSION OF MUNICIPAL CAMPGROUNDS LIMITED

AN ACT

ENTITLED, An Act to revise certain provisions concerning municipal campgrounds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 9-38-1 be amended to read as follows:

9-38-1. Every municipality ~~shall have the power to~~ may establish, improve, maintain, and regulate public parks, public squares, parkways, boulevards, swimming pools, camping, and other facilities in connection therewith within or without the municipality, and to issue its bonds therefor, as provided by this title. ~~No municipality having a population in excess of twelve hundred shall~~ may establish camping or tourist accommodation facilities ~~after July 1, 1970, nor shall any municipality having a population of less than twelve hundred establish any campground if there is an existing private campground, inspected and approved by the South Dakota department of health, located within twenty fifteen miles of such municipality; provided, further, that camping. However, a municipality may construct or expand camping or tourist accommodation facilities if there is an existing private campground within fifteen miles of the municipality, if the owner of the existing campground approves such construction or expansion in writing. Camping and tourist accommodation facilities established prior to July 1, 1970, are deemed to have been established under the then existing authority to establish public parks, and municipalities may continue to maintain and regulate such facilities.~~

Signed February 5, 1990.

It's been backed down to 15 miles, population size is gone, and a community can construct or expand if there's no camping or tourism accommodation within 15 miles that objects.

2017

(HB 1185)

Recreational facilities provided by municipalities.

ENTITLED, An Act to revise certain provisions concerning recreational facilities provided by municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 9-38-1 be amended to read:

9-38-1. Every Each municipality may establish, improve, maintain, and regulate public parks, public squares, parkways, boulevards, swimming pools, camping, and other related facilities in connection therewith within or without the municipality, and to issue its bonds therefor, as provided by this title. A municipality may establish camping or tourist accommodation facilities if there is no existing private campground, inspected and approved by the South Dakota Department of Health, located within fifteen miles of such the municipality. However, a municipality may construct or expand camping or tourist accommodation facilities if there is an existing private campground within fifteen miles of the municipality if the owner of the existing campground approves such the construction or expansion in writing. Camping and tourist accommodation facilities established prior to before July 1, 1970, are deemed to have been established under the then existing authority to establish public parks, and municipalities may continue to maintain and regulate such the facilities. The requirements of this section for the construction or expansion of a facility near an existing private campground do not apply to a municipality that leases camping and tourist accommodation facilities from the state which were in existence prior to January 1, 2017.

Notice we now see, after 127 years, the need for municipalities to create exceptions.

And here we are in 2022, with the SB 179 in front of you, requesting yet another exception.

Photographs of some east river campgrounds that are owned and operated by private sector businesses, whether C-corps, S-corps, LLCs, or partnerships. Notice these are not truck stop campgrounds, and they seem to be prospering. Their proximity to one another may not be as close as their Black Hills colleagues experience, but these businesses matter equally to their employees, their businesses, their guests, their neighboring businesses, and to their respective community's tax revenue fund.

