

AB 1154 #1



South Dakota Campground Owners Association (SDCOA)

SouthDakotaCampgroundOwnersAssociation.org

info@CampInSouthDakota.com

(605) 593-1557

313 S Pierre St., Suite B, Pierre SD 57301

History of the Law Since 1890 Highlighting Campground Related Notes

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.

11. 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.

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.

14. 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.

11. 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

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

CROSS-REFERENCE: § 45.1109, 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. *LaFevre 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: § 45.1109, 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. *LaFevre v. City of Brookings*, 65 S. D. 190, 272 N. W. 795.

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. Juhl*, 66 S. D. --, 278 N. W. 6, 115 A. L. R. 1290.

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. Hagua*, 58 S. D. 568, 195 N. W. 438.

1970

1970

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 9-38-50, and 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 that the
privately owned parks
are to be within 20**

1990

CHAPTER 64

(SS 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 no 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 is willing. 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 objections
from camping or
tourism accommodation
within 15 miles.**

2017

HB 1154

Recreation facilities provided by municipalities.

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HB 1154 would amend the law to require a municipality to provide recreation facilities to its residents. The bill would require a municipality to provide recreation facilities to its residents without the county's approval, and it would require the county to provide recreation facilities to its residents without the municipality's approval. The bill would also require a municipality to provide recreation facilities to its residents if the county has an existing private campground inspected and approved by the South Dakota Department of Health located within fifteen miles of the municipality. However, a municipality may construct a private campground if it is inspected and approved by the South Dakota Department of Health and if it is located within fifteen miles of the county's existing private campground. The bill would also require a municipality to provide recreation facilities to its residents if the county has an existing private campground inspected and approved by the South Dakota Department of Health located within fifteen miles of the municipality. However, a municipality may construct a private campground if it is inspected and approved by the South Dakota Department of Health and if it is located within fifteen miles of the county's existing private campground. The bill would also require a municipality to provide recreation facilities to its residents if the county has an existing private campground inspected and approved by the South Dakota Department of Health located within fifteen miles of the municipality. However, a municipality may construct a private campground if it is inspected and approved by the South Dakota Department of Health and if it is located within fifteen miles of the county's existing private campground.

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

Other bills were offered in 2022 and again in subsequent years, each going to the 41st day because your fellow legislators deemed the law was working in the manner for which it was meant.

In 2022, with approval from the City of Mitchell, SDCOA coordinated the gathering of the private and public sectors in Mitchell, to discuss the proposed ideas of the city campground. Ultimately, several privately owned parks wrote statements in opposition of the proposed changes to the city campground. The proposal included bringing in cabins, and that not only conflicted with the business models of the local privately owned businesses but also created unfair competition with the local hotels. At that time, two local hotels had RV sites; the hoteliers would not otherwise have been aware of these proposed changes.

So, here we are in 2025, with the HB1154 requesting yet another exception which diminishes the value of the nearby private sector. And remember, the less the private sector earns because of the nearby unfair competition by the tax-funded campground, the lower their resale value, so you're cutting them down in two ways: today's earned revenue and their post-sale retirement revenue.