

## **TITLE 7-OFFENSES**

**CHAPTER 7-1 - ALOHOLIC BEVERAGES**

**CHAPTER 7-2 - OFFENSES AGAINST PUBLIC WELFARE**

**CHAPTER 7-3 - OFFENSES AS TO PUBLIC PLACES**

**CHAPTER 7-4 - OFFENSES AS TO PROPERTY**

**CHAPTER 7-5 - GAMBLING**

**CHAPTER 7-6 - ANIMALS**

**CHAPTER 7-7 - MINORS**

### **CHAPTER 7-1 ALCOHOLIC BEVERAGES**

#### **7-1-1 Purpose**

The purpose of this Ordinance is to implement the provisions of SDCL Title 35, including the fees to be changed for each of such places.

#### **7-1-2 Classification and Fees**

The classifications and fees for sale of alcoholic beverages shall be set by resolution and published in the office of the Finance Officer and if not so set shall be the same as set by SDCL Title 35.

#### **7-1-3 Limitation of Number of Licenses**

The number of on sale licenses issued shall not exceed three for the first 1,000 of population and not exceed one of such licenses for each additional 1,000 population or fraction thereof, provided, however, the number of such licenses shall not exceed the total number of such licenses allowable or issued prior to July 1, 1981. The quotas established in this section do not apply to the licenses issued pursuant to SDCL 35-4-2 (16) and (17)

#### **7-1-4 Application**

The form of application, notice of hearing thereon and approval thereof shall be as required by SDCL Title 35, as amended.

#### **7-1-5 Restrictions/Minors**

No Licensee shall sell any alcoholic beverage to anyone under the age of 21. Persons under the age of 21 shall not be allowed to consume any alcoholic beverage nor shall they be allowed to loiter on licensed premises. The licensee shall not sell alcoholic beverages to persons already intoxicated.

#### **7-1-6 Times When On Sale Service Prohibited**

All on sale licensee shall be allowed to sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages, including malt beverages at the times as stated in SDCL Title 35, except as herein otherwise stated.

Any individual or corporation holding a valid South Dakota on-sale alcoholic beverage license and who shall qualify and secure a valid South Dakota special Sunday sales license under SDCL 35-4-2.1 for the right to sell, serve or allow to be consumed alcoholic beverages between the hours of 11:00 o'clock a.m. and 12:00 o'clock midnight on Sunday shall be permitted to operate within the City provided that said licensee comply with the requirements of SDCL 35-4-2.1 and pay to the City an annual license fee that is set by resolution.

#### **7-1-7 Times When Off Sale Service Prohibited**

All off sale licensees shall be allowed to sell alcoholic beverages covered by the license, at the times as stated in SDCL Title 35, except as herein otherwise stated. All off-sale licensees as defined in SDCL 35-4-2 (3), (16), (17), (17A) and (20) shall be allowed to sell malt beverages on Sunday between the hours of 7:00 o'clock a.m. and 12:00 o'clock midnight on Sunday. No other off-sale licensees licensed under SDCL Title 35 shall be allowed to sell alcoholic beverages on Sunday.

#### **7-1-8 Location of Premises**

No application for "on-sale and/or "off-sale" license for the retail sale of intoxicating liquor shall be approved unless said business is located on property abutting Main Street south of Grand Crossing Boulevard or on Grand Crossing Boulevard between the east City limits and the north City limits of said Grand Crossing Boulevard. Provided, however this amendment shall not affect any location of an existing "on-sale" or "off-sale" license on the effective date of this amendment or the subsequent renewal of a license for such location.

#### **7-1-9 Regulation, Place and Manner Off Sale License**

No off sale licensee shall permit any intoxicating liquors to be consumed in or about the Sale licensed premises and no off sale dealer shall be permitted to make any deliveries of intoxicating liquor outside of the premises described in his or her license; except said licensee may make a sale and delivery through a pass through door or window providing such pass through door or window shall be located fronting on a public street, and shall be not more than 40 feet from the public street and shall be well lighted at the pass through entrances and for a distance of 25 feet therefrom. All pass through entrances shall be subject to the approval of the City Council prior to the use thereof as herein provided, and the City Council may, at its discretion, at any time order any pass through door or window closed and the licensee to discontinue the use thereof as a pass through for the delivery of beverages permitted to be sold under an off sale license.

#### **7-1-10 Penalty**

Any person, firm or corporation violating any provisions of this Chapter shall be deemed Guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of \$200.00 or imprisonment in the County Jail not to exceed 30 days, or by such fine and imprisonment. That any violation of this Chapter shall be sufficient cause for the City Council to suspend for a period of time not exceed one year, or to revoke the license of the person, firm or corporation found guilty of such violation. Whenever any person shall be a clerk, servant, agent or

employee of any other person, firm or corporation and violates any of the provisions of this Ordinance, he or she shall be guilty as a principal, and shall be punished as herein provided; and the principal shall be held liable for the act of his or her clerk, servant, agent or employee. Each and every violation of the provisions of this Ordinance shall constitute a separate offense.

### **7-1-11 SPECIAL PERMIT LICENSES**

Upon proper application to the City, pursuant to SDCL 35-4, the City shall be entitled to issue special event beverage licenses to educational, fraternal or veterans' organizations and to certain other licensees. The fees to be charged for the special events licenses shall be set by resolution, which fee must accompany the application.

## **CHAPTER 7-2 OFFENSES AGAINST PUBLIC WELFARE**

### **7-2-1 Disorderly Conduct**

No person shall act in any unseemly manner or way tending to degrade and unsuited to the promotion of the morals, health or comfort of the inhabitants of the City.

### **7-2-2 Disturbing the Peace**

No person shall disturb the peace of the City or of any person by violent, tumultuous or offensive conduct, or by loud or unusual noises or by profane, obscene, indecent, violent or threatening language, or by assaulting, striking, or attempting to assault or strike another person, or inviting or defying another person to fight or quarrel, or by willfully or maliciously destroying or attempting to destroy or injure any property belonging to another, or by engaging in a fight with another.

### **7-2-3 Assault and Battery**

It shall be unlawful for any person or persons to commit an assault or an assault and batter upon any other person within City limits. Assault and assault and batter shall be determined, defined and limited as provided by the statutes of the State of South Dakota.

### **7-2-4 Carrying Concealed Weapons**

No person shall carry concealed about his or her person any pistol or other firearm, sling shot, brass knuckles or knuckles of other material, or any sand bag, dagger, bowie knife, dirk knife, or other dangerous or deadly weapon, or any instrument or device which when used is likely to produce death or great bodily harm. Any peace officer may wear and carry such weapons, as may be necessary and proper for the discharge of his or her official duties.

### **7-2-5 Resisting, Escaping from or Assaulting an Officer**

No person shall refuse to obey the command of any police officer given in the performance of his or her official duties, nor shall any person resist or obstruct any police

officer in the performance of any official duty, nor in any way aid or assist any person to resist or escape from any such officer, nor assist any person to escape from any lawful confinement. No person shall assault or strike any police officer, nor in any way interfere with a police officer in the discharge of his or her duty.

#### **7-2-6 Impersonating Officer**

No person not duly authorized shall exercise the duties conferred by law upon policeman, wear a policeman badge or represent him or herself as being a policeman or peace officer, or attempt to exercise the duties of a policeman or peace officer.

#### **7-2-7 Indecency**

No person shall appear in any public place in the state of nudity, in indecent dress or in dress intended to deceive others as to his or her sex, nor make any indecent exposure of his or her person. No person shall exhibit, show or perform any indecent, immoral, or lewd show, act, play, motion picture or other representation in any theater or place of public resort.

#### **7-2-8 Obscene Written and Printed Matter**

No person shall exhibit, publish, pass, sell or offer for sale, or have in his or her possession with such intent, any obscene, lewd or lascivious books, pamphlets, papers, magazines, writings, advertising circulars, cards, prints, letters, pictures, drawings, films, or other immoral, lewd or indecent representations or publications.

All other obscene matter is declared to be a nuisance and any police officer is authorized to seize any such obscene matter found in the possession of any person arrested for a violation hereof, and upon conviction of a violation of this section, the court shall order as a part of the judgment in addition to the other penalties prescribed, that the officer having the custody of such obscene matter shall destroy the same.

#### **7-2-9 False Emergency Alarms Prohibited**

No person shall knowingly make or give any false alarms of fire or other emergency by calling or causing to be called, the Fire Department, and police officers or any authorized emergency vehicle.

#### **7-2-10 Displaying License Unlawfully**

No person shall carry or display any City license or permit which has been terminated or revoked or which has not been lawfully procured and issued.

#### **7-2-11 Discharge of Weapons**

It shall be unlawful for any person, except a police officer in the performance of his or her duties, or any person granted a special permit in writing from the Chief of Police of the City, to discharge any firearm, air rifle, or bow and arrow, or slingshot of any device of like character, within the limits of the City, and within one mile of the corporate limits of the City.

## **7-2-12 Fireworks**

No person shall sell, shoot off or discharge fireworks of any kind or substances designed or intended for pyrotechnic display within the limits of the City; except fireworks can be sold within 100 feet of City Limits where it is zoned as highway commercial, and upon approval by the fire chief and City Council. A pyrotechnic display of fireworks may be held within the limits of the City under such rules, regulations and supervision and such times as may be designated by resolution of the City Council.

Any fireworks remaining unfired after a public display or the selling of fireworks is concluded shall be immediately disposed of or stored by the retailer in a manner which is safe for that particular type of firework remaining.  
(2005 ORD 812)

## **CHAPTER 7-3 OFFENSES AS TO PUBLIC PLACES**

### **7-3-1 Gatherings on Streets Limited**

No person shall call or cause the gathering of any crowd of people or address or exhibit any show or performance to such crowd, in any alley, street or other public group of the City, without the written permission of the Mayor.

### **7-3-2 Crowds Obstructing Streets**

It shall be unlawful for persons to gather in crowds or groups or for any person to stand on any public street or sidewalk in such a manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any police officer is authorized to disperse the crowd or group or to cause the removal of any person violating the provisions of this Section and to summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way.

### **7-3-3 Hindering or Molesting Passerby**

No person shall upon any street, or at the entrance of any building on any such street, alley or sidewalk, wrongfully hinder, impede or molest any passerby, or use any rude, obscene, vulgar, indecent or threatening language to any passerby, or by any indecent act, gesture or noise molest, annoy or insult or put fear in any person passing or attempting to pass on such street, alley or sidewalk or through the entrance to such building.

### **7-3-4 Goods on Sidewalk**

No person shall place any goods or merchandise for sale or exhibition upon any sidewalk, except that, for the purpose of loading and unloading, such articles may be placed upon the outer sidewalk for such time as may be necessary to load or unload or obstruct the same, but in no instance shall any such articles be left upon the sidewalk in the night time without the written permission of the Mayor.

### **7-3-5 Broken Seal**

It shall be unlawful for any person to have in his or her possession any open container or package containing any intoxicating liquor upon any public place.

### **7-3-6 Securing a Permit to Sell Liquor Temporarily**

Upon application and approval by the city council a temporary permit may be issued to an organization, group, or individual to sell and allow alcoholic beverages to be consumed on a limited basis upon public property. Such permit shall state the purpose, place and duration of the permit.

Any person violating the provisions of this Ordinance shall be subject to a fine set by resolution or 30 days imprisonment or both such fine and imprisonment.

### **7-3-7 Smoking In City Owned Buildings**

No person shall smoke in any city-owned building. (1999ORD755)

## **CHAPTER 7-4 OFFENSES AS TO PROPERTY**

### **7-4-1 Damaging Signs**

No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboards, or card placed, posted, extended or erected by the City.

### **7-4-2 Traffic Signs**

No person shall deface, injure, move, obstruct or interfere with any official traffic sign or signal, or street sign, or parking meter.

No person shall place, maintain or display upon or in view of any street, any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal, of which attempts to direct the movement of traffic. Every such prohibited sign, signal or device is hereby declared to be a public nuisance, and the Chief of Police is hereby empowered to remove the same or cause the same to be removed without notice.

### **7-4-3 Destroying Trees and Plants**

No person shall willfully injure, destroy or deface any tree, shrub, plant, or grass in any parking lot of park, or on the property of another.

No person shall willfully injure or destroy any cultivated fruits or vegetables, ornamental trees, shrubs, hedges, vines or flowers, nor injure or carry off any of the products thereof, which are property of another.

### **7-4-4 Electric Light Posts and Apparatus**

No person shall interfere with, injure, break or jar any electric light, telephone, telegraph or fire alarm system, post or pole or apparatus in any manner, or climb any

telegraph, telephone, electric light or fire alarm pole without being properly authorized to do so.

#### **7-4-5 Gas, Water or Electrical Pipe or Wire**

No person shall, without lawful authority, connect or cause to be connected, with any main service pipe, wire or other conductor of gas, water, or electrical energy, any pipe wire or other device for the purposes of obtaining gas, water, or electrical current therefrom; nor shall any person, with intent to defraud, connect or cause to be connected with any meter installed for the purpose of registering the amount of gas, water, or electricity supplied to any customer, any pipe, wire or other device or disconnect change or in any manner to interfere with any such meter of any pipe, wire of appliance connected there with, that such meter will not measure or restore the full amount of gas, water or electricity supplied to any customer.

#### **7-4-6 Interference with City Engineer, Instruments, Stakes**

No person shall interfere with the City Engineer while engaged in his or her official duties in any manner or by driving any vehicle of any kind against the person, surveying instruments or apparatus of said City Engineer or any of his or her assistants, or by moving or displacing any stake, monument or bench mark fixed or located by him or her or by his or her assistants.

#### **7-4-7 Interference with City Property**

No person shall climb or in any manner interfere with any building, water tower, bridge or structure belonging to the City, without first being authorized to do so by the City, and no person shall in any manner injure or deface any such structure.

#### **7-4-8 Destroying Property**

No person shall willfully damage, deface, break, destroy, or interfere with the property of the City or of another person.

#### **7-4-9 Fences**

No person, firm or corporation shall hereafter construct, erect or maintain or cause to be constructed, erected or maintained in the City any fences of any character or material, exceeding seven feet in height, about the sidewalk or the surface of any lot of parcel of ground; provided, that any such fence so constructed, erected or maintained shall not exceed five feet in height when the same is within forty feet of the street line, and provided further, that no fence or any part thereof shall be constructed of barbed wire.

#### **7-4-10 Certain Advertising Methods Prohibited**

No person shall put up, erect, hang, post, or suffer to remain so placed, any sign, posted notice, or other advertising matter, upon any telephone, telegraph, or electric light pole in the City.

No person shall paint, print, write, post, or in any manner place upon any sidewalk, pavement or crosswalk in the City, any letters, words, figures, sign, pictures, notices, or advertisements of any kind.

#### **7-4-11 Graffiti prohibited:**

It shall be unlawful for any person to:

- (a) Definition: Graffiti means any writing, printing, marks, signs, symbols, figures, designs, inscriptions or other drawings which are scratched, scrawled, painted, drawn or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, curb or other permanent structure on a public or private property which has the effect of defacing the property.
- (b) No person shall intentionally place graffiti on any surface located on public or private property.
- (c) No owner of any property may allow graffiti to be placed on any external surface on the owner's property. The owner of any such property shall remove graffiti, which has been placed thereon within fifteen days after having received written notice from the Police Department, or a waiver is signed allowing the police department to remove the graffiti. If the property owner does not comply, the City may institute nuisance abatement procedures and recover the cost of the removal, pursuant to legal remedies available.
- (d) Any person violating any of the provisions of this section shall be subject to the maximum penalties allowed for a class 2 misdemeanor and the court shall order restitution for damages or loss caused by the offense. (2005ORD808)

### **CHAPTER 7-5 GAMBLING**

#### **7-5-1 Gambling Prohibited**

No person shall in the City, or within one mile of the outer boundaries thereof, play at roulette, chuck-luck, poker, black jack, twenty-one or any other gambling game, dice game, or game of chance upon which money or any articles of value is staked, or to resort to, attend, or be present at any place where such gambling games or games of chance are carried on.

#### **7-5-2 Gambling Apparatus Nuisance**

Every article, apparatus or device used, operated or kept in violation of any of the provisions of this Chapter, shall be deemed a public nuisance, and may be seized by the officers at the time of the arrest, of a person, for violation of any provisions of this Chapter, having the same in his or her possession. Upon conviction of such person for such violation, said gambling apparatus or article may be destroyed under order of the court.

#### **7-5-3 Allowances**

Games of chance authorized by the State of South Dakota are not subject to the provisions of this ordinance.

## **CHAPTER 7-6 ANIMALS**

### **7-6-1 Cruelty to Animals**

No person shall cruelly or immoderately beat, torture or injure any domestic animal, or overload any working animal, nor shall any person willfully or negligently mistreat or abuse, or treat or neglect in a cruel or inhuman manner any animal.

### **7-6-2 Animals Prohibited in City**

It shall be unlawful for anyone to house or to permit to run at large any domestic fowl, horses, goats, pigs, sheep, cattle, or any animal with a propensity to be dangerous within the City Limits.

### **7-6-3 Responsibility for Animals**

- (a) No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet, or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man
- (b) No owner, keeper, caretaker, or attendant of an animal shall allow an animal to defecate on public or private property other than his own. If such animal does defecate upon public or private property the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property.
- (c) Animals used in parades or involved in law enforcement are exempt from this inspection. (2003 ORD 797)

## **CHAPTER 7-7 MINORS**

### **7-7-1 Loitering of Minors Prohibited**

It shall be unlawful for any minor under the age of seventeen years to loiter, idle, wander, stroll or play, ride or be in any motor vehicle, in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, or to be or remain in any dance hall, restaurant, café, theater, or other public place between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. on Sunday through Thursday nor between the hours of 12:00 o'clock, midnight, and 6:00 o'clock a.m. on Fridays or Saturdays, official City time; provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parents, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business, directed by his or her parent, guardian or other adult person having the care or custody of the minor, said authorization shall be on file with the City Police Department or in the personal possession of the minor. (2005ORD821)

### **7-7-2 Responsibility of Parents**

It shall be unlawful for the parent or guardian or other adult person having the care and custody of a minor who has not reached the age of seventeen years to knowingly permit such minor to loiter, idle, wander, stroll or play or ride or be in any motor vehicle in or upon the public streets, highways, roads, alleys, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, or to be or remain in any dance hall, restaurant, cafe, theater, or other public place between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. on Sunday through Thursday nor between the hours of 12:00 o'clock, midnight, and 6:00 o'clock a.m. on Fridays or Saturdays, official City time; provided, however, that the guardian or other adult person having the care and custody of the minor, or where the minor; is upon an emergency errand of legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor. (2005ORD821)

### **7-7-3 Responsibility**

It shall be unlawful for any person, firm or corporation operating places of amusement and entertainment, restaurants, cafes, theaters or other public places, to permit minors under the age of seventeen years to enter or remain in such place of amusement and entertainment, restaurant, café, theater, or other public place during the hours prohibited under this Chapter, or owner or operator of any motor vehicle to permit or allow any minor to be in or ride in such motor vehicle during the hours prohibited by this chapter; provided, however, that the provisions of this Section do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor. (2005ORD821)

### **7-7-4 Penalty**

It shall be the right of any authorized officer or person to detain or take into custody any minor violating the curfew and to keep said minor detained until his or her parent, guardian or custodian is notified when said minor may be released upon the giving of a promise by the minor and his or her parent, guardian or custodian that such minor together with his or her parent, guardian or custodian will appear at a stated time before the proper authority to answer to the charges.

Once a minor has been detained for violating curfew and the minor is being held until a parent, guardian or custodian can be notified to pick the minor up, the arresting officer shall give the parent guardian or custodian a reasonable time to pick up the minor and if the minor is not picked up within a reasonable time then there shall be assessed against the parent, guardian or custodian a penalty of \$20.00 per hour payable to the City of Mobridge for the care and custody of the child. Such penalty to be assessed along with any other court penalties assessed by the court.

Any person, parent, child, guardian, or custodian violating any provisions of this chapter shall be deemed guilty of a Class 2 Misdemeanor, and shall upon conviction thereof, be punished by a fine of not more than \$200.00 or imprisonment not to exceed thirty days or by both such fine and imprisonment. Upon a first offense under this chapter, only a money fine shall be imposed against the person deemed guilty of the misdemeanor and upon a second offense, the court shall impose a fine and a jail term.