

CHAPTER 8 - MORALS AND CONDUCT

ARTICLE 1 - OFFENSES AGAINST PUBLIC ORDER

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Section 8-1-101 Assault.

It shall be unlawful for any person to beat, strike, wound, inflict violence or apply force to the person of another; nor shall a person intentionally touch or apply force to the person of another in a rude, insolent, angry or hostile manner except in connection with an exhibition duly authorized and licensed under law, unless it is a case of justifiable or lawful use of force as defined by the laws of the State of South Dakota.

Source: Rev. of Ord., 1990.

Statutory Reference: SDCL 22-18

Section 8-1-102 Disorderly conduct.

It shall be unlawful for any person to intentionally, knowingly, or recklessly:

- A. Create a disturbance of the public order by an act of violence or by an act likely to produce violence; or
- B. Utter any words in a public place, which words by their very utterance inflict injury or serious annoyance to the person or persons to whom they are addressed;
- C. Utter any words or perform any acts which physically abuse or threaten any person or persons in any public place, or which otherwise place said person or persons in fear of safety of life, limb, health or property;
- D. Cause, provoke or engage in any fight, brawl, riotous or tumultuous or violent conduct in any public place.
- E. Fail to obey a lawful order of dispersal by a police officer, where three or more persons are committing acts of disorderly conduct in the immediate vicinity.
- F. Damage, defile or disturb public property or property of another so as to create a hazardous, unhealthy or physically offensive condition.
- G. Assemble together with two or more persons with intent to do any unlawful act with force or violence against the person or property of another, and who makes any overt act to carry out such unlawful purpose.

Source: Rev. of Ord., 1990.

Section 8-1-103 Disturbing the peace.

It shall be unlawful to disturb or aid in disturbing the peace of others by tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any property owned by him or under his control or supervision.

It shall be unlawful for any person to make, continue or cause to be made, any loud or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. Unlawful noises include but shall not be limited to the following:

- A. **Horns and Signal Devices.** The sounding of any horn or signaling device of any vehicle on any street or public place except as a danger warning; the creation by means of any such signaling devices of any unreasonable, loud, or harsh sound; the sounding of such devices for any unnecessary and unreasonable period of time other than by accident or mechanical, electrical or other difficulty or failure; and the use of any such signaling device where traffic is held up.

- B. Radios and Phonographs. The use or operation of any radio, phonograph or other sound producing machine in such a manner as to disturb the peace and quiet of others.
- C. Yelling or Shouting. Yelling, shouting or creating other loud noises which annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or residence, or of any persons in the vicinity.
- D. Animals. The keeping of any animals, which, by causing frequent or long continuous noise, shall disturb the comfort or repose of any persons of the vicinity.
- E. Schools, Courts, Churches, Hospitals. The creating of any excessive noise on any street adjacent to any hospital, school, institution of learning, church or court which interferes with the workings of such institution, or which disturbs or annoys patients in a hospital.
- F. Construction. Pounding or hammering or operating loud machinery in such a manner as to disturb the peace of a residential area during the nighttime.

Source: Rev. of Ord., 1990.

Section 8-1-104 Obstructing entry or public way.

- A. It shall be unlawful for any person to obstruct, or attempt to obstruct, or to prevent, or attempt to prevent, the free passage of any other person into any public or private place in the city, while such other person is lawfully entering such place.
- B. It shall be unlawful for any person to place, leave, or keep on any public sidewalk, street, alley or other public way any vehicle, substance, material, article, merchandise, awning, sign or building which may obstruct the free use of said public way except as provided in section 6-5 or as specifically permitted by the city commission.
- C. It shall be unlawful for any person to use rude, obscene, vulgar, indecent, or threatening language to any passerby or by any indecent act, gesture or noise, molest, annoy or insult or put in fear any person passing upon or attempting to use any public way.
- D. It shall be unlawful for any person or persons to stand on any public street, sidewalk or place in public view, in such a manner as to obstruct free passage thereon or to annoy other persons passing along the same or to cause a public safety hazard to motorists through their actions, and any policeman is authorized to disperse any 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 or preventing annoyance to any passerby on any public street or sidewalk.

Source: Rev. of Ord., 1990.

Statutory Reference: SDCL 9-30-2, regulation of use of public places.

Section 8-1-105 Impersonating officers.

It shall be unlawful for any person to falsely impersonate any law enforcement officer, fireman, or other public officer having special authority by law to perform any act affecting the rights or interests of another or to assume, without authority, any uniform or badge by which such officer or person is usually distinguished, and in such assumed character do any act whereby another person is injured, defrauded, vexed or annoyed.

Source: Rev. of Ord., 1990.

Statutory Reference: Similar provisions, SDCL 1967, 22-40-3.

Section 8-1-106 False report or alarm.

It shall be unlawful for any person to maliciously make or file with the police department any false, misleading or unfounded report or statement concerning the commission or alleged commission of any crime or to make, turn in or give a false alarm of fire or of need for police or ambulance assistance, or to interfere with the proper functioning of an alarm system, or to aid or abet the commission of such an act.

Source: Rev. of Ord., 1990.

Section 8-1-107 Unlawful to escape or attempt to escape from lawful confinement.

It is unlawful for any person, while a prisoner of the city or otherwise in the custody of or confined by the city, to escape or attempt to escape from such custody or confinement or to assist any person to escape from such confinement or custody.

Source: Rev. of Ord., 1990.

Section 8-1-108 Interfere with public officer.

It shall be unlawful to resist, abuse, molest, hinder, obstruct or refuse to obey or assist when called upon to do so, any police officer, fireman or other public officer while in the discharge or attempt to discharge of their duty.

Source: Rev. of Ord., 1990.

Section 8-1-109 Unlawful to resist arrest.

No person shall resist arrest by any law enforcement officer acting under color of his authority or assist any person to resist or escape from any such officer.

Source: Rev. of Ord., 1990.

Section 8-1-110 Discharging firearms.

No person, except a peace officer in the proper discharge of his duties, a duly authorized individual pursuant to an adopted wildlife management plan or a citizen in lawful self defense, shall discharge or shoot any gun, pistol, or any other firearm within the corporate limits of the city and within one mile of the corporate limits of the city, except shotguns may be discharged within one mile of the corporate limits of the city as long as they are 660 feet from any dwelling, church or school. The city commission may permit the hunting of upland game birds and waterfowl, with a shotgun, within certain designated areas inside the city limits, upon resolution approved and adopted by the commission. Provided, however, that the city commission may grant to any person, corporation, association or entity a permit to own, operate and maintain a trap or pistol and/or rifle shooting range within the city or within the one mile area, if such an applicant shall first establish to the satisfaction of the city commission that the operation and maintenance of such shooting range will not be injurious to the health and welfare of the general public and that the operation and maintenance of such shooting range will be conducted under the supervision of the applicant.

All such applications shall state:

- A. The legal description of the real estate upon which such proposed shooting will be conducted;
- B. The maximum gauge or caliber of firearm that will be discharged;
- C. The name and post office address of applicant; and
- D. The name and address of the owner of such real estate. If the owner of the real estate is a person other than the applicant, such owner's consent to the application must be attached thereto.

Source: Rev. of Ord., 1990; Ord. 1423, 1998; Ord. No. 1613, 2007;

Section 8-1-111 Illegal use of deadly weapons.

No person, except an officer of the law in the execution of his duty, or a person in self-defense, shall draw a pistol, gun, revolver, knife or any other deadly or dangerous weapon so that the same may be used against or upon another person.

It shall be unlawful to endanger the safety of another or his property by using a firearm or other deadly weapon in a negligent manner or carry a firearm while under the influence of any intoxicant or narcotic, or to sell, loan or furnish any deadly weapon to persons under the influence of any intoxicant or narcotic or to any incompetent person.

Source: Rev. of Ord., 1990.

Section 8-1-112 Weapons in alcohol establishments unlawful.

- A. It shall be unlawful for any person to enter or have in his possession while on the premises of any on-sale alcohol establishment licensed by the city, any firearm or any knife, or any sharp or dangerous weapon or martial arts implement such as is usually employed in attack or defense of the person whether concealed or not.
- B. This section shall not apply to a folding knife that has a blade less than three (3) inches in length, providing said knife is in a closed position.
- C. Nothing in this section shall prohibit the owner or employee of any licensed establishment to maintain an otherwise legal weapon on the premises or to prohibit any duly appointed law enforcement officer from entering said premises in the line of his duty while bearing arms.

Source: Rev. of Ord., 1990.

Section 8-1-113 Fireworks.

- A. It shall be unlawful for any individual, firm, partnership or corporation to sell at retail, possess for sale at retail, use, discharge or cause to be discharged, except as hereinafter permitted, any pyrotechnics (commonly known as fireworks) of any description whatsoever, except those in the hereinafter enumerated classification and designated as safe and sane fireworks, to-wit:

sparklers, vesuvius fountains, spray fountains, torches, color fire cones, pinwheels, toy cap pistols and toy caps, where the caps used therein do not contain more than .25 grain of explosive material in each cap.

Provided further, that no fireworks, except toy pistols and toy pistol caps, may be sold or discharged at any time prior to July 1st or after July 5th, except when July 1st falls on Sunday, the legal date of beginning sale and discharge will become June 30th. Fireworks may also be sold and discharged from December 27, 1999, through January 1, 2000.

- B. Nothing in this Ordinance shall prohibit a public display and discharge of fireworks, providing such individual, firm, partnership or corporation planning to make a public display and discharge of fireworks, shall first secure a written permit from the Chief of the Fire Department upon proper written application.

C. This Ordinance extends to and shall cover all of the territory within the corporate limits of the City of Pierre and within one (1) mile of said corporate limits in the County of Hughes, and shall also extend to and cover any public ground or park belonging to the said City of Pierre and located outside of the corporate limits of said city.

Source: Rev. of Ord., 1990. Ord. No. 1453, 1999.

Statutory Reference: SDCL 9-33-1, fireworks.

Section 8-1-114 Unlawful to throw missiles in any manner likely to cause injury or damage.

It shall be unlawful for any person to throw any stone, rock, snowball or other propellant, missile or substance in any manner as to be reasonably likely to cause injury to any person, animal or property.

Source: Rev. of Ord., 1990.

Section 8-1-115 Discharging weapons.

It shall be unlawful for anyone to shoot or discharge any air rifle, air gun, B-B gun, sling shot, bow and arrow or any other missile propelling device or use for any purpose any such device for throwing or forcing through the air missiles or projectiles of any character whatever, within the limits of the city or in any public park belonging to the city. This section shall not apply to any duly authorized shooting gallery in the city, or to law enforcement officers while engaged in the lawful conduct of their duties. The board of city commissioners, by motion, may permit archery hunting in certain designated areas, and permit the establishment and operation of archery and shooting ranges when the same are properly operated, supervised and controlled.

Source: Rev. of Ord., 1990.

Section 8-1-116 Possession of alcoholic beverages in public places.

It shall be unlawful for any person to possess an alcoholic beverage, in an unsealed container or in an open receptacle, in any vacant building or in any public place other than upon the premises of a licensed on-sale dealer where such alcoholic beverage was purchased from such dealer for on-sale purposes; except, malt beverages in parks and fishing areas.

For purposes of this section, "public place" shall mean any place, whether within or without a building, commonly and customarily open to or used by the general public and any sidewalk, street or highway. Nothing in this section shall be construed to prohibit the possession of malt beverages on ball field premises which are leased to a concessionaire and said concessionaire has an appropriate malt beverage license.

Source: Rev. of Ord., 1990.

Section 8-1-117 Failure to pay admission or fare.

It shall be unlawful for any person to gain admission or entrance into, or attempt to gain admission or entrance into, any place of assembly, amusement, entertainment, or exhibition where an admission or entrance fee is charged, or to engage any licensed taxicab or bus without paying the prescribed admission, entrance fee, or fare except upon invitation of the management of such place of assembly, amusement, entertainment, or exhibition.

Source: Rev. of Ord., 1990.

Section 8-1-118 Public begging unlawful.

It is unlawful to detain or attempt to detain any person in a public place or to go door to door at residences or places of business, for the purpose of begging for money or other valuable consideration without giving valuable consideration in return. Solicitation consists of communication by words, signs, or other conduct of a desire to receive charity.

Begging shall not include solicitations by a bona fide nationally chartered veterans', religious, charitable, educational or fraternal organization, local civic or service club, political party or volunteer fire department or political committee which is duly existing under the laws of the State of South Dakota; provided, however, that the proceeds there from do not inure to the benefit of any individual, and the person making the solicitation identifies, prior to the solicitation, the organization for which he is soliciting.

It shall be unlawful for any person to falsely identify himself as soliciting on behalf of any bona fide organization as designated above.

Source: Rev. of Ord., 1990.

Section 8-1-119 Disorderly assemblies.

- A. **Prohibited.** A disorderly assembly of persons is hereby prohibited and the police department or any law enforcement officer shall have the authority to disperse those persons and to require them to remove themselves from the place of assembly. Any person participating in a disorderly assembly who fails or refuses to disperse or vacate such place after having been commanded to do so by a law enforcement officer shall be guilty of disorderly assembly.
- B. **Definition.** For purposes of this section, a "disorderly assembly" shall mean an assembly of two (2) or more persons, some or all of whom are engaged in conduct which threatens the public peace or safety through fighting or violent or threatening behavior, loud or profane language, unreasonable noise, obstructing vehicular or pedestrian traffic or by littering or breakage.

Source: Rev. of Ord., 1990.

Section 8-1-120 Unlawful to gather crowds except upon permission of the mayor.

It shall be unlawful to call or cause the gathering of any crowd of people for the purpose of making an address or exhibiting any show or performance to them in any public place without the written permission of the mayor.

Source: Rev. of Ord., 1990.

Statutory Reference: SDCL 9-30-2, Regulation of use of public places.

Section 8-1-121 Entering or refusing to leave property after notice.

It shall be unlawful for any person who, knowing that he is not privileged to do so, enters or remains in any place where notice against trespass is given by:

- A. Actual communication to the actor, by the owner, occupant, authorized agent, or police officer acting at the request of an authorized person; or
- B. Posting in a manner reasonably likely to come to the attention of intruders; or
- C. Fencing or other enclosure that a reasonable person would recognize as being designed to exclude intruders.

Source: Rev. of Ord., 1990

Statutory Reference: SDCL 22-35-6.

Section 8-1-122 Trespass and unauthorized use of property prohibited.

- A. It shall be unlawful for any person to knowingly lodge, use or occupy any barn, garage, shed, shop, or other house, building structure or vacant lot or any automobile, truck, railroad car or other vehicle without permission of the owner or person entitled to possession.
- B. It shall be unlawful for any person to knowingly lodge in any public way, park or place, except in authorized camping areas, or to lodge or sleep in any public rest room or public building lobby.
- C. It shall be unlawful for any person to knowingly in the nighttime enter upon any privately owned real property which is not open to the use of the public unless he has first obtained the consent of the owner or person in possession or control thereof.

- D. It shall be unlawful to lurk, lie in wait or be concealed upon the property of another without lawful business with the owner or occupant thereof.

Source: Rev. of Ord., 1990.

Section 8-1-123 Loitering on school grounds.

It shall be unlawful for any person to loiter, idle, wander, stroll, or play in, about, or on any public, private, or parochial school, college, or seminary grounds, or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout, in connection with such school or the employees thereof; or for any person to:

- A. Annoy, disturb, or otherwise prevent the orderly conduct of classes and activities of any such school; or
- B. Annoy, disturb, assault, or molest any student or employee of any such school, college or seminary while in any such school building or on any school grounds; or
- C. Conduct himself in a lewd, wanton, or lascivious manner in speech or behavior in or about any such school building or school grounds; or
- D. Park or move a vehicle in the immediate vicinity of, or on the grounds of any such school, college, or seminary for the purpose of annoying or molesting the students or employees thereof; or in an effort to induce, entice, or invite students into such vehicles for immoral purposes.

Provided that nothing in this section shall prohibit the lawful use of school playgrounds for recreational purposes with the consent of school authorities when school is not in session.

Source: Rev. of Ord., 1990.

Section 8-1-124 Unlawful to remove protective or warning barricades - exception.

It shall be unlawful to remove, destroy or interfere with any barrier, guard or light placed before or in any dangerous place near the streets, sidewalks or other public ways of the city for the purpose of warning or protecting travelers from injury or danger, provided that removal after the danger has ceased and temporary removal to allow the passage of a vehicle with immediate subsequent replacement shall not be considered unlawful.

Source: Rev. of Ord., 1990.

Section 8-1-125 Unlawful to obstruct fire hydrant - firemen authorized to remove obstruction at owner's expense.

No person shall obstruct the use of any fire hydrant or leave, or place any material in front thereof or within fifteen feet from either side thereof. Any and all material found as an obstruction as aforesaid may be forthwith removed by any member of the fire department or police department at the risk or the cost and expense of the owner or claimant.

Source: Rev. of Ord., 1990.

Section 8-1-126 Unlawful use of telephone - generally.

It shall be unlawful for any person, by means or use of the telephone, to disturb, or tend to disturb the peace, quiet, or right of privacy of any other person or family by repeated and continued anonymous or identified telephone messages intended to harass or disturb the person or family to whom the call is directed; or by single call or repeated calls, to use obscene, profane, indecent, or offensive language, or to suggest any lewd or lascivious act over or through a telephone in this city, or to attempt to extort money or other thing of value from any person or family by means or use of the telephone; or to repeatedly and continuously ring the telephone of any person or family with intent to disturb or harass them; provided, however, that the normal use of the telephone for the purpose of requesting payment of debts or obligations or for other legitimate business purposes shall not constitute a violation hereof.

Source: Rev. of Ord., 1990.

Section 8-1-127 Persons at fire are subject to orders of the chief or other persons in command of extinguishing the fire - officers have power to arrest persons refusing to obey lawful orders.

Every person who shall be present at a fire, including members of the fire department shall be subject and obedient to the order of the fire chief or other department officer as may be in command in extinguishing the fire and the removal and protection of property. No person not a member of the fire department shall be bound to obey any of said officers unless such officers shall wear their respective badges of office or their official character shall be known or made known to him. All such officers have power to arrest any person or persons refusing to obey such lawful orders as may be given.

Source: Rev. of Ord., 1990.

Section 8-1-128 Extreme fighting unlawful.

“Extreme Fighting” means an exhibition of competition, including elements of boxing, wrestling or martial arts or any combination thereof, which is not sanctioned by a national boxing, wrestling or martial arts organization with an accepted set of rules for the conduct of the event.

No person shall arrange, give, hold, conduct or participate in any extreme fighting or similar combative sport, match, competition or exhibition where there is no sanctioning organization, acceptable set of rules, no referee and/or no security.

Source: Ord. No.1495

Section 8-1-129 to 8-1-198, inclusive, Reserved.

Section 8-1-199. Violation of article as misdemeanor - penalty.

Any person, firm or corporation convicted of a violation of any of the provisions of this article is guilty of a second-class misdemeanor and subject to fine and imprisonment as provided by section 1-3-101.