

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. MISCELLANEOUS**

**131. PUBLIC SAFETY**

**132. OFFENSES TO PROPERTY**



## CHAPTER 130: MISCELLANEOUS

### Section

- 130.01 Air-tight containers; restricted
- 130.02 Disorderly conduct; disturbing the peace
- 130.03 Fighting
- 130.04 Causing or engaging in riot
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- 130.09 Playing in streets
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- 130.11 Curfew
- 130.12 Indecent exposure and public nudity
  
- 130.99 Penalty

### ' 130.01 AIR-TIGHT CONTAINERS; RESTRICTED.

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandon building, dwelling or other structure under his or her control in a place accessible to children any abandon or discarded icebox, refrigerator or other container which has an air-tight door or lid, snap, lock or other locking device which may not be released from the inside, without first removing said door or lid, snap, lock or other locking device from said icebox, refrigerator or container.

(Prior Code, ' 6.0101) Penalty, see ' 130.99

### ' 130.02 DISORDERLY CONDUCT; DISTURBING THE PEACE.

No person shall intentionally cause serious public inconvenience, annoyance or alarm to any other person or create a risk thereof by:

- (A) Engaging in fighting or in violent or threatening behavior;

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(B) Making unreasonable noise;

(C) Disturbing any lawful assembly or meeting of persons without lawful authority;

(D) Obstructing vehicular or pedestrian traffic; or

(E) Loitering or wandering upon the streets or from place to place without apparent reason or business and who refuses to identify himself or herself and account for his or her presents when requested by any law enforcement officer to do so, if surrounding circumstances are such that indicated to a reasonable person that the public safety demands such identification.

(Prior Code, ' 6.0102) Penalty, see ' 130.99

**' 130.03 FIGHTING.**

(A) It shall be unlawful for any person to knowingly start a fight or to fight or to commit any assault or battery in any public place in the city.

(B) Assault is any wilful and unlawful attempt or offer, with force or violence, to do a corporal hurt to another. A battery is any wilful and unlawful use of force or violence upon the person of another.

(C) To use or attempt of offer to use force or violence towards the person of another is not unlawful if necessarily committed by a public officer in the performance of any legal duty or by any other person assisting him or her or acting by his or her directions.

(Prior Code, ' 6.0103) Penalty, see ' 130.99

**' 130.04 CAUSING OR ENGAGING IN RIOT.**

No person shall cause or engage in a riot or incite a mob to destroy property or injure persons, nor shall any person or persons within the city limits commit or suffer to be committed in any house or building or premises by him or her occupied, any rioting, quarreling, fighting, reveling, drunkenness, loud or boisterous conduct calculated to or which disturbs the neighborhood or annoys any person.

(Prior Code, ' 6.0104) Penalty, see ' 130.99

**' 130.05 RESISTING AN OFFICER.**

No person shall in any way wilfully resist, or aid or assist any person to resist or to escape from any police officer, or to assist any person to assault any police officer, or shall in any way interfere with a police officer, in making an arrest or in the discharge of his or her duties, nor fail to assist, if requested by a police officer.

(Prior Code, ' 6.0105) Penalty, see ' 130.99

**' 130.06 IMPERSONATING AN OFFICER.**

No person, not duly authorized to exercise the duty conferred by ordinance upon a police officer of this city, shall wear a police officer=s badge, or represent himself or herself as being a police officer, or attempt to exercise the duties of a police officer in this city.

(Prior Code, ' 6.0106) Penalty, see ' 130.99

**' 130.07 ADVERTISING ON BUILDINGS.**

No person shall post, affix, paint, write or print any bill, advertisement, poster, writing or printing on any private or public property within the city, except such advertising as is done in accordance with law, without first having obtained the consent of the owner of said property so to do.

(Prior Code, ' 6.0107) Penalty, see ' 130.99

**' 130.08 ADVERTISING ON POLES AND SIDEWALKS.**

It shall be unlawful for any person to nail, post, glue, fasten, put up, erect, hang, place, paint or otherwise affix in any manner whatsoever, any sign, show bill, poster, notices, lithographs, pictures, designs or any advertisement of any kind and description either printed or in writing, upon any telephone, telegraph, gas, electric light or lamp post upon any of the streets, highways or alleys of public places in the city or upon any bridge, viaduct, sidewalk, crosswalk, pavement or intersection, or upon the railing or approaches of, on or connecting with, any bridge, viaduct or sidewalk.

(Prior Code, ' 6.0108) Penalty, see ' 130.99

**' 130.09 PLAYING IN STREETS.**

No person shall fly any kite, play any game or engage in any exercise which obstructs or interferes with the use of the streets for traffic or passage, or endangers the safety and lives of those thereon.

(Prior Code, ' 6.0109) Penalty, see ' 130.99

**' 130.10 OPEN CONTAINER PROHIBITED.**

(A) It shall be unlawful for any person to consume any alcoholic beverage or to mix or blend any alcoholic beverage with any other beverage, regardless of whether such beverage is an alcoholic beverage, in any public place, other than upon the premises of a licensed on-sale dealer, where such alcoholic beverages were purchased from such dealer for on-sale purposes. For the purpose of this chapter, **PREMISES** shall be defined as the building of the licensed on-sale dealer, or an area on the property of the on-sale dealer which is enclosed by a substantial enclosure.

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(B) It shall be unlawful for any person to possess in any public place other than upon the premises of a licenses on-sale dealer, any glass, can, bottle or other container, containing an alcoholic beverage on which the seal has been broken.

(C) It shall be unlawful for any to throw, cast or otherwise put it motion, any bottle, can, glass or other container, at any other person or vehicle, whether moving or parked, or to dispose of or deposit any bottle, can, glass or other container, upon any street, alley, highway, sidewalk or park.

(D) For the purpose 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 street, highway, alley or sidewalk.

(E) Any group or organization wishing to sponsor an outdoor gathering at which alcohol will be consumed within the city may apply to the Common Council for permission to allow alcoholic beverages in a public place within the city. Application to the Common Council shall be made at least 30 days prior to the event, shall state specifically the location within the city in which alcoholic beverages are proposed to be consumed and the specific time that the event will begin and end. The Common Council may, by a majority vote, grant permission to the group or organization for the consumption of alcoholic beverages in a public place at the location proposed and at the times proposed.  
(Prior Code, ' 6.0110)

(F) A licensee that is licensed to sell wine on-sale may permit a customer to carry out the unconsumed portion of a bottle of wine if the customer purchased the bottle of wine from the licensee and consumed a portion of it with a meal that was prepared and served by the licensee at a table on the licensed premises. The licensee shall securely reseal the bottle of wine with a cork or other similar cap and place the bottle in a sealed bag or other container. The licensee shall also attach a receipt for the meal and the wine to the bag or container.

Penalty, see ' 130.99

**' 130.11 CURFEW.**

(A) It shall be unlawful and a violation of this chapter for any child under the age of 16 years to be upon the streets, alleys or public places within the city between the hours of 10:00 p.m. and 6:00 a.m. It shall further be unlawful for any child age 16 or 17 to be upon the streets, alleys or public places within the city between the hours of 12:00 a.m. and 6:00 a.m. For the purposes of this section, being in a vehicle in a street, alley or public place shall constitute a violation.

(B) Division (A) above shall not apply to any child who is accompanied by a parent, legal guardian or other responsible person 21 years of age or older. It shall also not apply to any child traveling between his or her place of residence and place of employment or a place where a school or church function is being held.

(C) Any parent, legal guardian or person charged with the care and custody of a child who allows or permits said child to violate this section shall also be in violation of this section. Upon first violation, said person shall, at a minimum, pay a fine in the amount of \$20. Upon a second violation, the fine shall be in the minimum amount of \$40. Upon a third violation, the fine shall be in the minimum amount of \$80.

(D) This section does not apply to a minor who is:

- (1) Accompanied by the minor's parent or guardian;
  - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (3) In a motor vehicle involved in interstate travel;
  - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (5) Involved in an emergency;
  - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the town, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the town, a civic organization, or another similar entity that takes responsibility for the minor; and
  - (8) Married or had been married or had disabilities of minority removed in accordance with state law.
- (Prior Code, ' 6.0111) Penalty, see ' 130.99

**' 130.12 INDECENT EXPOSURE AND PUBLIC NUDITY.**

It shall be unlawful for any person to appear in any public place, any place exposed to public view or any place to which the public is invited in the state of nudity. For the purpose of this section, nudity shall be defined as the showing of a human male or female genitals, pubic area or buttock, with less than a full opaque covering, or the showing of the female breasts, or any portion thereof below the top of the nipple, with less than full opaque covering. In addition, any person who allows another person to violate this chapter, whether as an employee or working for tips, and who provides that individual with an area in which to violate this section, shall also be guilty of this section.

(Prior Code, ' 6.0114) Penalty, see ' 130.99

**' 130.99 PENALTY.**

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(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Assault or assault and battery ( ' 130.03) shall be punishable a fine of not less than \$10, and no more than \$100 or by both in the discretion of the court.  
(Prior Code, ' 6.0103)

(C) Resisting an officer ( ' 130.05) shall be punishable by a fine not exceeding \$100.  
(Prior Code, ' 6.0105)

(D) Any parent, legal guardian or person charged with the care and custody of a child who allows or permits said child to violate ' 130.11 shall also violate this chapter. Upon a first conviction, said person shall, at a minimum, pay a fine in the amount of \$20. Upon a second conviction, the fine shall be in the minimum amount of \$40. Upon a third conviction, the fine shall be in the minimum amount of \$80.  
(Prior Code, ' 6.0111)



## CHAPTER 131: PUBLIC SAFETY

### Section

- 131.01 Discharging firearms
- 131.02 Concealed weapons
- 131.03 Carrying, persons under 18
- 131.04 Fireworks; definition
- 131.05 Fireworks; use
  
- 131.99 Penalty

#### ' 131.01 DISCHARGING FIREARMS.

No person, except a law enforcement officer, may discharge a firearm, as defined by SDCL ' 22-1-2, or an air gun within city limits. An **AIR GUN** is defined as a rifle or pistol in which the projectile is propelled by compressed air or a carbon dioxide cartridge. In addition to the criminal penalty, any firearm or air gun used in violation of this section is hereby declared to be contraband, and may be confiscated by law enforcement.

(Prior Code, ' 6.0201) Penalty, see ' 131.99

#### ' 131.02 CONCEALED WEAPONS.

No person, except an officer of the law, or a person licensed under the state law, shall carry concealed about his or her person any pistol or other firearm, sling shot, brass knuckle or knuckles of other material or any dagger, Bowie knife or 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.

(Prior Code, ' 6.0202) Penalty, see ' 131.99

#### ' 131.03 CARRYING; PERSONS UNDER 18.

No person under the age of 18 years shall carry any firearms upon the streets or about or within the city, unless accompanied by his or her parent or guardian.

(Prior Code, ' 6.0203) Penalty, see ' 131.99

**' 131.04 FIREWORKS; DEFINITION.**

The term *FIREWORKS* as referred to in this chapter shall include firecrackers, torpedoes, roman candles, cap pistols, toy cap cannons detonating canes, blank cartridges, sky rockets or other pyrotechnic displays, but shall not include or apply to ammunition for firearms nor to dynamite and devices for exploding the same used in any industry or for the same, and not used or kept for public display.  
(Prior Code, ' 6.0205)

**' 131.05 FIREWORKS; USE.**

(A) It shall be unlawful for any person to use, explode, set off or fire any fireworks as described in ' 131.04, within the city; however, the Common Council of the city may, by resolution, allow the use of fireworks on July 3 and July 4 only, and only within the confines of Memorial Park. Said resolution shall be approved by the Common Council on or before June 25 of each year and shall be limited to that year. The fireworks prohibition contained in this section shall not apply to fireworks displays, a permit for which has been obtained from the Common Council.

(B) Nothing in this section shall apply to toy paper caps which contain not more than the 25/100ths of a gram of explosive composition per cap.  
(Prior Code, ' 6.0206) Penalty, see ' 131.99

**' 131.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Any person convicted of violating ' ' 131.01, 131.02, or 131.05 may be fined up to \$500.  
(Prior Code, ' 6.0204)

## CHAPTER 132: OFFENSES TO PROPERTY

### Section

- 132.01 Malicious destruction of property
- 132.02 Injury to trees and plants
- 132.03 Injuring signs
- 132.04 Trespass
- 132.05 Littering
- 132.06 Establishing hours of access to the Whitewood Cemetery

#### ' 132.01 MALICIOUS DESTRUCTION OF PROPERTY.

No person shall wilfully, maliciously or wantonly destroy, injure, deface or remove, without a right to do so, any private or city property or building.  
(Prior Code, ' 6.0301) Penalty, see ' 10.99

#### ' 132.02 INJURY TO TREES AND PLANTS.

No person shall wilfully, maliciously or wantonly injure, deface, destroy or cut down any tree, shrub or flower being or growing upon any street, alley, highway or in any public park, or upon any public grounds within this city, nor shall any person wilfully injure or destroy any cultivated fruits or vegetable, crops, shrubs, trees, flowers, hedges or vines, nor injure or carry off any of the products thereof which are the property of another, unless permission from the owner has been secured.  
(Prior Code, ' 6.0302) Penalty, see ' 10.99

#### ' 132.03 INJURING SIGNS.

No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboard or card lawfully placed, posted, extended or erected by the city or any person.  
(Prior Code, ' 6.0303) Penalty, see ' 10.99

**' 132.04 TRESPASS.**

It shall be unlawful for any person to knowingly lodge in, use or occupy any barn, garage, shed, shop or other house or building or structure or any automobiles, truck, railroad car or other vehicle without permission of the owner or person entitled to possession. It shall be unlawful for any person to knowingly enter upon any privately owned real property which is not opened to the use of the public unless he or she has first obtained the consent of the owner or person in possession or control thereof.

(Prior Code, ' 6.0304) Penalty, see ' 10.99

**' 132.05 LITTERING.**

All persons are hereby prohibited from throwing or depositing on or upon any street, roadway, alley, highway, sidewalk, public parks, parking areas or buildings, places which are open to the public any garbage, glass, bottles, tin cans or other litter of any kind or description. An exception is hereby made for people leaving garbage or trash on their own premises for the purpose of being collected by the city garbage collector.

(Prior Code, ' 6.0305) Penalty, see ' 10.99

**' 132.06 ESTABLISHING HOURS OF ACCESS TO THE WHITEWOOD CEMETERY.**

It shall be unlawful for any person to enter, or remain in the Whitewood Cemetery from one-half hour after sunset until one-half hour before sunrise.

(Prior Code, ' 6.0306) Penalty, see ' 10.99