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Chapter 7.1. Offenses against Public Welfare

Section 7.1.1. Carrying a concealed Weapon (Repealed per Ordinance 558)

Section 7.1.2. Resisting, Escaping from or assaulting an Officer (Repealed per Ordinance 559)

Section 7.1.3. Impersonating Officer (Repealed per Ordinance 560)

Section 7.1.4. False Emergency Alarms Prohibited.

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

Section 7.1.5. Discharge of Weapons.

It shall be unlawful for any person except a public officer or specially appointed officer in the discharge of his duty or at the direction or with permission of any such officer, as hereafter provided, to discharge or fire any firearm, air rifle, slingshot or other dangerous weapon within the city limits of, or on any property owned by, the city of Flandreau. The chief law enforcement officer for the City may grant permission in writing to any resident of the City to discharge or fire any gun, air rifle, slingshot or other dangerous weapon within the limits of, or on any property owned by, the city of Flandreau upon showing of a necessity for doing so provided that such discharge is upon the resident's leased or owned property.

a. **Exception 1:** The operation of a trap range is permitted on city-owned property that is leased to the Moody County Sportsman Club or to its successor, if any.

b. **Exception 2:** Archery hunting is permitted on City-owned land with permission of the City or of a tenant of the City.

Chapter 7.2 Offenses as to Public Places

Section 7.2.1. Obstructing Streets.

It shall be unlawful for persons:

- a. 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
- b. To place an obstruction on any public street or sidewalk in such a manner as to obstruct free passage thereon; or

- c. To annoy other persons passing along the same.

Section 7.2.2. Hindering or Molesting Persons (Repealed per Ordinance 561)

Section 7.2.3. Crowd Dispersion.

Any policeman is authorized to disperse any crowd or group, or to cause the removal of any person violating the provisions of this section. The officer may 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 annoyances to any passerby on any public street or sidewalk.

Section 7.2.4. Begging.

No person shall beg upon any public street or in any public place.

Article 7.2.4.1 For the purposes of this section “beg” means solicit 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 veterans’, religious, charitable, educational or fraternal organization, local civic or service club, political party or volunteer fire department or political committee; provided, however, that the proceeds therefrom 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.

Article 7.2.4.2 It is unlawful for any person to falsely identify himself as soliciting on behalf of any bona fide organization as designated in **Article 7.2.4.1** of this Section.

Section 7.2.5. Certain Activities Prohibited.

Article 7.2.5.1 No person shall put up, erect, hang, post or suffer to remain so placed, any sign, poster, notice or other advertising matter, upon any city owned property in the city.

Article 7.2.5.2 No person shall paint, print, write, post or in any manner place upon any public sidewalk or crosswalk in the city, any letters, words, figures, signs, pictures, notices or advertisement of any kind.

Article 7.2.5.3 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 placed, posted, extended or erected by the City.

Article 7.2.5.4 No person shall climb or in any manner interfere with any building, water tower, bridge or structure belonging to the city, without being authorized so to do by the city; and no person shall in any manner injure or deface any such structure.

Section 7.2.6. Possession of Open Container Prohibited.

No person shall have an unsealed package or an open receptacle containing an alcoholic beverage, including a malt beverage, in his or her possession in any public place within the city limits of the City of Flandreau, other than a duly licensed on-sale business. The City Council may grant an exception to this prohibition and issue a special permit upon written request when good and sufficient cause or reason therefore is shown. The City Council shall be the sole judge of whether or not the grounds stated in the application for special permit meet the prerequisites for issuing such a permit, and shall also determine the appropriate limitations to time and location.

Chapter 7.2.7 Failure to Observe Notice of Closure or Use Restriction as Misdemeanor (Ordinance 594)

- A. The Mayor, Chief of Police, Chief of the Fire Department, vote of the City Council, or any duly authorized agent of the City of Flandreau may restrict the use of any road, street, alley, or property with the jurisdiction of the City (hereafter “restricted area”) if they deem the restriction of use or closing is necessary for the protection and safety of the public.
- B. Notice to the public that an area or its use is restricted shall be given in one or more of the following forms:
 - a. Erection of suitable barriers adjacent to or upon the restricted area to restrict or prohibit travel;
 - b. Issue warning and notice of the restriction or closure in generally available media outlets;
 - c. Post signs for direction of traffic relative to the use or non-use of the restricted area;
 - d. Place warning devices on or near the restricted area; or
 - e. Place flagmen to warn, detour, or direct traffic.
- C. It shall be unlawful for any person to enter, cross the boundaries of, or remain in any restricted area under this Section without the express permission of either the Chief of Police or the Chief of the Fire Department. Any such person shall be guilty of a misdemeanor. If, as a result of a knowing violation of this section for failure to observe a notice provided pursuant to this Section, any agency of the State of South Dakota or any governmental subdivision incurs any costs for the purpose of rescuing the violator, any passengers, or any vehicle operated by the violator, the violator is subject to a civil action by the City of Flandreau for the recovery of a civil penalty of up to one thousand dollars and the actual cost of any such rescue, in an amount not to exceed ten thousand dollars.

Chapter 7.3. Minors.

Section 7.3.1. Minors, Loitering Prohibited.

It shall be unlawful for any minor person under the age of seventeen years between the hours of 10:00 p.m. and 5:00 a.m. of the following day, official city time on the days Sunday through Thursday, and between the hours of 12:00 a.m. and 5:00 a.m. of the following day, official city time on Friday and Saturday to:

- a. 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
- b. Be or remain in any dance hall, restaurant, café, theatre, or other public place.
- c. The provisions of this section do not apply to a minor accompanied by his or her parents, legal guardian or other adult person having the care and custody of the minor. Nor does it apply where the minor is upon an emergency errand or legitimate business, directed by his or her parent or legal guardian or other adult person having the care or custody of the minor.

Section 7.3.2. Minors, Responsibility of Parents.

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of seventeen to knowingly permit such minor to violate **Section 7.3.1.**

Section 7.3.3. Responsibility of Others.

It shall be unlawful for any person, firm or corporation operating places of amusement and entertainment, restaurants, cafes, theatres or other public places to permit minors to enter or remain in such places or other public places during the hours prohibited under this chapter. No owner or operator of any motor vehicle shall knowingly permit or allow any minor under age 17 to violate the provisions of **Section 7.3.1.**

Section 7.3.4. Penalties.

Any minor violating the provisions of this chapter may:

- a. be detained by law enforcement and brought before the Circuit Court of Moody County, South Dakota and dealt with in accordance with the Juvenile Law and Procedure; and, or
- b. be fined \$25.00 per each such violation.

Chapter 7.4 Fireworks

Section 7.4.1. Definitions.

The term fireworks under this chapter shall refer to fireworks that are authorized by state law to be used by or sold to the general public.

Section 7.4.2. Sale and Use Prohibited.

It shall be unlawful to keep for sale, display or use any fireworks within the city of Flandreau, South Dakota, except as hereinafter permitted.

Section 7.4.3. Authorized Period of Sale. (Ordinance 542)

The fireworks as set out in this section shall only be sold during the period beginning June 27th and extending through July 5th and during the period beginning December 28th and extending through January 1st. The sale of fireworks is not permitted after 12:00 a.m. or prior to 7:00 a.m. from the 27th day of June through the 5th day of July and from the 28th day of December through the 1st day of January. The sale of toy cap pistols and toy caps may be sold at any time.

Section 7.4.4. Use and Sale. (Ordinance 542)

The use and sale of the following described fireworks and firecrackers will be permitted as hereinafter set forth: sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells, without explosive charge for the purpose of making a noise, roman candles, rockets, star mines, color wheels, Chinese-made soft shell firecrackers not exceeding one and five-eighths inches in length and one-fourth inch outside diameter, toy cap pistols and toy caps where the caps used therein do not contain more than thirty-five hundreds grain of explosive material in each one.

Article 7.4.4.1 It shall be unlawful for any person to use any fireworks described in this chapter, within the City of Flandreau and the Flandreau City Park except on the 4th day of July or on the 31st day of December.

Article 7.4.4.2 No fireworks shall be fired on or from any public property, including all City streets, boulevards and alleys, located within the City of Flandreau or Flandreau City Park.

Section 7.4.5. Special Exceptions. Application for a special exception to this section for a fireworks display at any other time may be made to the City Council and the council may grant the application setting forth any conditions and restrictions, as they may deem appropriate.

Chapter 7.5 Public Nudity.

Section 7.5.1. Definitions.

As used in this Ordinance:

- a. *"Nudity or state of nudity"* - The showing of the bare human male or female genitals, anus or pubic area with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of the areola and nipple, or the showing of the covered male genitals in a discernibly turgid state.
- b. *"Public Place"* - Any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit) and whether open to the public at large or where entrance is limited by a cover charge or membership requirement, bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.
- c. *"Places not considered Public"* - Enclosed single-sex public rest rooms, enclosed single-sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor shall it include a person appearing in a state of nudity in a modeling class operated by: (1) a proprietary school, licensed by the State of South Dakota; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation, or an accredited private college.

Section 7.5.2. Appearing Nude.

It is a violation of this Ordinance, for any person in a public place to knowingly or intentionally, to appear personally in a state of nudity.

Section 7.5.3. Operating Public Place.

It shall be unlawful for any person or entity maintaining, owning or operating any public place to operate and knowingly, or with reason to know, permit or allow any person to appear nude in such public place.

Section 7.5.4. On-duty Police Officer.

It shall be a violation of this Ordinance for any person or entity to refuse admittance without fee to any on-duty police officer at any time when patrons or customers remain in said premises.

Section 7.5.5. Public Nuisance.

Operation of an establishment in violation of this Ordinance shall constitute a public nuisance and in addition to all other remedies provided herein, the City may, by civil process, seek permanent abatement of said nuisance.

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