

CHAPTER 7: MORALS AND CONDUCT

CURFEW FOR MINORS

Section 7-101. Curfew Imposed on Persons Under Eighteen (18) Years of Age

(a) PROHIBITED ACTS BY MINORS. It shall be unlawful for any minor to loiter, idle, wander, stroll or play in or upon the public streets, sidewalks, highways, public places and public buildings, places of amusement or entertainment, vacant lots or other unsupervised places, between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m. of the following day if the minor is under the age of fifteen (15) years except for Friday and Saturday evenings of each week on which days the curfew imposed by this subsection shall be operative between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. of the following day; and between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. of the following day if the minor is between the ages of fifteen (15) and eighteen (18) years except for Friday and Saturday evenings of each week on which day for persons between the ages of fifteen (15) and eighteen (18) years on which days the curfew herein should be operative between the hours of 12:00 o'clock midnight and 6:00 o'clock a.m. of the following day. The provision of this subsection shall not apply to a minor accompanied and in the physical and immediate presence of his parent, guardian or other adult person having care or custody of the minor, or if the minor is upon an errand or business directed by his parent, guardian or other adult person having the care or custody of the minor.

(b) RESPONSIBILITY OF THE PARENT. It shall be unlawful for the parent, guardian, or other adult person having the care or custody of a minor child under the age of eighteen (18) years of age knowingly to permit the minor to violate the provisions of subsection (a).

(c) RESPONSIBILITY OF PERSONS OPERATING AMUSEMENTS. It shall be unlawful for any person operating places of amusement or entertainment to permit any minors to enter or remain in the place of amusement or entertainment during the hours prohibited by section (a); however, the provision of this subsection shall not apply when the minor is accompanied by his parent, legal guardian or other adult person having the care or legal custody of the minor.

(d) PENALTY. Any person described in subsection (b) or (c) who shall violate said provisions of subsection (b) or (c) shall be guilty of a violation of this section and shall be fined the sum of \$100.00 on each occasion or imprisoned in the County Jail for a period of thirty (30) days or both such fine and imprisonment.

OFFENSES (GENERALLY)

Section 7-201. Short Title. This ordinance shall be known and may be cited as the "Offenses Ordinance of the Town of Tabor".

Section 7-202. Definitions. For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Town" is the Town of Tabor.

(2) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

Section 7-203. Offenses Against Public Peace. No person in the Town shall:

(1) Tumultuous Conduct. Disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

(2) Assault. Beat, strike, wound, imprison, or inflict violence on another where the circumstances show malice or assault another with intent to commit murder, rape, mayhem, robbery, or larceny. Nor shall any person assault another with a lethal weapon, instrument, or thing with intent to commit upon the person of another any bodily injury where no considerable provocation appears or where the circumstances of the assault show malice.

(3) Fighting. Fight another person except in boxing exhibitions duly authorized and licensed under law.

(4) Vagrancy. Have the status or condition of a "vagrant". The following persons shall be deemed vagrants:

(a) No Lawful Means of Support. Any person having no lawful means of employment and having no lawful means of support realized solely from lawful occupations or sources; or, any person who lives idly and without visible means of support.

(b) Loitering. Any person found loitering or strolling in, about, or upon any street, alley, or other public way or public place, or at any public gathering or assembly, or in or around any store, shop, or business or commercial establishment, or on any private property or place without lawful business and conducting himself in a lewd, wanton or lascivious manner in speech or behavior.

(c) Unlawful Occupancy. Any person wandering abroad and occupying, lodging, or sleeping in any vacant or unoccupied barn, garage, shed, shop, or other building or structure, or in any automobile, truck, railroad car, or other vehicle, without owning the same or without permission of the owner or person entitled to the possession of the same, or sleeping in any vacant lot during the hours of darkness and not giving a satisfactory account of himself.

(5) Weapons.

(a) Carrying Concealed Weapons. Wear under his clothes, or conceal about his person, or display in a threatening manner, any dangerous or deadly weapon including, but not by way of limitations, any pistol, revolver, sling shot, cross-knuckles, or knuckles of lead, brass, or other metal, or any bowie knife, or any knife resembling a bowie knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a flick of a button, pressure on the handle, or other mechanical contrivance.

(b) Exception for Authorized Officials. The prohibition of this sub-section shall not be construed to forbid United States marshals, sheriffs, constables, and their deputies, and any regular, special, or ex-officio police officer, or any other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties.

(6) Discharge of Weapons. It shall be unlawful for any person to discharge or shoot off any firearm or use for any purpose any sling shot or other device for throwing through the air missiles or projectiles of any

character; however, this section shall not apply to any law enforcement officer in the discharge of his duty.

(7) Fireworks.

(a) Discharge of Fireworks prohibited.

(1) It shall be unlawful for any person to shoot, discharge, explode, or coause to be shot, discharged, or exploded, any fireworks or other explosives within the corporate limits of the Town of Tabor, except on July 3, 4, and 5 of each year. On July 3, 4, and 5 of each year, only permissible fireworks as defined by SDCL 34-37-5 shall be permitted to be discharged within the corporate limits of the Town of Tabor and then only between the hours of 9:00 a.m. and 12:00 a.m. on each said July 3, 4, and 5.

(2) The term "fireworks" as referred to in this section means any firecrackers, torpedoes, roman candles, toy cannon, blank cartridges, sky rockets or other kind of fireworks or pyrotechnic displays. Nothing in this section chapter shall be construed as applying to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap, nor shall it apply to the use of auto flares or signals necessary for the safe operation of public or private transportation, nor does this Ordinance apply to the use of blank cartridges for ceremonial, theatrical or athletic events.

(3) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a special permit thereof from the Town. The governing body of the Town of Tabor may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.

(b) Penalty. Any person in violation of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a minimum amount of twenty-five dollars (\$25.00) plus costs, and each subsequent violation in the same year shall result in a minimum increase in the fine by twenty-five dollars (\$25.00) per subsequent violation (i.e., twenty-five dollars (\$25.00) for first offense, fifty dollars (\$50.00) for second offense, seventy five dollars (\$75.00) for third offense, etc., plus costs, up to a maximum fine of five hundred (\$500.00) dollars).

(8) Bonfires. Make or assist in making any bonfire in or upon any public street ot place within the town without the permission of the town marshal.

(9) False Alarm of Fire or Need for Police or Ambulance Assistance. Intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or aid or abet in the commission of such act.

(10) False Report of Crime. Make to, or file with, the Police Department of the town any false, misleading, or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the town.

(11) Interference with Police Department.

(a) Resisting Officer. Resist any police officer, any member of the Police Department, or any person duly empowered with police authority, while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty.

(b) Assisting in Escape. Offer or endeavor to assist any person in the custody of a police officer, a member of the Police Department or a person duly empowered with police authority to escape or to attempt to escape from such custody.

(c) Impersonating an Officer. No person, other than an official police officer of the town, shall wear or carry the uniform, apparel, badge, identification card or any other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town.

Section 7-204. Offenses Against Public Health.

(1) Nuisance Declared. All weeds or plants declared to be primary noxious weeds or secondary noxious weeds by the State or County Weed Board and all other weeds suffered or allowed to grow during the growing season and all grass allowed to grow to a length exceeding eight (8) inches in height shall be deemed noxious, dangerous, and unhealthful vegetation and are hereby declared to be nuisances.

(2) Duty of Owner or Occupant. No owner of any lot, place or area within the City or the agent of such owner or the occupant of such lot, place or area, shall permit on such lot, place or area or upon any sidewalk abutting the same any weeds, tall and undesirable grass or deleterious or unhealthful growths exceeding eight (8) inches in height or other noxious matter that may be growing, lying or located thereon.

(3)

(a) The City code enforcement official or his/her authorized representative shall, during the month of May, by general public notice require all nuisance vegetation to be cut, removed or sprayed as required by this chapter.

(b) Such public notice shall be given generally by publication in the official newspaper once a week for two consecutive weeks,

(c) The notice shall provide that during the growing season every occupant, person in charge or owner of any lot who fails to cut, remove or spray nuisance vegetation is in violation of this chapter, and shall further provide that in case of failure to cut or destroy such vegetation the city will cause the same to be cut and assess the costs thereof including the costs of levying such assessment against the property benefited.

(4)

(a) Any occupant, person in charge or owner of any lot in violation of this chapter shall receive written notice from the City code enforcement official or his authorized representative of such violation.

(b) The occupant, person in charge or owner shall within forty-eight hours after the service of such notice cut, remove or spray as required all nuisance vegetation.

(c) The notice shall provide that the occupant, person in charge or owner of any lot shall cut, remove or spray the nuisance vegetation within forty-eight hours after the service of such notice, and shall further provide that in case of failure to cut or destroy such nuisance vegetation the city will cause the same to be cut and assess the costs thereof including the costs of levying such special assessment against the property benefited.

(d) Service of such notice may be accomplished by personally delivering the notice upon either the occupant, person in charge or owner of any lot. Personal service upon any one occupant, person in charge or owner of any lot shall constitute service upon all. Service of such notice may also be accomplished by securely posting the notice in a conspicuous place on the affected premises.

(5) Weed and Grass may be cut by City. If the occupant, person in charge, or owner of any lot fails to cut weeds, noxious vegetation, and grass exceeding eight (8) inches in length upon any such lot as required, the City code enforcement official may cause such weeds, grass, and noxious vegetation to be cut or destroyed, and for such purpose may enter upon any such lot or parcel of land.

The fees assessed for the cutting of such weeds, grass, and/or noxious vegetation shall be set by the City Council. The occupant, person in charge, or owner shall be billed accordingly. In the event that the bill is not paid by the end of the growing season, the charges shall be collected by means of special assessment.

(6) Cost assessed for noxious vegetation cutting. The City code enforcement officer or the City health officer shall cause an account to be kept against each lot for the destruction or mowing of noxious weeds or grass upon said lot as herein provided and shall certify the same to the City Finance Officer upon the completion of the work in destroying such weeds or mowing and abating said nuisance.

The City Finance Officer shall prepare an estimate of the assessment against each lot for the destruction or cutting of noxious vegetation for the preceding growing season, including therein the expense of levying such special assessment against each lot. Such estimate shall be submitted to the Council for its approval on or before the 1st day of November of each year.

The City Finance Officer shall cause to be served upon the occupant, person in charge, or owner of said lot by registered or certified mail of the time and place when the Council will meet for the purpose of approving such estimate.

Upon the day so named the Council shall meet and, if they find said estimate correct, they shall approve the same by resolution; or, if not correct, they shall correct or modify the same and approve the same as modified or corrected, and file such assessment roll with the City Finance Officer,

From the date of the approval and filing of such assessment roll with the City Finance Officer, the same shall be and become a special Hen against the various pieces of property described in said assessment roll and shall be collected in like manner as the law provides for special assessments for public improvements as are now collected.

(7) Recovery by City. In lieu of spreading the cost of the destruction of such weeds and grass and other deleterious matter against said property in the discretion of the city council, said amount may be recovered in a civil action against the owner or occupant of such property,

(8) Intent of Council. It is the intention of the Council to provide a means for the City to cause lots and parcels of land that contain noxious vegetation as described herein to be cut at no cost to the City.

(9) Expectoration. No person in the town shall expectorate upon any sidewalk, street, floor in public buildings or upon any other public place.

Section 7-205. Offenses Against Property. No person in the town shall:

(1) Against Public and Private Property.

(a) Injury or Removal. Willfully, maliciously, wantonly, negligently or otherwise injure, deface, destroy or remove real property or improvements thereto, or moveable or personal property belonging to the town or to any person in the town.

(b) Scattering Rubbish. Throw or permit to be deposited or scattered upon any sidewalk, alley, street, bridge or public passageway, or upon any private property, any waste or other material of any kind.

(c) Posting Notices. Fasten in any way any show-card, poster or other advertising device upon public or private property in the town unless legally authorized to do so.

(2) Against Public Property.

(a) Tampering. Tamper with, injure, deface, destroy or remove any sign, notice, marker, fire-alarm box, fire plug, topographical survey monument or any other personal property erected or placed by the town.

(b) Obstructing Passageways. Place or erect upon public way or passageway to any building an obstruction of any type, provided that this sub-section shall not prevent the duly authorized or required placing of temporary barriers or warning signs for the purpose of safeguarding the public.

(c) Public Signs. Destroy, injure, deface, or remove any public sign placed by the town. Conviction for a violation of this section shall result in such person being assessed the costs of such sign and the costs of its replacement.

(d) Removal of Earth. Move, disturb, or take any earth, stone or other material from any public street, alley, park or other public ground.

Section 7-206. Offenses Involving Morals. No person in the town shall:

(1) Prostitution.

(a) Committing. Commit or offer or agree to commit a lewd act or an act of prostitution or moral perversion.

(b) Securing. Secure or offer another for the purpose of committing a lewd act or an act of prostitution or moral perversion.

(c) Frequenting. Be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing, or procuring another to commit a lewd act or an act of prostitution or moral perversion.

(d) Meretricious Display. Make a meretricious display in or near any public place, any place frequented by the public, or any place open to the public view.

(e) Transportation. Knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution or moral perversion.

(f) Permitting. Knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose.

(g) Directing. Direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.

(h) Aiding. Aid, abet, allow, permit, or participate in the commission of any of the acts prohibited in sub-sections (a) through (g) above.

(4) Indecent Exposure. Publicly expose his person or make any indecent gestures.

(5) Window-Peeping. Look, peer, or peep into, or be found loitering around or within view of any window within a building occupied as the residence of another with the intent of watching or looking through said window to observe any person undressed, or in the act of dressing or undressing.

(6) Gambling.

(a) Participation Prohibited. Engage in a game of chance prohibited by the statutes of the State of South Dakota or ordinances of this town.

(b) Possession of Materials. Have in his possession any evidence of illegal gambling in the nature of policy or pool tickets, slips or checks or memoranda of any combination or bet, or any policy wheel, dice, implement,

(c) Owner of Premises. No person being the owner or person in control of premises shall knowingly permit the use or occupancy thereof for gambling.

(7) Animals.

(a) Cruelty to Animals. Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate, or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhuman manner, any animal; or cause any of these acts to be done.

(b) Food and Shelter. Shall fail to provide any animal in his charge or custody with necessary sustenance, drink, and protection from the elements, or cause any of these acts to be done.

(c) Abandonment. Abandon any animal or cause such act to be done.

(d) Fight Upon Exhibition. Maintain any place where fowls or any animals are suffered to fight upon exhibition, or for sport upon any wager.

(e) Poisoning Dogs. Poison any dog or dogs or distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any dog or dogs.

(f) Killing Animals. Frighten, shoot at, wound, kill, take, capture, ensnare, net trap or in any other manner molest or injure any robin, lark, whippoorwill, finch, sparrow, thrush, wren, martin, swallow, snow-bird, bobolink, red-winged blackbird, crow, raven, oriole, kingbird, mocking bird, song-sparrow, or other song bird or insectivorous bird; or in any manner molest or injure the nest eggs or young of any such bird; or have in possession the nest eggs, young or body of such bird.

(g) Indecent Exhibition of Animals. Exhibit any stud horse or bull or other animal indecently, nor shall any person let any male animal to any female animal unless the same be done in some place wholly enclosed and out of public view.