

## Chapter 13

### OFFENSES-MISCELLANEOUS\*

#### Sec. 13-1. Impersonating City officer.

Every person who falsely impersonates any public officer, civil or military, or any fireman or any person having special authority by law to perform any act affecting the rights or interest of another, or assumes, without authority, any uniform or badge by which such officer, fireman, or person is usually distinguished, and in such assumed character does any act whereby another person is injured, defrauded, vexed, or annoyed, is guilty of a misdemeanor.  
(Code 1953, 8.0607)

**State law reference**-For similar provisions, see SDCL, 1967, 22-40-3.

#### Sec. 13-2. Interference with City officers and employees.

It shall be unlawful for any person to interfere with, hamper or harass any City employee who is engaged in the official performance of his duties.

#### Sec. 13-3. Disorderly conduct.

- (1) *Definition.* Public place shall mean any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern, or other place of business and also public grounds, areas, or parks.
- (2) *Disorderly Conduct Prohibited.* A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, he willfully does any of the following acts in a public place:
  - (a) Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his life, limb or health;
  - (b) Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
  - (c) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health, or property of another;

---

\* **Editor's note**-Ord. No. 905, 1-12 and 14-28, adopted Feb. 11, 1980, repealed 13-4-13- 15 and 13-17-13-31 which pertained to various offenses. Said provisions were derived from the 1953 Code, 6 6 7.0104, 7.0107, 7.0109, 7.0111, 7.0112, 7.0201, 7.0202, 7.0204, 7.0301-7.0304, 7.0701-7.0705 and 7.401-7.403; Ord. No. 492, adopted Feb. 17, 1958; Ord. No. 769, adopted June 3, 1974; and a number of Sections which carried no history note.

**Cross reference** -Unlawful assemblies, 18-1.

- (d) Interferes with another's pursuit of a lawful occupation by acts of violence,
  - (e) Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the City Police or other lawful authority known to be such;
  - (f) Is in a public place under the influence of an intoxicating liquor or drug in such condition as to be unable to exercise care for his own safety or the safety of others;
  - (g) Resists or obstructs the performance of duties by City Police or any other authorized official of the City, when known to be such an official;
  - (h) Incites, attempts to incite, or is involved in attempting to incite a riot;
  - (i) Addresses abusive language or threats to any member of the City Police Department, any other authorized official of the City who is engaged in the lawful performance of his duties, or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;
  - (j) Damages, befoils, or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition;
  - (k) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;
  - (l) Fails to obey a lawful order to disperse by a police officer, when known to be such an official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened;
  - (m) Uses abusive or obscene language or makes an obscene gesture.
- (3) Exemptions. This Ordinance shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or other lawful means of expressing public opinion not in contravention of other laws.
- (4) Any person convicted in violation of this Ordinance shall be punished by a fine of not less than One (\$1.00) Dollar nor more than Five Hundred (\$500.00) Dollars or by imprisonment for not exceeding thirty (30) days and/or both such fine and imprisonment. Each violation of this Ordinance shall constitute a separate offense. (Code 1953, 7.0701-7.0705; Ord. No. 792, 9-2-75; Ord. No. 927, 1, 2, 12-29-80; Ord. No. 986, 8-13-84; Ord. No. 1137 07-20-92; Ord. No. 1421, 2-5-07)

### **Sec. 13-4. Public urination or defecation.**

Any person who urinates or defecates on any public street, alley, sidewalk, or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where the act could be observed by any member of the public, except in the place that has been designated as a restroom is guilty of an offense and in violation of this section.

(Ord. No. 1484, 9-21-09)

**Secs. 13-5-13-15. Reserved.**

**Note**-See the editor's note to Ch. 13. title.

**Sec. 13-16. Obscenity.**

- (a) As used in this Section unless the context plainly requires otherwise:
- (1) Depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; or
  - (2) Depicts or describes patently offensive representation or descriptions of masturbation, excretory functions, or lewd exhibits of the genitals; and which taken as a whole, lacks serious literary, artistic, political or scientific value.

*Obscene*: That which by contemporary community standards, taken as whole, appeals to the prurient interest and;

*Prurient interest*: A shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation.

- (b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, by any means, into this City for sale, rental or distribution, or in this City prepares, writes, composes stereotypes, prints, publishes, sells, offers to sell, keep for sale, rents, exhibits, makes, distributes, offers to distribute, or has in his possession with intent to distribute, or to exhibit or to offer to exhibit, any obscene matter, is guilty of a misdemeanor.
- (c) The remedy provided by this Section shall be cumulative and not exclusive of any other remedies provided by other Ordinances whereby the relief or any part thereof provided by this Section might be obtained.

(Code 1953, 7.0 1A01-7.0 1A03; Ord. No. 772, 7-15-74)

**Sec. 13-17. Curfew for minors.**

- (1) It shall be unlawful for any minor under the age of sixteen (16) years of age to be upon any street, alley, sidewalk, park, or other public places within the City of Madison, South Dakota, between the hours of 10:30 p.m. and 5:00 a.m. of the following day Sunday through Thursday; and between the hours of 11:30 p.m. and 5:00 a.m. of the following day Friday and Saturday during the school months.
- (2) It shall be unlawful for any minor under the age of sixteen (16) years of age to be upon any street, alley, sidewalk, park, or other public places within the City of Madison, South Dakota, between the hours of 11:30 p.m. and 5:00 a.m. of the following day during the non-school months.
- (3) Minors exempted from this curfew are minors who are:
  - A. Accompanied by their parent or other legal guardian.
  - B. Working or traveling directly from place of residence to or from work.
  - C. Responding to an emergency.
  - D. Married.
  - E. Attending a supervised school, religious, or recreational activity. Minor may be allowed to go directly to these activities and directly back to place of residence.

- (4) It shall be unlawful for any parent, guardian or person having custody or control of any minor under the ages as specified above, to allow or permit such minor to loiter in any place where the minor's presence is prohibited by law, or to allow any minor under the ages specified above, to be abroad in or upon any of the streets, alleys, or other places in the City of Madison, South Dakota, between the hours as specified above, unless accompanied by an authorized person having charge of such minor or unless such minor is on an errand or legitimate business by written permission of a parent or employer.
- (5) It shall be the right of any authorized officer or person to arrest and detain any minor violating the curfew and to keep the minor detained until the parent, guardian or custodian is notified, when the minor may be released upon the giving of a promise by the minor and his parent or guardian or custodian that such minor together with his parents, guardian or custodian will appear at the stated time before the proper authority to answer to the charges.  
(Ord. No. 1230, 11-12-96)

### **Sec. 13-18. Preventing Photographs.**

- (1) No person may use a camcorder, motion picture camera, or photographic camera of any type, to videotape, film, photograph, or record by electronic means, any other person without the consent or knowledge of that other person, in any locker room, bathroom, or facility of the City of Madison in which the other person has a reasonable expectation of privacy.
- (2) Any person violating any of the provisions of this article shall be subject to a maximum punishment of \$500.00 or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment. Each photograph or recording shall constitute a separate offense.  
(Ord. No. 1353, 6-7-04; Ord. No. 1421, 2-5-07)

### **Secs. 13-19-13-30. Reserved.**

*Note*-See the editor's note to Ch. 13, title.

### **Sec. 13-31. Discharge of Firearms, Air Guns or Bow and Arrows.**

- (1) It shall be unlawful for any person to discharge or cause to be discharged any firearm, air gun or bow and arrow, whether or not the firearm, air gun or bow and arrow is designed, adopted, used or intended primarily for imitative or noise-making purposes within the confines of the City of Madison.
- (2) Section 1 of this Ordinance does not apply to law enforcement officers acting in their official capacity, starting guns while in use at athletic events, patriotic/historic rituals and events, firearms or bow and arrows at firing ranges, gun shows, and supervised schools or sessions for training in the use of firearms, air guns or bow and arrows.
- (3) Any person convicted of a violation of this Ordinance will be punished by a fine of not to exceed Five Hundred and no/100 (\$500.00) Dollars, or imprisonment not to exceed thirty (30) days, or both such fine and imprisonment.
- (4) It is hereby found by the Board of Commissioners that there is a necessity for the immediate preservation of public peace, health and safety and therefore pursuant to SDCL 9-19-13, this Ordinance shall become immediately effective upon its passage and publication.  
(Ord. No. 1135, 05-01-92; Ord. No. 1421, 2-5-07)

**Sec. 13-32. Fireworks.**

- (a) The term "fireworks" as used in this Section refers to firecrackers, rockets, torpedoes, roman candles, toy pistols, toy cannons, detonating canes, blank cartridges and other devices designed and intended for pyrotechnic display.
- (b) The manufacture of fireworks and the possession, sale or display of fireworks for sale is hereby prohibited.
- (c) The use or discharge of fireworks is hereby prohibited.  
(Code 1953 4.0250-4.0252)

**Sec. 13-33. Covering wells and cisterns.**

It shall be unlawful for any person owning or in control of any property to allow upon such property any well, cistern, vault or other pit, except the same be covered by a good, safe and substantial covering made of iron or lumber, and securely fastened in such manner that the same cannot be easily removed by children, provided, however, that any person may have in or upon his premises a well, cistern, vault or other opening provided that the same is securely enclosed by high fence or other substantial enclosure at least eight (8) feet in height.  
(Code 1953, 7.0503)

**Sec. 13-34. Unauthorized connections with utilities.**

Any person who shall, without lawful authority, connect or cause to be connected with any main or service pipe or conductor of any water pipe, electrical wire or telephone wire, or any other device, for the purpose of obtaining water or electrical current therefrom, or who shall, with intent to defraud, connect or cause to be connected with any meter installed for the purpose of registering the amount of water or electricity supplied to any customer, any wire, pipe or other device, or disconnect, change or in any manner so interfere with such meter or any pipe, wire or appliance connected therewith so that such meter will not measure or register the full amount of water or electricity supplied to any customer, shall be guilty of a misdemeanor.  
(Code 1953, 7.0504)

**Sec. 13-35. Interference with utility poles.**

It shall be unlawful for any person to interfere with, injure, break or jar any electric light, telephone or telegraph post or pole or apparatus thereon or connected with it in any manner, or to climb any telephone, telegraph or electric light pole without being properly authorized to do so, or to hitch, tie or fasten any horses, teams or other animal to any such post or pole.  
(Code 1953, 7.0502)

**Sec. 13-36. Placement of advertising matter.**

It shall be unlawful for any person to paint, paste, nail, draw, write or affix any posters, signs, advertisements, pictures or other devices upon or to any of the sidewalks, boulevards, pavements, telephone, telegraph and electric light poles or lamp posts, or upon any other public property or public buildings, or upon any private property without the consent of the owner of such property, or to place any handbills or other advertising matter in or upon any vehicle while such vehicle is standing or parked upon the public highways.  
(Code 1953, 12.0619)

**Sec. 13-37. Interference with City property.**

It shall be unlawful for any person to climb or in any manner interfere with, injure or deface any City property without the proper authority.  
(Code 1953, 7.0505)

**Sec. 13-38. Injuring signs.**

It shall be unlawful for any person to deface, remove, change, mar or in any way interfere with or obliterate, either wholly or in part any sign or card placed, posted, extended or erected by the City.

(Code 1953, 7.0501)

**Sec. 13-39. Abandonment of vehicles.**

- (a) The following definitions shall apply in the interpretation and enforcement of this Section:
- (1) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
  - (2) "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle or tractor.
  - (3) "Street or highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
  - (4) "Property" shall mean any real property within the City which is not a street or highway.
- (b) No person shall abandon any vehicle within this City and no person shall leave any vehicle at any place within the City for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.
- (c) No person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway within the City.
- (d) No person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee or otherwise shall allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle to remain on such property longer than ten (10) days; and no person shall leave any such vehicle on any property within the City for longer time than ten (10) days; except that this Section shall not apply with regard to a vehicle in an enclosed building, or to a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.
- (e) Any person violating any of the provisions of this Section shall be guilty of a misdemeanor.

(Ord. No. 919, 1-5, 9-2-80)

\* **Editor's note**-Section 13-39 is derived from Ord. No. 919, 1-5, which Ordinance did not expressly amend this Code.

**Sec. 13-40. Trespassing.**

- (a) It shall be unlawful for any person who, knowing that he is not privileged to do so, enters or surreptitiously remains in any building or occupied structure, or a separately secured or occupied portion thereof.
- (b) 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:
  - (1) Actual communication to the actor;
  - (2) Posting in a manner reasonably likely to come to the attention of intruders; or
  - (3) Fencing or other enclosure which a reasonable person would recognize as being designed to exclude intruders.
- (c) It shall be an affirmative defense under subSections (a) and (b) that:
  - (1) The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining on the premises; or
  - (2) The actor reasonably believed that the owner of the premises, or other person permitted to license access thereto, would have permitted him to enter or remain.(Ord. No. 928, 1-3, 12-29-80)

**Sec. 13-41. Parking tickets.**

That the penalty for any parking ticket issued by the City of Madison, except for tickets issued during snow removal shall be ten (\$10.00) dollars if paid within seventy two (72) hours of the issuance of the ticket. In the event the ticket is not paid within seventy two (72) hours, then in that event, the punishment or fine shall increase to twenty five (\$25.00) dollars.  
(Ord. No. 1284, 02-22-99)

---

**Editor's note**-Ord. No. 928 did not expressly amend this Code, hence inclusion of 1-3 herein as 13-40 was at the discretion of the editors.

[The next page is 2800]