

ORDINANCE NO. 276

PUBLIC ORDER AND SAFETY

BE IT ORDAINED by the Town of Hayti, Hamlin County, South Dakota

SECTION I.            **PUBLIC ORDER AND SAFETY**

**1. DEFINITIONS**

- A. “Intentionally, intent” shall mean the specific design to cause a certain Result or engage in conduct of a certain nature.
- B. “Person” shall mean a natural person, an unborn child, association, Limited liability company, corporation, firm, organization, partnership, or society, including governmental and quasi-governmental entities.
- C. “Private property” shall mean real or personal property proven by valid deed, bill of sale, or title to belong to a private person.
- D. “Property” shall mean anything of value, including but not limited to, motor vehicles, real estate, tangible and intangible personal property, contract rights, choses-in-action, and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power, services, and signatures which purport to create, maintain or extinguish any legal obligation.
- E. “Public property” shall mean real or personal property owned by federal, state, county or Town government: any property which is not proven to be owned by a private citizen.

**2. PURPOSE**

The purpose of this chapter is to provide peace, safety and order for the community.

**3. NATURE OF PENALTIES**

Penalties provided herein shall not offset, enjoin, preempt, or otherwise affect any civil remedy provided by ordinance, statute, or common law.

**4. LAW OFFICERS**

Law enforcement officers in the course of pursuing their official duties shall be exempt from the provisions of this chapter. This exemption shall not extend, however, to such officers when not acting in their official capacity, pursuant to their employment, and in the interest of public safety.

## **SECTION II. OFFENSES AGAINST PROPERTY**

### **1. TRESPASS**

Any person who enters or remains upon the private property of another when there is reasonable cause to believe that the owner or tenant of the property would not or does not permit such entry or remaining on the premises, commits a trespass.

### **2. THEFT**

Any person, who acquires or keeps the personal property or chattel (having a value of one hundred dollars (\$100) or less) of another person having the exclusive legal right to possess such property, when there is reasonable cause to believe that the person does not consent to such acquisition or retention, commits a theft.

### **3. INTENTIONAL DAMAGE TO PROPERTY**

Any person who damages, destroys, or substantially alters the real or personal property of another, causing damage of One Hundred Dollars(\$100) or less, without the explicit consent of the owner, is guilty of intentional damage to property in the third degree.

### **4. DAMAGE TO PUBLIC PROPERTY**

It is unlawful for persons to damage, remove, alter, deface, disable, or convert to private use or purpose, any property owned, leased or held by federal, state, county, or municipal government, unless authorized to do so by the appropriate government. Conduct prohibited by this chapter includes, but is not limited to:

- A. Damage to, removal of, or impairment of publicly owned signs, signals, barricades, fences, street lights, or safety appliances of any type.
- B. Writing upon, painting, or marking streets, sidewalks, walls, or public structures.
- C. Cutting, removing, injuring, or defacing trees, ornamental shrubbery or flowers located upon any public land, except in order to conform to a safety regulation.
- D. Operating a motor vehicle upon or over public land which has been seeded or sodded, or upon which vegetation has been planted.
- E. Operating or damaging any publicly owned vehicle, equipment or tool.

5. **OBSTRUCTION OF PUBLIC PROPERTY USE**

It is unlawful for any person to obstruct, interfere with, or prevent the legitimate use by others of a public park, marina, or other public facilities within the Town.

This section shall not apply when the person or group has obtained a permit from the Town Board authorizing such activities, unless such permit is violated, has expired, or was fraudulently obtained.

6. **MISUSE OF PUBLIC PROPERTY**

It is unlawful to enter upon or refuse to leave, any public property in violation of regulations promulgated by the official charged with the security, care, or maintenance of the property and approved by the governing body of the public agency owning property, which such regulations have been conspicuously posted or after such regulations are made known by the official charged with the security, care, or maintenance of the property, his agent or a local law enforcement officer.

7. **INTERFERENCE WITH UTILITY FIXTURES**

It is unlawful to interfere with, injure, break or tamper with any electrical, telephone, cable television, alarm system or other utility pole, post, apparatus, line or fixture.

8. **COMMISSION PROHIBITED**

The commission of a trespass, theft, or intentional damage to property is prohibited.

**SECTION III. OFFENSES AGAINST PUBLIC ORDER**

1. **DISORDERLY CONDUCT**

A person is guilty of disorderly conduct if he:

- A. Creates a disturbance of the public order by an act of violence or by an act likely to produce violence.
- B. Engages in fighting, or in violent, threatening, or tumultuous behavior.
- C. Willfully makes any unreasonable loud noise with the purpose to cause public danger or alarm.
- D. Addresses abusive language or threats to any person present which creates clear and present danger of violence.
- E. Causes likelihood of harm or serious inconvenience by failing to obey a lawful order of dispersal by a local law enforcement officer, where three (3) or more persons are committing acts of disorderly conduct in

the immediate vicinity.

- F. Damages, befouls, or disturbs public property or property of another so as to create a hazardous, unhealthy, or physically offensive condition.
- G. Hinders, annoys, or molests persons passing along any street, sidewalk, crosswalk, or other public way, or loiters, sits, or stands around the entrance of any church, theater, public building, or other place of public assemblage in any manner so as to unreasonably obstruct such entrance.
- H. Assembles together with two (2) 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.
- I. Disturbs, threatens, or in any insolent manner intentionally touches any house or vehicle occupied by any person.

2. **DISTURBING THE PEACE**

It is unlawful for any person to cause or instill terror, panic, or violent reactions in one or more other persons, or to create or aid in creating a state of pandemonium, by any of the following means:

- A. Verbal invitation to physical conflict, fistfight, or dueling of any violent nature.
- B. Training, pointing, aiming, or brandishing a cutting instrument, firearm, club, or other item suited for injury by striking, whip, bottle, chain, sap, or brass knuckles at another person, accompanied by verbal or nonverbal expression of intent to cause imminent destruction.
- C. Expressions of alarm of a type that commonly causes prompt evacuation of a premises when there is no factual basis for such exclamations.
- D. Apparent release of dangerous creature or agent, or a facsimile of such a dangerous creature or agent, or bringing such creature, agent, or facsimile thereof within close or dangerous proximity to a person.

3. **OBSTRUCTION OF OFFICER**

It is unlawful for any person to touch, restrain, impede, hinder, obstruct, or interfere in any manner with any local law enforcement officer, fireman, ambulance attendant, or any employee of the Town when on active duty, indented or uniformed, and discharging his duties pursuant to employment.

4. **CONCEALABLE WEAPONS**

It is unlawful to carry, wear, or possess upon the person a concealable weapon in any place open to the public, within the jurisdiction of the Town of Hayti. This provision shall not apply to individuals possessing a concealable weapon in their own dwelling house, place of business, or land owned or rented by them or a member of their household. It further shall not apply with respect to handguns in the possession of an individual who has been licensed to carry the same in accordance with the laws of the State of South Dakota.

It is unlawful to carry, wear, or possess upon the person a concealable weapon on the premises licensed for the sale of alcoholic beverages or beer. This provision shall not apply to the liquor licensee or agents of such licensee in the course of employment.

For purposes of this section, a concealable weapon includes, but is not limited to a club, sap, blackjack; brass or aluminum knuckles, or any apparatus commonly utilized or designed principally for purposes of engaging in combat or in the martial arts. Sword canes, pushdaggers, boot knives, ice picks, and straight razors are specifically included within this definition, and whether or not the item is in fact concealed is irrelevant to the prohibitions contained in this section.

5. **DISCHARGE OF FIREARMS**

It shall be unlawful for any person to discharge any firearm within the Town of Hayti except in areas authorized by ordinance.

**SECTION IV. ALCOHOL AND VICE**

1. **HOURS OF SALE**

- A. On-Sale Retail. No on-sale licensee shall sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of 2 a.m. and 7 a.m., local Central Time, or on Sunday after 2 a.m., local Central Time, or on Memorial Day after 1 a.m., local Central Time, or at anytime on Christmas Day.
- B. Notwithstanding the provisions of Section A of the chapter, any on-sale licensee shall be entitled to serve, sell, or allow to be consumed, alcoholic beverages between the hours of 11 a.m. and 12 midnight, local Central Time, on Sunday with the serving of food where such licensee has the facilities for serving of prepared meals from a fixed restaurant with simultaneous seating capacity of at least thirty-five (35) or more patrons.
- C. Off-Sale Package. No off –sale licensee may sell, or allow to be sold, alcoholic beverages between the hours of 12 midnight and 7 a.m.

local Central Time, of the following day, or sell or allow to be sold distilled spirits or wines on Memorial Day or Christmas Day. In addition, any off-sale licensee shall be entitled to sell, or allow to be sold, alcoholic beverages on Sunday between the hours of 7 a.m. and 10 p.m., local Central time, when Sunday is neither Memorial Day or Christmas.

- D. Malt Beverage Retail or Package. No malt beverage retail or package licensee may sell, serve, or allow to be consumed on the premises covered by the license, any malt beverage between the hours of 2 a.m. and 7 a.m., local Central Time.

2. **BEER/ALCOHOLIC BEVERAGE LICENSEE RESPONSIBILITY**

The licensee of an alcoholic beverage or beer retail establishment shall be liable as a principal for any act of an employee or apparent agent in violation of any provision of this chapter, or for failure to control the sale or dispensation of beer or alcoholic beverages effectively in accordance with this chapter. This shall not preclude prosecution of the employee or agent, however, nor require the prosecution of more than one individual.

Where the license is held in a corporate name, the president or chief executive officer shall be responsible for compliance with this chapter.

3. **OPEN CONTAINER**

Except as provided by SDCL 35-1-5.3, as amended, and except for beer in parks, ball fields, it shall be unlawful for any person to have in his possession, in any public place, or in any vacant building within the Town, any unsealed or open can, bottle, glass, pitcher, container, or package of any kind containing an alcoholic beverage.

A special permit upon approval of the Town Board may be issued to any person who is twenty-one (21) years or older, representing a family or civic/community organization to allow the consumption of alcoholic beverages or mixing of such beverages on publicly owned or non-profit corporation owned property for a period of not more than twenty-four (24) hours. The consumption of such beverages must be kept within the confines of the legal description of the property stated on the permit.

4. **INTOXICATION IN PUBLIC PLACE**

It is unlawful to appear in a place which is open to public travel or which is publicly owned while under the influence of alcohol or controlled substances to an extent which poses a threat to the safety of any person or causes acute embarrassment, fear of injury, or impedes or hinders the use of such place by others lawfully present.

5. **MAINTAINING PREMISES WHERE UNLAWFUL ACTS SOLICITED OR OCCUR**

No person shall knowingly keep, maintain or lease any premises or property that is used for solicitation or performance of unlawful acts.

6. **PROSTITUTION PROHIBITED**

It is unlawful for any person to offer, solicit, or perform sexual intercourse in return for money or anything of value. It is unlawful to accept or participate in such activity in any manner whatsoever.

7. **INDECENT EXPOSURE**

It is unlawful to reveal or display human genitals, or representations or facsimiles thereof, or to permit the show or display thereof in any place open to the public.

**SECTION V. OFFENSES BASED UPON AGE**

1. **ENTERING OR REMAINING IN BAR**

No person less than twenty-one (21) years of age may enter or occupy any premises where alcoholic beverages are sold pursuant to an on-sale alcoholic beverage retail license. A person in the immediate company of his or her parent, Legal guardian, or spouse over twenty-one (21) years of age while on the premises is excepted from the operation of this section.

2. **POSSESSION OF BEER OR ALCOHOLIC BEVERAGES**

It is unlawful for any person under the age of twenty-one (21) years to possess any alcoholic beverage unless in the immediate company of his or her parent, legal guardian, or spouse over twenty-one (21) years of age.

3. **PENALTY**

Any person in violation of any section within this chapter shall be guilty of a misdemeanor and upon conviction shall be penalized as provided in Ordinance #278. Each day's violation, failure, refusal, or neglect to comply with any provision of this code or regulation promulgated thereunder shall constitute a separate and distinct offense.

4. **SEVERABILITY**

If any provision of this chapter is declared unconstitutional or the application of this chapter to any person or circumstance is held invalid or unconstitutional, the remainder of this chapter and applicability thereof to other persons or circumstances shall not be affected thereby.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010

TOWN OF HAYTI

By: \_\_\_\_\_  
Town Board President

ATTEST:

\_\_\_\_\_  
Town Finance Officer

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