

TITLE ELEVEN

GENERAL PROVISIONS

Chapter 11-1 **General**

CHAPTER 11-1

GENERAL

11-1-1

HOW REVISION DESIGNATED AND CITED

The ordinances embraced in this and the following chapters shall be designated the Revised Ordinances of the City of Hosmer, South Dakota. State law reference-Authority to revise ordinances, adoption, SDCL 9-19-16, 9-19-17.

11-1-2

DEFINITIONS AND RULES OF CONSTRUCTION

In the construction of this revision, and of all ordinances and resolutions passed by the City Council, the following rules shall be observed and the following definitions shall apply, unless such construction would be inconsistent with the manifest intent of the City Council:

CITY: The word City shall mean the City of Hosmer in the County of Edmunds and the State of South Dakota.

CITY BOARD, COMMITTEES, COMMISSIONS, OFFICERS, AND DEPARTMENTS: Whenever reference is made to a board, committee, commission, officer or department, the same shall be construed as if followed by the words "of the City of Hosmer, South Dakota."

BOARD: The word "Board" shall mean the City Council of Hosmer, constituting the governing body of the town.

City Council: The words City Council shall mean the City Council of Hosmer, constituting the governing body of the City.

CODE: The term "code" or "this code" shall be taken to mean the ordinances of Hosmer in their entirety, including each and every section thereof. The entire code is intended by the City Council to constitute an ordinance in revision of the ordinances of the town.

COMPUTATION OF TIME: In computing any period of time mentioned in the provisions of this Revision, the day of the act, event or default after which the designated period of time begins to run is not to be included, and the last day of the period so computed is to be included, unless it is Saturday, Sunday or a holiday.

When the period of time is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. State law reference-Computation of time, SDCL 15-5-5(a).

COUNTY: The word county shall mean the County of Edmunds, South Dakota.

DUTIES PERFORMED BY AGENTS: Wherever in this code any act is required to be done by an officer in the line of his general duties, or by a department head or inspector, the same shall be construed to permit the doing of such act by the agent or subordinate of such person; provided that the agent or subordinate is duly qualified to perform such act is not otherwise required to be performed personally by such person, either by specific law or by the nature of the act.

GENDER: A word importing the masculine gender only shall extend to and be applied to females and to firms, partnerships, associations and corporations, as well as to males.

JOINT AUTHORITY: Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

MONTH: The word month shall mean a calendar month.

NUMBER: Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

OATH: The word oath shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

OFFICERS AND EMPLOYEES: Whenever references is made in this code to a town officer or employee by title only this shall be construed as though followed by the words "if the City of Hosmer" and shall be taken to mean the officer or employee of this town having the title mentioned or performed the duties indicated.

OWNER: The word owner, applied to building or land, shall include any part owner, joint owner, tenant in common, tenant in the partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

PERSON: The word person shall extend and be applied to association, corporations, firms, partnerships and bodies politic and corporate as well as to individuals. Where criminal prosecution may lie, the officers of any corporation shall jointly and severally be subject to prosecution as being included within the term person.

PRECEDING/FOLLOWING: The words preceding and following mean next before the next after, respectively.

PUNCTUATION AND TYPOGRAPHICAL ERRORS: Any variation in punctuation, either formal or informal, consistent or not shall not effect the validity of this code, nor shall obvious or apparent defects in spelling or typography be construed as to invalidate any portion hereof, so long as the purpose and intent of the section is clear.

REVISION: The word Revision shall mean the Revised Ordinances of the City of Hosmer, South Dakota.

SDCL. The abbreviation SDCL shall mean the latest edition or supplement of the South

Dakota Codified Laws.

SIGNATURE OR SUBSCRIPTION: The word signature or subscription shall include a mark when a person cannot write.

STATE: The word state shall be construed to mean the State of South Dakota.

STREET OR HIGHWAY: The word street or highway shall include any street, alley, highway, avenue or public place or square, bridge, and causeway in the City dedicated or devoted to public use.

TENSE: Words used in the past or present tense include the future as well as the past and present.

TOWN: The words "the town" or "this town" shall mean the City of Hosmer in the county of Edmunds, and the state of South Dakota.

WRITING OR IN WRITING: The words written or in writing shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

YEAR: The word year shall mean a calendar year. State law reference-Definition of terms, SDCL 9-1-1.

11-1-3

CATCHLINES OF SECTIONS

The catchlines of the several sections of the Revision printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as a part of the section, not, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

11-1-4

REFERENCES TO CHAPTERS OR SECTIONS

All references to chapter or sections are to the chapters and sections of this Revision unless otherwise specified.

11-1-5

REFERENCES, EDITOR'S NOTES AND HISTORY NOTES

The references and editor's notes appearing throughout the Revision are not intended to have any legal effect, but are merely intended to assist the users of the Revision.

The history notes appearing in parentheses after sections in this Revision are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

11-1-6

CERTAIN ORDINANCES NOT AFFECTED BY REVISIONS

Nothing in this Revision or the ordinance adopting this Revision shall be construed to repeal or otherwise affect the validity of any the following when not inconsistent with its Revision:

1. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Revision;

2. Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the City or any evidence of the city's indebtedness;
3. Any contract or obligation assumed by the city;
4. Any right or franchise granted by the city;
5. Any ordinance dedicating, naming, establishing, locating, opening, paving, widening, vacating, etc., any sidewalk street or public way in the city;
6. Any ordinance relating to municipal street maintenance agreements with the state;
7. Any ordinance establishing or prescribing grades for sidewalks and streets in the city;
8. Any appropriation ordinance or ordinances providing for the levy of taxes or for adopting annual budget;
9. Any ordinance relating to local improvements and assessments therefor;
10. Any ordinance annexing territory to the City or discontinuing territory as a part of the city;
11. Any ordinance dedicating or accepting any plat subdivision in the City;
12. Any ordinance or resolution establishing or amending personnel rules or regulations;
13. Any ordinance prescribing subdivision regulations;
14. Any ordinance prescribing traffic regulations for specific streets, such as ordinances establishing speed limits or designating one-way streets, no parking areas, truck routes, stop intersections, intersections where traffic is to be controlled by signals, etc.;
15. Any ordinance establishing or amending zoning or land use regulations or the zoning map or rezoning property;
16. Any ordinance calling municipal elections or prescribing the manner of conducting the election in accordance with state law;
17. Any ordinance calling municipal elections or prescribing the manner of conducting the election in accordance with state law;
18. Any ordinance prescribing the number, classification, benefits or compensation of any City officers or employees, not inconsistent herewith;
19. Any ordinance which is temporary although general in effect;

20. Any ordinance which is special although permanent in effect;
21. Any ordinance containing any administrative provisions;
22. Any ordinance establishing the boundaries of the City;

and all such ordinances are hereby recognized as continuing in the full force and effect to the same extent as if set out at length in this Revision. Such ordinances are on file in the City clerk's office.

11-1-7

REVISION DOES NOT AFFECT PRIOR OFFENSES, RIGHTS ETC.

Nothing in this Revision or the ordinance adopting this Revision shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Revision.

The adoption of this Revision shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this Revision.

11-1-8

ADDITIONS AND AMENDMENTS DEEMED INCORPORATED IN REVISION

Any and all additions and amendments to this Revision, when passed in such form as to indicate the intention of the City to make the same a part hereof, shall be deemed to be incorporated herein so that reference to the Revision shall be understood and intended to include such additions and amendments.

11-1-9

AMENDMENTS OR ADDITIONS TO REVISION

All ordinances passed subsequent to this Revision which amend, repeal or in any way affect this Revision may be numbered in accordance with the numbering system of this Revision and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection, or any portion thereof, such repealed portions may be excluded from the Revision by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be *prima facie* evidence of such subsequent ordinances until such time that this Revision and subsequent ordinances numbered or omitted are readopted as a new Revision by the City Councils.

Amendments to any of the provisions of this Revision shall be made by amending such provisions by specific reference to the section number of this Revision in the following language: "Section _____ of the Revised Ordinances, City of Hosmer, South Dakota, is hereby amended to read as follows:...." The new section shall then be set out in full as desired.

If a new section not heretofore existing in the Revisions to be added, the following language shall be used: "The Revised Ordinances, City of Hosmer, South Dakota, is hereby amended by adding a section, to be numbered _____, which section reads as follows: ..." The new section shall then be set out in full as desired.

All sections, divisions, articles, chapters or provisions desired to be repealed should be specifically repealed by section, division, article or chapter number, as the case may be.

11-1-10

EFFECT OF REPEAL OF AN ORDINANCE

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

11-1-11

SUPPLEMENTATION OF REVISION

By contract or by City personnel, supplements to this Revision shall be prepared and printed whenever authorized or directed by the City Council. A supplement to the Revision shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Revision. The pages of a supplement shall be so numbered that they will fit properly into the revision and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Revision will be current through the date of the adoption of the latest ordinance included in the supplement.

In preparing a supplement to this Revision, all portions of the Revisions which have been repealed shall be excluded from the Revision by the omission thereof from reprinted pages.

When preparing a supplement to this Revision, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified revision. For example, the codifier may:

1. Organize the ordinance material into appropriate subdivisions;
2. Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Revision printed in the supplement, and make changes in such catchlines, headings and titles;
3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Revision and, where necessary to accommodate new material, change existing section or other subdivision numbers;
4. Change the words "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Revision which embody the substantive sections of the ordinance incorporated into the Revision); and
5. Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Revision; but in no case shall the codifier make any change in the meaning or effect of ordinance material include in the supplement or already embodied in the Revision.

11-1-12**SEVERABILITY OF PARTS OF REVISION**

It is hereby declared to be the intention of the City Councils that the sections, paragraphs, sentences, clauses and phrases of this Revision are severable and, if any phrase, clause, sentence, paragraph or section of this Revision shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Revision, since the same would have been enacted by the council without the incorporation in this Revision of any such invalid or unconstitutional phrase, clause, sentence, paragraph, or section.

11-1-13**GENERAL PENALTY FOR VIOLATIONS OF REVISION:
CONTINUING VIOLATIONS**

Whenever in this Revision or in any ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Revision or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Revision or any such ordinance shall be punishable by a fine not to exceed two hundred dollars (\$200.00) provided that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day, or fractional part thereof, any violation of this Revision or of any ordinance shall constitute a separate offense.

State law reference--Maximum penalty for violation of ordinance, etc., is two hundred dollars (\$200.00) or thirty (30) days' imprisonment, or both fine and imprisonment, SDCL 9-19-3.

11-1-14**VESTED RIGHTS AND OBLIGATIONS**

Nothing in this code shall be so construed as to impair any vested rights or valid obligations existing when it takes effect.

11-1-15**TERRITORIAL APPLICATION OF CODE**

Except as otherwise provided in this code, or by State law, the provisions of the code shall be applicable in and over all territory within the corporate limits of the town, and any public ground or park belonging to the town, whether within or without the corporate limits, and in and over all places, except within the corporate limits of another municipality, within one (1) mile of the corporate limits of the town or of any public ground or park belonging to the town outside the corporate limits.

11-1-16**LIABILITY OF CORPORATIONS FOR VIOLATIONS**

For a violation of this code or any other ordinances of the City, which, by nature, does not require intent exercisable only by natural persons, a corporation may be fined or punished by

appropriate penalties in addition to any punishment provided for its agents who violate this code or other ordinances while acting as such agents.

11-1-17**PROSECUTION'S ELECTION WHEN OFFENSE CREATED BY MORE THAN ONE SECTION**

In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

11-1-18**PUBLICATION AND EFFECT**

This code shall be printed and published in book form and shall take effect as provided by law.