

## **TITLE TWELVE**

### **SIDEWALKS, ROADS, ALLEYS AND PUBLIC GROUNDS**

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#### **CHAPTER 12-1**

#### **GENERAL PROVISIONS ABOUT PUBLIC AREAS**

##### **12-1-1 ANIMALS RUNNING AT LARGE**

No person, company or corporation shall allow any horse, mule, ass, cattle, swine, sheep, goat or other animal to run at large within the City of Hosmer.

*Authority:*  
*SDCL § 9-30-2.*

##### **12-1-2 CLEANING SIDEWALKS, STREETS AND ALLEYS**

It shall be the duty of the occupant of any lot or parcel of land in this City, abutting on any alley, street or sidewalk, to keep such sidewalk, and also to keep such street and alley to the center thereof free from all filth, unwholesome matter, manure, straw, paper or rubbish of any kind whatsoever. A twenty-four hours notice, given by the Finance Officer, which is either written or oral, shall be deemed sufficient notice for the purpose of this section. Failure to comply with the provisions of this section within said time limit shall subject said occupant or owner to the penalties hereinafter provided.

*Authority:*  
*SDCL § 9-30-2.*

##### **12-1-3 DUTY OF OWNERS**

It shall be the duty of all non-resident owners to have all lots, or parts of lots owned by them, and all sidewalks, streets and alleys abutting on said lots kept free from all rubbish and in case of failure or refusal upon their part so to do, upon notice as aforesaid, then, and in that case, the City Council may order the Marshall to remove said rubbish, and have the costs of such removal assessed to the owner of said lot or lots as other taxes, or recovered by a civil action against said owner or owners prosecuted on behalf and in the name of, the City of Hosmer.

*Authority:*  
*SDCL § 9-30-2.*

#### **12-1-4**

##### **BICYCLE RIDING**

No person shall ride any bicycle on any sidewalk of this town.

***Authority:***

*SDCL Ch. 9-30 generally, and § 32-36-21.1.*

#### **12-1-5**

##### **OBSTRUCTING SIDEWALKS**

No person shall place any goods or merchandise for sale or exhibition upon any sidewalk, or suspend any goods over the same for show, or cause or suffer to be deposited thereon any cask, barrel, case, box or package, except as provided for the next sections.

***Authority:***

*SDCL Chapter 9-30 generally*

#### **12-1-6**

##### **GOODS ON SIDEWALKS**

It shall be lawful for any person to place on three feet width of the outer edge of the sidewalk in front of his premises, for a period not exceeding ten hours, any goods or merchandise which he may be in the act of receiving or delivering. It shall also be lawful for any person to display on or over the sidewalk in front of his premises, and within two feet of the building by him used as a place of business, any goods, ware or merchandise, not of any unsafe or nauseous nature.

***Authority:***

*SDCL Chapter 9-30 generally*

#### **12-1-7**

##### **REBUILDING AND REPAIR**

Whenever the City Council of the City of Hosmer shall deem it necessary to construct, rebuild or repair (except as hereinafter provided) any sidewalks in said town, they shall notify all owners and occupants of any lots adjoining such sidewalks requiring the construction and repair, within a time limit at the said owner's expense. The notice shall contain what work is to be done, and the character, and it may be general as to the owner or occupants, but must be specific as to the descriptions of the lots or parcels or land in front of which sidewalks are to be built, rebuilt or repaired. The time specified in such notice shall be not less than fifteen (15) days from the time of first notice.

If such work is not done and the sidewalks not built, repaired or rebuilt in the manner and with the time prescribed above in said notice, the City Council may order the same to be done by any such person they contract with and under the direction of the Finance Officer. The said expenses shall be assessed upon the lots or parcels of land chargeable by the Finance Officer, the bill delivered by him to the City Council. The Finance Officer shall then publish the amount, together with a notice of time and place where the City Council will meet to approve. The publication in each newspaper, shall occur at least ten (10) days prior to the meeting of the City Council. Said assessments, if so made and approved, shall be a lien upon said lots and parcel of land, on and after such approval is given.

Within ten (10) days after such assessments shall have been approved, the Finance Officer shall file a certified copy of the same in the City Finance Office, and thereupon said assessment shall be payable to the said City of Hosmer. If they are not paid within thirty (30) days, a penalty of ten (10) percent shall be added.

The City Council may provide by ordinance provisions for the repairing of sidewalks. Any owner of real property who shall fail to keep in repair their sidewalks when notified, shall be held liable to the City of Hosmer for any damage caused by such neglect.

*Authority:*  
*SDCL Chapter 9-30 generally*

## **12-1-8**

### **STREET NAMES**

The names of streets in the City of Hosmer are hereby fixed and adopted in accordance with and as shown by the map of the town on file in the office of the Finance Officer.

## **12-1-9**

### **SUPERVISION OF SIDEWALKS AND CURBS**

The building and construction of all sidewalks and curbs shall be performed after obtaining permission from the City Council and under the supervision of the City of Hosmer. All sidewalks shall be no less than four (4) or more than eight (8) feet in width and shall conform to the width, grade, and curb lines of the adjoining sidewalks.

## **CHAPTER 12-2 SNOW REMOVAL**

### **12-2-1 REQUIRED**

It shall be the duty of the owner or occupant of any lot or parcel of land in the City abutting on any sidewalk to keep such sidewalk free from snow within twenty-four (24) hours after any fall of snow before 9:00 a.m. of the next day if it occurs after 12:00 midnight of that day. If such fall of snow should occur the preceding day, he shall remove the snow from so much thereof as adjoins the premises owned or occupied by him.

*Authority:  
SDCL § 9-30-5.*

### **12-2-2 NOTICE; REMOVAL BY CITY**

It shall be the duty of the mayor to notify all owners or person in possession of property abutting on sidewalks in the City to keep such sidewalks free from snow and to remove the same within twenty-four (24) hours after every fall of snow or prior to 9:00 a.m. of the succeeding day. Such notice need not be given personally, but may be given generally through the official newspaper of the city.

The notice shall provide that each owner or person in possession is required to keep the sidewalks in front of his premises free and clear from snow between the fifteenth day of October and the first of April of each year.

The notice shall provide that, if the owner or person in charge fails to remove the snow within twenty-four (24) hours of the falling thereof, the City will cause the snow to be removed and charge the costs thereof to the abutting property.

*Authority:  
SDCL § 9-30-5.*

### **12-2-3 CITY TO REMOVE; COSTS**

If the owner or person in charge of the lot fails or refuses to remove the snow from the sidewalks, the City shall have the snow removed and charge the costs thereof against the abutting property the sum established by the City Council and on file in the Finance Officer's office for all sidewalks from which the snow is each time removed by the City.

*Authority:  
SDCL § 9-30-5.*

### **12-2-4 ASSESSMENT ESTIMATE**

The Mayor shall cause an account to be kept against each lot or parcel of land from which the snow is removed by the City from the fifteenth of October to the first of April of each year.

The Finance Officer shall prepare an estimate of the assessment against each lot or parcel of land from which the snow was removed during the preceding winter and fall, and submit the same to the City Council for its approval on or before the first day of May of each year. The Finance Officer shall publish in the official newspaper of the City a notice to property owners of the time and place when the City Council will meet for the purpose of approving such estimate.

***Authority:***

*SDCL § 9-30-5.*

**12-2-5**

**HEARING; LIEN**

Upon the date so named, the City Council shall meet and, if it finds the estimate correct, it shall approve the same, or if not correct it shall correct or modify the same, and approve the same as modified or corrected and file such assessment with the City Finance Officer. From the date of such approval and filing, the same shall be and become a special lien against and upon the different pieces or parcels of property described in said assessment, and shall be collected in like manner that special assessments are now collected for public improvements.

***Authority:***

*SDCL § 9-30-5.*

**12-2-6**

**DEFINITION OF "STREET"**

"Street" shall mean the entire width of any public roadway within the City and it shall not be limited to those roadways designated as a street but include avenues and all other names by which public roadways are designated, but shall not include alleys or alleyways.

***Authority:***

*When this is combined with other sections try SDCL § 9-29-3; See Also SDCL § 2-14-4.*

**12-2-7**

**SNOW REMOVAL EMERGENCY**

There shall be a snow removal emergency whenever there is a snow accumulation on the public streets of the City of two (2) inches or more and provisions of this division in regard to parking on public streets during snow removal operations shall be effective and will be enforced.

***Authority:***

*SDCL §§ 9-29-3, 9-31-1.*

**12-2-8**

**PROHIBITED PARKING ON STREETS**

In the event of a snow removal emergency as defined in section 12-2-7, no person shall park or allow to remain parked any motor vehicle or trailer on any public street in the City until such time as the street has been cleared of snow.

***Authority:***

*SDCL § 9-31-1.*

## **12-2-9 RESTRICTED PARKING IN ALLEYS**

In the event of a snow removal emergency as defined by section 12-2-7, parking in alleys shall be permitted; provided, however, no person shall park or allow to remain parked any motor vehicle or trailer on any public alley in the City so as to obstruct emergency through traffic.

*Authority:*  
*SDCL § 9-31-1.*

## **12-2-10 NO AUTHORIZATION FOR OTHERWISE PROHIBITED OR RESTRICTED PARKING**

Nothing in this chapter authorizes parking of a vehicle where otherwise prohibited or restricted by signs or otherwise.

*Authority:*  
*SDCL §§ 9-31-1, 9-29-3.*

## **12-2-11 FINES AND REMOVAL OF VEHICLES IN VIOLATION**

The fine for prohibited or restricted parking as set forth in section 12-2-8 and section 12-2-9 in a street or alley shall be twenty-five dollars (\$25.00).

All fines for prohibited or restricted parking shall be payable at the City Finance Office within ten (10) days from issuance. In the event of a failure to pay a prohibited or restricted parking fine within ten (10) days or in the event of a not guilty plea the matter shall be heard by the magistrate court of the Judicial Circuit which shall impose a fine of not more than one hundred dollars (\$100.00) upon a guilty verdict.

In addition to any fine or fines provided herein, any vehicle or trailer parked in violation of section 12-2-8 or section 12-2-9 is hereby declared to be a public nuisance and may be removed the owner's expense.

*Authority:*  
*SDCL §§ 9-29-3, 9-31-1, 9-29-13.*

## **CHAPTER 12-3**

### **EXCAVATIONS IN PUBLIC AREAS**

#### **12-3-1 WATER MAINS PRIOR TO STREET CONSTRUCTION**

It shall be the duty of the owner of any real property fronting or abutting on any street or avenue in the City of Hosmer, South Dakota, to lay and construct sewer and water mains in said street or avenue to the curb line of their respective property before the street or avenue upon which said property fronts or abuts is graded or paved or within fifteen (15) days after passage of a resolution by the City Council declaring that the construction of the sewer and water connections on said street or avenue or portions of same is necessary, as a preliminary to the construction and maintenance of a tar, bituminous or concrete paved street surface on said street or a portion thereof.

***Authority:***

*SDCL § 9-45-1; See Also §§ 9-45-35, 9-45-39 and 9-29-3.*

#### **12-3-2 FORCED CONSTRUCTION OF MAINS; PROPERTY ASSESSMENTS**

In case of the owner of any property fronting or abutting on any street or avenue adjacent to a sanitary or combined sewer shall fail, neglect or refuse to lay and construct sewer and water connections from the sewer and water mains on said street or avenue to the curb line as provided in section 12-3-1, before said street or avenue is graded and paved or within fifteen (15) days after passage of a resolution or necessity providing for said grading and paving, then the City Council shall have the option of causing said sewer and water connections to be constructed and installed and to assess the cost thereof against the property to be served.

***Authority:***

*SDCL § 9-45-1; See Also §§ 9-45-35, 9-45-39 and 9-29-3.*

#### **12-3-3 MONEY DEPOSIT PRIOR TO EXCAVATION**

At any time that a property owner or person other than a contractor operating under terms of a construction contract with the City and related bond, who desires to make a new sewer or water connection or to repair, enlarge or alter an existing connection, shall before making an excavation in said street or avenue either by tunneling or open cut secure a permit from the City Auditor and make a money deposit with the City Treasurer in an amount which is agreeable to the City Council.

***Authority:***

*SDCL § 9-45-1; See Also §§ 9-45-35, 9-45-39 and 9-29-3.*

#### **12-3-4 EXCAVATIONS DURING WINTER**

It shall be unlawful to make any excavations in any street or highway within six (6) feet of any laid water pipes while the ground is frozen, or to dig up or uncover so as to expose to frost any of the water pipes or sewers of the City, except by special permission of the City Council.

***Authority:***

*SDCL § 9-47-2; See Also SDCL § 9-30-1.*

#### **12-3-5 EXCAVATION SAFETY**

It shall be unlawful for any person, owner or occupant of any lot or parcel of land within the City to make or cause to be made any excavation on said lot or parcel of land, except the same be securely guarded so as to prevent the injury of any person or persons or animals passing upon or along said sidewalks, streets, alleys or public grounds or traveled path or roadway.

***Authority:***

*SDCL Ch. 9-30 generally.*

#### **12-3-6 EXCAVATION PERMITS, DEPOSITS AND LIABILITIES**

Any person desiring to open the surface or tunnel under any street, avenue, alley or public roadway in the City of Hosmer shall secure a permit from the City Auditor and make a financial deposit with the City Treasurer as herein required. The amount of the deposit or fee charged for the connection and the service or privileges pertaining to same are cumulative and computed as follows:

If a street that has been surfaced with tar, bituminous material or concrete is to be opened or tunneled under a permit must be obtained from the City. The applicant or permit holder shall be responsible for lights and guards around the opening and for all damage claimed or accruing to persons or property as a result of the desired street opening. The expense of opening the pavement and backfilling the ditch to original compaction, including supervision and inspection thereof, will be paid by the applicant. A deposit in the amount of five hundred dollars (\$500.00) shall be deposited with the City Treasurer and shall be returned to the applicant upon satisfactory completion of the work.

All sewer or water service lines constructed under the provisions of this statute shall comply with all rules and regulations of the City and of the State Board of Health with respect to sewer and water main construction or use of same.

***Authority:***

*SDCL §§ 9-32-1, 9-32-10; See Also  
§§ 9-45-35, 9-45-39 and 9-29-3.*



## **CHAPTER 12-4**

### **PUBLIC GROUNDS IN GENERAL**

#### **12-4-1      HINDERING MAINTAINENCE PERSONNEL IN MAKING IMPROVEMENTS**

No person shall hinder or obstruct the street commissioner or any employee of the town in lawfully making any improvement in any public street, alley or public ground in the town.

*Authority:*  
*SDCL Chapter 9-30 generally*

#### **12-4-2      MOTOR VEHICLES**

**A.      Vehicles Stopping on Streets**

No vehicle shall be left standing on Main Street near the sidewalk longer than fifteen (15) minutes unless a longer time is necessary for loading or unloading. Under these circumstances, the vehicle shall be left standing until after the process is completed.

**B.      Prohibiting Automobile Repairs on Main Street**

No person shall repair any motor vehicle on Main Street except as may be necessary in order to remove such vehicle to some other place.

*Authority:*  
*SDCL Chapter 9-30 generally*

#### **12-4-3      POSTS AND AWNINGS IN STREET**

No person shall set any awning post so as to obstruct any street or alley of this town, nor shall any person drop any awning of any material, or suffer the same to approach nearer to the surface of the sidewalk than seven (7) feet.

*Authority:*  
*SDCL Chapter 9-30 generally*

#### **12-4-4      EAVE PIPES**

No person shall on any streets or place maintain any pipe leading from the eaves of any building in such a manner that the water therefrom shall be discharged upon or over any sidewalk.

*Authority:*  
*SDCL Chapter 9-30 generally*

#### **12-4-5 TRIMMING TREES**

The occupant or owner of any private premises abutting any public street or alley shall keep all trees standing upon such premises or between the same and the center of the adjoining street or alley so trimmed that no bough or branch thereof shall hang lower than eight (8) feet above the sidewalk level.

*Authority:*  
*SDCL § 9-30-2*

#### **12-4-6 PERMISSION FOR PARADE OR PUBLIC GATHERING**

It shall be unlawful for any person or persons, organization, club or institution to hold or conduct any parade, meeting or public gathering on the streets or sidewalks of the town, without first obtaining permission to do so from the City Council.