

TITLE FOUR

BUILDINGS AND BUILDING CODES

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CHAPTER 4-1

ADOPTION OF NATIONAL CODE

4-1-1

THE NATIONAL BUILDING CODE

There is hereby adopted by the City of Hosmer for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of building and structures including permits and penalties, the certain building code which is known as the Uniform Building Code, 2009 edition published by the International Conference of Building Officials, save and except such portions as are hereinafter elected, modified, or amended of which not less than one (1) copy has been and is filed in the office of the City Finance Officer of the City of Hosmer and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date of which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the City of Hosmer. Should a new Uniform Building Code be published as a revised edition, after 1982, that Code shall govern the one mentioned above under this statute, under these same rules and regulations.

CHAPTER 4-2

BUILDING COMMITTEE

4-2-1

ESTABLISHMENT OF A BUILDING COMMITTEE

A committee is hereby created and the same shall be composed of the City Finance Officer and the City Council.

4-2-2

DUTIES OF THE BUILDING COMMITTEE

It shall be the duty of the Building Committee to enforce all laws relating to the construction, alteration, removal and demolition of buildings and structures.

4-2-3

RIGHT OF ENTRY

The Building Committee or a member thereof, in the discharge of its official duties and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour with regard to property where a permit has been issued, and with permission of the owner.

CHAPTER 4-3

BUILDING PERMITS

4-3-1

BUILDING PERMITS REQUIRED

No exterior wall, structure, building or part of a building shall be constructed, repaired or added to, and no building shall hereafter be enlarged or attached to such building, the value of which shall exceed two-hundred-fifty dollars (\$250.00) until a plan or proposed work statement of the material to be used, the proposed site of such structure and the name of the owner of the property to be improved is submitted to the City finance officer, by the contractor or owner. If the proposed construction involves any enlargement of an existing building or the construction of a new building or moving of an old building, a plot plan showing the location of the buildings on the lot line shall be provided and a building permit shall be required. If the cost of the proposed construction equals or exceeds ten thousand dollars (\$10,000) then a detailed plan or outline must be provided.

PROJECTS UNDER \$10.000.00: If the proposed construction does not exceed ten thousand dollars (\$10,000.00) and the Public Works Supervisor is satisfied that the said proposed improvement complies with the law and City ordinances, he/she may authorize the issuing of a permit for such work, construction or improvement by the City Finance Officer.

PROJECTS OVER \$10.000.00: If the proposed construction exceeds ten thousand dollars (\$10,000.00) and the Public Works Supervisor is satisfied that the said proposed improvement complies with the law and City ordinances, he may note his/her approval on the application and the same will then be presented to the City Council for approval or denial.

4-3-2

APPROVAL OR REJECTION OF APPLICATION

All applications for a permit to construct, which exceed ten thousand dollars (\$10,000.00), shall be subject to the approval of the City Council at its regular session after the Public Works Supervisor has reviewed the application and noted his/her approval on the same. Such application may be, for any cause, rejected by resolution of the City Council. In the issuing or withholding of permits for construction of buildings within the City of Hosmer, the Council should consider the following factors:

- A. Structural soundness of the proposed building;
- B. The location of other buildings on proposed site or adjacent thereto and density of buildings on proposed site;
- C. Type and condition of foundation proposed for said building;
- D. Whether it would create any new fire hazards on the proposed site or adjacent thereto;
- E. Proposed use of said property;
- F. Any conditions created by the construction of said building adversely affecting the health and safety and welfare of the community.
- G. Whether the property contains easements for utilities.

4-3-3

APPLICATION FOR PERMIT TO CONSTRUCT

Before the issuance of any permit to construct a building within the corporate limits of the City of Hosmer, the Finance Officer shall first require the person, firm or corporation seeking

such permit to file in the office of the Finance Officer, a written application therefore, which application shall set forth the name of the principal or owner of the property intending to make construction and upon whose real estate such construction is to be made with the plans and specifications for such house or building, its approximate estimated cost and a description of the real estate upon which such building is to be constructed and the distances from other buildings located upon or adjacent to such proposed location, particularly setting out any new fire hazards.

4-3-4

DURATION OF BUILDING PERMIT

All building permits issued by the City of Hosmer shall state thereon the duration of time for which the permit is issued; but, said duration shall not exceed one (1) year. If work under the building permit is not commenced or completed within the maximum time granted of one (1) year, the holder of said permit shall apply for an extension of the same. If the City Council grants an extension, a fee to be set by the Council shall also be required.

4-3-5

TIME LIMIT FOR OBTAINING PERMITS

When any person shall commence any activity within the City of Hosmer which under this title requires a building permit prior to having first obtained a building permit and such person then makes application for a permit, in such event, no permit shall be issued until an official from the City of Hosmer shall have inspected the premises described in the application to determine that the work already performed shall have been completed in compliance with this title. A fee of not less than fifty dollars (\$50.00) shall be charged for such inspection. Nothing in this paragraph shall be interpreted as a waiver of the requirements that a building permit be required prior to commencement of any activity for which a building permit is required.

4-3-6

COUNCIL MAY PUBLISH SHOW CAUSE ORDER

If, under any circumstances, the Mayor deems such procedure expedient and the City Council believes it to be in the best interests of the City, a notice may be published for one or more issues in the weekly legal newspaper designated as the official newspaper of the City of Hosmer, in which notice the public will be required to show cause before the City Council at a designated time and place, reasons, if any thereby, why such permit to construct should not be granted to the petitioner.

4-3-7**PENALTY**

Any person, partnership, or corporation that violates any provision of this chapter and is found guilty thereof, may be punished by fine and/or imprisonment as allowed for a misdemeanor offense.

4-3-8**CERTIFICATE OF OCCUPANCY**

No new building shall be occupied and no change in occupancy of a building or part of a building shall be made until after the building inspector shall have issued a certificate of occupancy therefor as regulated by this chapter.

4-3-9**FAILURE TO ABIDE BY BUILDING PERMIT**

Any person, firm or corporation after having obtained a building permit, commences construction and in doing so, deviates from the plans submitted in the building permit application, without having secured approval for such change, shall be subject to a penalty in the amount of \$100.00.

CHAPTER 4-4

BUILDINGS TO BE MOVED

4-4-1

THE MOVING OF BUILDINGS; PRIOR PROCEDURES FOR

The applicant for such license shall also file with the City Finance Officer a bond running to the City of Hosmer, in such amount as fixed by the Council, with sufficient sureties to be approved by the Council, and conditioned that the applicant, if license is granted to him, will, in carrying on the business of moving buildings, in said City, conform to all requirements relating thereto, which are now, or may be hereafter, established by the Council of said City, and that he will promptly fill all basements and cellars left open as a result of moving, clear away all concrete floors and foundations left on the premises, leave the premises vacated by the removal in a safe, sanitary and neat appearance and condition, and repair and make good to the satisfaction of the Council, any and all damage to any pavement, sidewalk, cross walk, hydrant, street, alley or other property, done or caused by himself, his servants or employees, in moving any building, or part of building, or in connection with the moving thereof and that he will immediately indemnify and save harmless the City of Hosmer against any and all liability for damages, costs or expense, arising, or which may arise in favor of any person by reason of any negligence on his part, or on account of his servants or employees in connection with the moving of any building or the use of any public street or ground for that purpose.

4-4-2

BUILDING PERMIT ROUTES WHILE MOVING

Before the owner of any building shall be authorized to move the same, or permit the same to be moved by a licensed mover, or remove from one lot to another, within the limits of the City of Hosmer, he shall obtain a permit therefor from the City Council of such City, which permit shall describe the route to be taken in so moving such building, or part thereof, and the length of time which may be consumed in the work and he shall make written application for such permit to the Council, and the application may be granted upon the affirmative vote of a majority of the members of the Council, and when granted, he shall thereupon pay to the City Treasurer of the City of Hosmer, such sum as shall be fixed in each case by such Council.

4-4-3

TIME LIMITS FOR MOVING BUILDINGS

When in the process of moving, no building or any part of a building shall be allowed to stand still in any public street or on any public ground within the City for more than a twenty-four (24) hour period.

4-4-4

MOVING AND LOCATION OF BUILDINGS

No building or structure including mobile and prefabricated houses, shall be moved to any lot within the City of Hosmer unless the owner of the building or the lot shall first apply for and obtain a building permit. The application for the building permit shall include a plot plan showing the location of the building on the lot and compliance with the yard requirements of this chapter.

4-4-5

APPLICATION FOR PERMIT TO MOVE BUILDING

Before issuing such permit, the City Finance Officer shall first require the person, firm or corporation seeking such permit to file in the office of the City Finance Officer, a written application for such permit, which application shall be on file at least ten (10) days before the same is acted upon by the City Council, and said application shall contain the following information:

- A. Description of the building, showing dimensions, condition, the present location and owner thereof;
- B. The location to which the building is proposed to be moved and location of all streets, alleys and area ways along and over which the said building is to be moved;
- C. The proposed use of said building;
- D. Plans and specifications for any intended remodeling or repairing of said building;
- E. Distances from proposed site of building to other existing buildings upon or adjacent to such proposed location, particularly setting out any new fire hazards.

4-4-6

BOND REQUIRED BEFORE PERMIT ISSUED

Before the issuance of any permit to move any building, the City of Hosmer shall require the person, firm or corporation applying for such permit to acquire a surety bond in such sum as the City Council may determine, conditioned for the payment of any damages which said City may be made liable in consequence of the use of said streets, alleys or area ways by the removal of such building and for any damages that may occur to any paving, wires, cables or other property belonging to the City of Hosmer, its citizens, taxpayers or any other damages by the acts of the mover or movers of such buildings.

4-4-7

APPROVAL OR REJECTION OF APPLICATIONS AND OR BONDS

The applications and bonds so filed or either of them, shall be subject to the approval of the City Council at its regular session after the date of filing of the same and such bond and application so filed may be for any cause, rejected by resolution of the City Council; the Council may condition its approval of said moving permits by requiring the person, firm or corporation applying for such permit, to comply with its reasonable requirements for the repair or remodeling of said building within one year from the time of moving said building into the corporate limits of the City of Hosmer or from the time of moving said building to a new site within the corporate limits. In issuing or withholding of permits for the moving of buildings into or within the City of Hosmer, the Council should consider the following factors:

- A. Structural soundness and state of repair of the building proposed to be moved;

- B. The location of other buildings on proposed site or adjacent thereto and density of buildings on proposed site;
- C. Type and condition of foundation proposed for said building;
- D. Creation of any new fire hazards, on the proposed site or adjacent thereto;
- E. Proposed use of said property;
- F. Any condition created by moving of said building adversely affecting the health, safety and welfare of the community.

4-4-8

COUNCIL MAY PUBLISH SHOW CAUSE ORDER

If, under any circumstances, the Mayor deems such procedure expedient and the City Council believes it to be in the interest of the City, a notice may be published for one or more issues in the weekly legal newspaper designated as the official paper of the City of Hosmer, in which notice the public will be required to show cause before the City Council at a designated time and place, reasons, if any there be, why such permit to move a building or to approve a bond, should not be granted the petitioner.

CHAPTER 4-5

BUILDING PROVISIONS GENERALLY

4-5-1

FINANCE OFFICER DUTIES

It shall be the duty of the City Finance Officer to keep a file of all plans, specifications and work statements upon which building permits are granted, with an appropriate index.

4-5-2

THE GENERAL RULE

No owner or contractor or builder shall attempt to proceed with any work or improvement of any kind for which a permit is herein required without first having obtained a permit therefore. Failure to obtain a permit shall result in a penalty to be determined by the City Council, which shall not exceed fifty dollars (\$50.00) per day (penalty begins on day work is commenced until the date in which a permit is approved).

CHAPTER 4-6 FAIR HOUSING

4-6-1 DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AGE: means chronological age.

Board: means the fair housing Board.

EDUCATION ASSOCIATION: means the state of being enrolled or not being enrolled at any educational institution.

FAMILY RESPONSIBILITIES: means the state of being or the potential to become a contributor to the support of an individual or individuals in a dependent relationship.

LEASE: includes sublease, assignment, and rental, and includes any contract.

LENDING INSTITUTION: means any bank, insurance company, savings and loan association or any other person in the business of lending money or guaranteeing loans or any person obtaining, arranging or negotiating loans or guarantees as agent or broker and any person in the business of buying and selling loans or instruments for the payment of money which are secured by title to or a security interest in real estate.

MARITAL STATUS: means the state of being married, unmarried, divorced, a widow or widower.

NATIONAL ORIGIN: includes the national origin of an ancestor.

OWNER: means any person who holds legal or equitable title or owns any beneficial interest in any real property or who holds legal or equitable title to shares or holds any beneficial interest in any real estate cooperative which owns any real property.

PANEL: means a panel comprised of three (3) or more members of the Board designated by the chairman of the Board to investigate and to attempt to conciliate a complaint filed or made under section 6-46 et seq.

PHYSICAL LIMITATION: means a limitation of physical capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion or a limitation of physical capabilities unrelated to one's ability to acquire, rent, and maintain property. Physical limitation includes, but is not limited to, blindness or partial sightedness, deafness or hearing impairment, muteness, partial or total absence of physical member, speech impairment and motor impairment.

PURCHASE: includes any contract to purchase. "Sale" includes any contract to sell, exchange, or to convey, transfer, or assign legal or equitable title to or a beneficial interest in real property.

REAL ESTATE AGENT: means any real estate broker, any real estate salesman and any other person who as employee, agent or otherwise, engages in the management or operation of any real property.

REAL ESTATE BROKER: means any person licensed as a real estate broker in accordance with the provisions of SDCL Chapter 36-21, or required thereby to be so licensed.

REAL ESTATE TRANSACTION: means the purchase, sale, exchange, rental or lease of any real property or an option to do any of the foregoing.

REAL PROPERTY: means any real estate, vacant land, building, or structure or any part thereof within the City limits.

SEXUAL ORIENTATION: means any male or female homosexuality, heterosexuality or bisexuality by preference or practice.

SOURCE OF INCOME: means any legal source from which a person obtains money.

4-6-2

SHORT TITLE

This article shall be known and may be cited as the Fair Housing Ordinance of Hosmer, South Dakota.

4-6-3

PURPOSE AND DECLARATION OF POLICY

It is hereby declared to be the policy of the City and the purpose of this article in the exercise of its police and regulatory powers for the protection of the public safety, for the health, morals, safety, and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry, and good government, to secure all persons living and/or working or desiring to live and/or work in the City a fair opportunity to purchase, lease, rent or occupy real estate without discrimination based on race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or mutual origin.

4-6-4

CONSTRUCTION

This article shall be construed according to the fair import of its terms and shall be liberally construed to further the purpose and policy stated in section 6-18 and the special purposes of the particular provision involved.