

TITLE SEVEN LICENSES

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**General Provisions with Regard to Licenses
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CHAPTER 7-1 GENERAL PROVISIONS WITH REGARD TO LICENSES

7-1-1 LICENSES REQUIRED

It shall be unlawful within the City of Hosmer to engage in, pursue or transact in any business, trade, calling, profession, occupation or avocation or to do any act or carry on any business therefore without complying with the regulations herein after provided in this title.

*Authority:
SDCL § 9-34-1*

*Collateral References:
Illegal business, occupation or license tax
upon business or activities that are in
violation of law, 118 ALR 827.*

7-1-2 PROCEDURES FOR OBTAINING LICENSES

Any person required to obtain a license under and by virtue of this title, unless otherwise specified, shall make application to the City Council in writing by filing the same with the Finance Officer and tendering with said application, the amount specified for such license; upon receipt of the application and license fee, the Finance Officer shall give the applicant a receipt for the license fee and shall place the application before the City Council at its next regular or special meeting; if such application is granted by the City Council a record thereof shall be made in its minutes and thereafter, the Finance Officer shall issue the license applied for; however, the City Council shall use discretion in the granting of licenses and may refuse to do so, in which case the license fee received by the Finance Officer shall be returned to the applicant upon his return of the receipt issued therefor and the fact that an applicant may have the Finance Officer's receipt for the license fee shall not be sufficient to authorize him to operate until a license is granted and delivered to him.

*Authority:
SDCL § 9-34-1*

7-1-3

TERMS OF LICENSE

Unless otherwise specified, any license issued pursuant to this title shall be for the terms specified, within the document itself. Such terms shall take effect on July 1st, or whenever issued and terminate on June 1st of any particular year at end.

Authority:
SDCL § 9-34-1

7-1-4

LICENSE FEES

License fees are determined by the City Council according to an annual or occupationally based definition, which may cover either one payment or several, depending upon the circumstances involved.

Authority:
SDCL § 9-34-1

7-1-5

LICENSES TO BE POSTED

All occupational licenses issued under this title shall be posted in a conspicuous place at the business premises involved, or if no such place exists, they shall be kept upon the licensee's person, available for inspection by the proper authority.

Authority:
SDCL § 9-43-1

7-1-6

REVOCATION OF LICENSE

The City Council shall have the power to cancel any business license issued by the city for failure of the license to comply with any ordinance or regulation of the town; or the state law respecting such license or the manner of exercise thereof, or for other good cause after hearing upon notice to the license.

Authority:
SDCL §9-34-1.

7-1-7

CHANGE OF BUSINESS NAME

If a license changes the name or form of organization, under which he or she does business, the license may be changed upon payment of a fee to be determined by the City Council and approved of such change by the City Council.

Authority:
SDCL §9-34-1.

7-1-8

REGISTER OF BUSINESS

The Finance Officer shall keep a register listing all businesses that are licensed in the town of Hosmer, along with the address of the business and the names of owners of such businesses.

Authority:

SDCL §9-34-1.

7-1-9

GOVERNING ORDINANCES

Should any provisions of Title Two come into conflict with this title, Title Seven, the provisions of Title Two shall govern only to the extent of the said conflict; otherwise, the general provisions provided in chapter 7-1 shall govern accordingly and in their entirety.

CHAPTER 7-2

LICENSE FOR ANIMALS USED IN BUSINESS

7-2-1 DEFINITIONS

Animal Drawn Conveyance: means any wagon, stagecoach or buggy within which people are carried and which is drawn by any animal, including, but not limited to horses, mules, donkeys, buffalo and oxen.

Amusement or Fee: means any animal drawn conveyance which solicits monies from the passengers therein, or which conveyance is used in the promotion of any business.

Authority:
SDCL §9-34-1.

7-2-2 ISSUANCE OF LICENSE

It shall be unlawful to operate any animal drawn conveyance for amusement or fee within the boundaries of the municipality of Hosmer, without having first obtained a license from the town of Hosmer.

Authority:
SDCL §§9-34-1, 9-34-10.

7-2-3 LICENSE FEE

The fee for obtaining a license for the purpose of operating any animal drawn conveyance for amusement or fee shall be determined by the City Council.

Authority:
SDCL §9-34-1.

7-2-4 PREMISES AND LITTER

Any person operating an animal drawn conveyance for amusement or fee shall operate from a fixed place of business, which shall be designated on the license, and shall be responsible for keeping the area clean and free of all litter and manure, and shall also be responsible for keeping the route traveled clean and free of any litter and manure caused by said operation.

Authority:
SDCL §§9-34-1, 9-30-2.

CHAPTER 7-3 TAXI CABS

7-3-1 DEFINITION

Taxi Cab: means any vehicle used to carry passengers for hire, but not operating on a fixed route, within or in the vicinity of the town of Hosmer.

Authority:
SDCL §49-28-2.

7-3-2 LICENSE REQUIRED FOR OPERATION OF TAXI CAB

It shall be unlawful to engage in the business of operating a taxi cab or taxi cabs within the town of Hosmer without a license.

Authority:
SDCL §49-28-2.

7-3-3 LICENSE FEE

The fee for a license to operate a taxi cab business within the town of Hosmer shall be determined by a resolution from the City Council.

Authority:
SDCL §§49-28-14, 9-34-1.

7-3-4 ISSUANCE OF LICENSE

The City Council shall approve the issuance of a license to operate a taxi cab if it is satisfied that the applicant meets the following requirements:

- a. Applicant is a fit person to engage in such business.
- b. Vehicles used are such as are consistent with the safety of the public.
- c. Vehicles shall be operated only by drivers bearing a valid South Dakota driver's license.

Authority:
SDCL §49-28-2.

7-3-5 REVOCATION OF LICENSE

The City Council may revoke the license to operate a taxi cab at any time for just cause as determined by the City Council.

Authority:
SDCL §49-28-2.

CHAPTER 7-4 SOLICITORS AND PEDDLERS

7-4-1 DEFINITIONS

The following terms as used in this chapter are defined as follows:

Peddler: is a person engaged in the selling of personal property by going about from place to place or house to house to sell the same and who carries such property with him for delivery at the time of sale.

Permanent Business: is any business operating more than six (6) months in one place by the same person, or a business whose owner and manager has been a resident of South Dakota at least six (6) consecutive months prior to the establishment of the business.

Solicitor: is a person engaged in going about from place to place or house to house to solicit orders for or to offer to sell personal property for future delivery.

Transient Merchant: is any person, firm or corporation or association and agents of any of them transacting a temporary business where goods and merchandise are exposed for sale where such business is established for temporary operation only.

*Authority:
SDCL §§ 9-34-1, 2-14-4*

7-4-2 LICENSING SOLICITORS AND PEDDLERS

It shall be unlawful for any person, firm or corporation to pursue the occupation of a peddler, solicitor or transient merchant, as hereinafter defined, without first having procured a license therefor. License for such purposes may be procured from the Finance Officer upon payment of the fees as determined by resolution of the City Council.

A solicitor, in addition to procuring a license from the Finance Officer, upon payment of the fee specified herein, shall register with the Finance Officer, his or her name and address and file with said auditor, a bond in the penal sum of one thousand dollars (\$1000.00) to be approved by the Finance Officer, for the protection of residents of the City of Hosmer, when advancing money for personal property or future delivery.

*Authority:
SDCL § 9-34-8*

7-4-3 EXEMPTIONS TO LICENSING

The provisions of this chapter shall not apply to traveling salesmen doing business exclusively with retail merchants, nor to persons who market their own fruits, garden or agricultural products, nor to sales where the proceeds are to be used exclusively for religious, charitable or benevolent purposes.

*Authority:
SDCL Chapter 9-34 in general*

7-4-4

VIOLATIONS DECLARED A NUISANCE: PREVENTION OF

Any and all violations of the provisions of this chapter are hereby declared to be a public nuisance and the Chief of Police, or his assistants, are hereby directed and required to prevent such nuisance, or to arrest persons engaged in committing the same, and to take them before the Local Magistrate for prosecution.

Authority:

SDCL § 9-29-3

Case Law:

Incorporated Town or Wessington v. Matejka,

Collateral References:

Venue of suit to enjoin nuisance, 7 ALR2d 481. 34 SD 408, 148 NW 847 (1914). Liability of municipality for damages or compensation for abating as a nuisance what is not in fact such, 46 ALR 362.

7-4-5

PENALTY

Any person guilty of violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than two hundred dollars (\$200.00), together with the costs of prosecution and in default of payment of such fine, he or she can be committed to the City jail for a period of not exceeding thirty (30) days.

Authority:

SDCL § 9-19-3

7-4-6

PEDDLING FROM VEHICLES ON STREETS

It shall be unlawful to sell or offer for sale any goods or merchandise from a cart, wagon, out-mobile, truck or other vehicle in the streets or thorough fares of the town. This does not apply to the delivery of farm or garden products, where the order for the same has been placed in advance nor does it apply to dragage or the delivery of goods sold in the regular course of an established business.

Authority:

SDCL §§9-30-2, 9-29-13, 9-29-3.

7-4-7

PEDDLING IN PARKS

It shall be unlawful for any peddler or person, except a person occupying a portion of the park under a valid concession agreement to sell or offer to sell, to any person within the municipal park, any goods, wares, merchandise, books, pictures, novelties, souvenirs or trinkets, or any other article of commerce and trade, including goods of his own production or manufacture. Such sales are hereby declared by the City Council to be a nuisance.

Authority:

SDCL §§9-30-2, 9-29-13.