

## **TITLE EIGHT MISCELLANEOUS OFFENSES**

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### **CHAPTER 8-1 FIREWORKS**

#### **8-1-1 FIREWORK SALES AND ALLOWABLE USES**

It shall be unlawful for an individual, firm, partnership or corporation to sell, possess for sale, use, discharge or cause to be discharged within the City of Hosmer, South Dakota, any pyrotechnics (commonly known as fireworks) of any description whatsoever except those hereinafter enumerated and designated as safe and sane fireworks; That is, sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells, without explosive charge for the purpose of making a noise, Roman candles, rockets, star mines, color wheels, Chinese made softshell firecrackers, not exceeding one and five-eighths (1 & 5/8) inches in length and one-fourth (1/4) inch outside diameter, toy cap pistols and toy caps where the caps used therein do not contain more than thirty-five hundredths (35/100th) grain of explosive material in each cap.

The safe and sane fireworks as set out in this section shall not be used, discharged or caused to be discharged within the corporate limits of the City of Hosmer except on the fourth of July from dusk until 11:00 p.m., unless a fire ban is in place; except that toy cap pistols and toy caps may be sold or used at any time.

*Authority:*  
*SDCL §§ 34-37-4, 34-37-16.1 and 34-27-5; See Also § 9-29-3.*

#### **8-1-2 DISCHARGING FIREWORKS ON MAIN**

The City Council will govern the area in which firework stands for selling may be located and written permission must be granted by the City Council for the selling of said fireworks.

*Authority:*  
*SDCL §§ 34-37-4, 9-29-3 and 4-37-16.1.*

#### **8-1-3 FIREWORKS FROM A VEHICLE**

It shall be unlawful for any person to drop or throw any burning fireworks from any vehicle or

other means of transportation or to set off, discharge or cause to be discharged any fireworks by dropping or throwing any fireworks from any vehicle or other means of transportation.

**Authority**

*SDCL §§ 34-37-4, 9-29-3 and 34-37-16.1.*

**8-1-4**

**PUBLIC DISPLAYS**

Nothing in this chapter shall prohibit the use of a public display of fireworks provided that any individual, firm, partnership or corporation, prior to making such public display of fireworks shall first secure a written permit to do so from the governing board.

**Authority:**

*SDCL §§ 34-37-2, 34-37-4; See Also §§ 34-37-2 and 34-37-10.*

**8-1-5**

**BLANK CARTRIDGES**

Nothing in this chapter shall prohibit the sale or use of blank cartridges for ceremonial purposes, athletic or sporting events.

**Authority:**

*SDCL Try § 9-29-3.*

## **CHAPTER 8-2 NUISANCES**

### **8-2-1**

#### **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:

**BUILDING:** shall mean any structure designed or intended for the support, enclosure, shelter or protection of persons or property.

**BUILDING OFFICIAL:** shall be construed to mean the City maintenance person, his authorized representatives, or any other City official authorized by the City Council with the enforcement of this chapter.

**PREMISES:** shall mean a lot or parcel of land, improved or unimproved parking areas thereon, walkways and sidewalks.

**SIDEWALK:** shall mean a strip of property lying in front of and between the curblin and property line and property line of the adjoining or abutting lot, piece or parcel of land within the city.

### **8-2-2**

#### **PURPOSE**

The purpose of this chapter is to protect, promote and enhance the welfare, safety, health and property of the general public by prohibiting the keeping or maintaining of properties at variance with and inferior to the level of maintenance of surrounding properties.

### **8-2-3**

#### **RIGHT OF ENTRY**

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the building official or authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which is prohibited under this chapter, the building official or authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this chapter, provided that if such building or premises is occupied, he shall first present proper credentials and demand entry. If such building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and demand entry. If such entry is refused, the building official or authorized representative shall have recourse to every remedy provided by law to secure entry.

No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as herein provided, to properly permit entry therein by the building official or authorized representative for purpose of inspection and examination pursuant to this chapter.

### **8-2-4**

#### **MAINTENANCE OF PREMISES AND BUILDINGS GENERALLY**

It shall be unlawful for any persons owning, leasing, occupying or having charge or possession of any buildings or premises in the City to keep or maintain such building or premises in a manner which is at variance with and inferior to the level of maintenance of surrounding properties.

## **8-2-5**

### **ENUMERATION OF CONDITIONS CONSTITUTING NUISANCE**

A building or premises is maintained or kept in a manner which is at a variance with and inferior to the level of maintenance of surrounding properties and is hereby declared to constitute a public nuisance where there exists upon any building or premises any of the following conditions:

1. Buildings which are abandoned, boarded up, partially destroyed or partially constructed and uncompleted subsequent to the expiration of building permit.
2. Buildings with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or to permit the effects of sun and water penetration so as to encourage decay, dry rot, warping and cracking.
3. Broken windows, doors, attic vents and underfloor vents.
4. Overgrown vegetation which is unsightly and/or likely to harbor rats or vermin.
5. Dead, decayed, or diseased trees, weeds and other vegetation.
6. Trash, garbage or refuse cans, bins, boxes, bags or other such containers permanently stored in front yards visible from public streets.
7. Lumber, junk, trash, tires, debris or salvage materials maintained upon any premises visible from a public street, alley, or adjoining property.
8. Abandoned, discarded or unused furniture, stoves, sinks, toilets, cabinets or other household fixtures or equipment stored so as to be visible at ground level from a public street, alley, or adjoining premises.
9. Premises having a topography, geology or configuration which as a result of grading operations or improvements to the land causes erosion, subsidence, unstable soil conditions or surface or subsurface drainage problems as to pose a threat to or be injurious to adjacent premises.
10. Abandoned, wrecked, dismantled or inoperative trailers, campers, boats and other motor vehicles which are accumulated or stored in yards areas.
11. Building exteriors, walls, fences, driveways, or walkways which are cracked, broken, defective, or deteriorated, in disrepair or defaced.
12. Any like and similar condition or conditions.

## **8-2-6**

### **SANITATION OF PREMISES AND BUILDINGS REQUIRED**

It shall be unlawful to permit by act or omission the following specific acts, conditions and things which are hereby also declared to be public nuisances:

1. Maintaining upon a premises any unsightly, partly complete or partly destroyed buildings, structures or improvements in the City which may endanger or injure neighboring properties or the public health, safety or general welfare.

2. Maintaining upon such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract or piece of land, loose earth, mounds of soil, fill material, asphalt, concrete rubble or waste material of any kind and all such materials shall hereinafter be referred to as waste materials, except for waste materials used for construction or landscaping upon premises in which case it shall be the duty of the owner, lessee, occupant or person in possession of premises wherein the waste materials exist, to maintain weed control during construction and to level or remove waste materials after construction is completed, or in any event, within eight (8) months from time of placement of waste materials upon premises.
3. For sites where filling, grading or excavation activities have or will span more than one (1) year it shall be the duty of the owner, lessee, occupant or person in possession of said premises to level or remove the waste materials from said premises at least once each year during the months of either June, July, or August for the purpose of maintaining weed and rodent control.

## **8-2-7**

### **ENFORCEMENT PROCEDURES**

It is the intent of the City to protect, promote and enhance the welfare, safety health and property of the citizens by ensuring the maintenance of property comparable to the surrounding property.

The building official, as defined in section Chapter 4-2, is charged with the enforcement of the property maintenance ordinance. Priority shall be given on the following basis:

1. A formal complaint filed by adjoining property owners.
2. At the written request of the City Council.
3. Office procedures:
  - A. Once a complaint is received it shall be investigated within three (3) days.
  - B. Once the building official has determined that a piece of property falls under the maintenance ordinance, the following time tables shall apply:
    1. Repair work shall commence within thirty (30) days and shall be completed within a reasonable time, as designated by the building official.
    2. Vacation shall be completed in a reasonable time as determined by the building official.
    3. The building shall be vacated within a reasonable time not to exceed thirty (30) days and demolition shall be determined by the building official.
  - C. Any changes in the maintenance enforcement procedure shall be approved by the City Council.

## **8-2-8**

### **NOTICE TO ABATE: ISSUANCE**

Whenever the building official is notified that any condition or conditions prohibited in this chapter exist on any premises located within the city, the building official shall give, or cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting or maintaining such nuisance to abate the same within a reasonable time as provided in such notice as follows:

1. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time, not to exceed sixty (60) days from the date of the order, and completed within such time as the building official shall determine is reasonable under all circumstances.
2. If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time (not to exceed sixty (60) days) from the date of the order as determined by the building official to be reasonable.
3. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine reasonable, not to exceed sixty (60) days from the date of the order; that all required permits be secured therefor within sixty (60) days from the date of the order, and that the demolition be completed within such time as the building official shall determine is reasonable.

## **8-2-9**

### **WHEN NOTICE WAIVED**

Whenever the owner, occupant or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found the building official shall proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

## **8-2-10**

### **RIGHT OF APPEAL FROM BUILDING OFFICIAL'S DETERMINATION**

The owner or any person affected shall have the right of appeal to the City Council for investigation and review of the building official's determination. Such appeal shall be in writing, shall state the objections of the person filing the same, shall be filed with the finance officer within ten (10) days after the date of posting, publishing, serving or mailing of notice to abate. It shall be presented to the City Council by the finance officer at its next regular meeting. The City Council shall determine by resolution whether the building official shall proceed in accordance with the abatement notice, or as modified by the City Council, or not at all, and its decision thereon shall be final and conclusive.

## **8-2-11**

### **ABATEMENT BY CITY: COSTS**

If a person shall fail to abate any nuisance created, permitted or maintained by him following written notice to him to do so, the building official shall cause such nuisance to be abated.

The building official shall prepare a statement of the expenses incurred in the razing, demolishing, removing, reconstruction or other affirmative act necessary to abate the unlawful condition and shall file such statement with the finance officer. Such statement shall refer to the particular premises including any improvements, structures or building thereon, upon

which the actions taken to abate the unlawful conditions occurred. With regard to the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition or subdivision in which the lot lies or upon which the structures, improvements or building were located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified.

## **8-2-12 NOTICE OF ASSESSMENT OF COSTS**

Within ten (10) days after the filing of the statement referred to in section 8-2-11, the finance officer shall cause notice to be served upon the owner, agent of the owner, lessee, occupant or person in possession of the parcel of land described in the statement and in the notice personally or by mail addressed to his last known address or to general delivery if such address is unknown.

## **8-2-13 RECOVERY OF EXPENSES BY SPECIAL ASSESSMENT**

The City may recover the expenses incurred by the building official in abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred or through other civil action.

## **8-2-14 CIVIL SUIT**

The City may recover the expenses incurred by the building official in abating any nuisance under the provisions of this chapter from the person creating, permitting or maintaining the same in a civil suit instituted for such purpose.

## **8-2-15 EQUALIZATION OF ASSESSMENT: HEARING**

The owner or any person affected shall have the right to appeal to the City Council concerning the proposed assessment. Such appeal shall be in writing, shall state the objections of the person filing the same, and shall be filed with the finance officer within ten (10) days after the notice. The objections shall be presented to the City Council by the finance officer at its next regular meeting. The City Council shall determine by resolution the assessment and shall proceed to place a lien against the property until the assessment is paid.

## **8-2-16 STATE LAW**

In addition to any method of abatement of nuisances within the City provided by the provisions of this chapter, any nuisance found within the City may be abated in the manner provided by state law.

## **8-2-17 PENALTY AND REMEDIES FOR NUISANCES**

In addition to the abatement remedies prescribed in this Code, any person convicted of maintaining any nuisance in violation of any provision of this Code shall be punished by a fine of not more than two-hundred dollars (\$200.00) or imprisonment in jail not longer than thirty (30) days or both such fine and imprisonment, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The remedies against a public nuisance, in addition to those prescribed herein, shall be those prescribed by State law.

## **8-2-18**

### **LEASING PREMISES FOR UNLAWFUL PURPOSES**

No person shall knowingly lease or rent to another any house, building, shed, booth, lot or other place or premises or any part thereof, for use or conduct of gambling activities, prostitution, unlawful sale or distribution of alcoholic beverages, or activities which annoy or injure the health or safety of others.

## **8-2-19**

### **PREMISES USED FOR UNLAWFUL PURPOSES DECLARED NUISANCES: ABATEMENT**

All places used for the unlawful purposes described in section 8-2-18 are hereby declared to be common nuisances and, upon the judgement of a City police officer for violation of any of the offenses so described, a court of jurisdiction shall be directed to abate and shut up such place by taking possession of all devices and all other property used in maintaining such nuisance and such personal property so taken shall be forthwith publicly destroyed by such officer.

## **8-2-20**

### **ABANDONED PROPERTY**

- A. No person shall abandon, leave or place in any street, alley or public place of the town, any property of any kind; and no person shall permit any property of any kind so abandoned, left or placed to be or remain for more than twenty-four (24) hours in any street, alley or public place of the town, adjacent to or in the vicinity of his property or residence, without reporting the same; and any property so abandoned, left or placed in any such street, alley or public place, and any property abandoned, left or placed by any person on any private property of which report or complaint may have reached any bureau or department of the town, is declared to be a public nuisance and an obstruction and a menace to the public welfare, comfort, safety and health.
- B. It is hereby made the duty of any member of the police department to report to the City Council any property so abandoned, left or placed, and the City Council shall provide for the removal of such obstruction and the abatement of such nuisance, as soon as possible after receiving any such report.
- C. It shall be the duty of the police department to take possession of any article of property so abandoned, left or placed on any public or private property, and if the same is believed to have any value, to keep it and make an attempt to find the owner thereof, and to retain any such article heretofore so taken up by it. It shall be the duty of such department to maintain a place for the keeping of any such article until the same shall be claimed or otherwise disposed of, and the town shall have a lien thereon for the reasonable expenses incurred and value or cost of the time and effort necessary in taking, removing and storing such article, and for the value of the storage and keeping thereof, and may retain possession until any and all such liens are discharged.
- D. If any such article of property has been or is kept for ninety (90) days or more without being claimed, the same may be disposed of by the police department as follows:
  - 1. If of no value or slight value, it may be destroyed;
  - 2. If of slight value but of use to the town, it may be turned over to the proper



department and used until claimed and the charges hereby made a lien thereon shall be regarded as a sufficient offset to the value of any such use;

3. If of more than slight value, it may be sold by the police department ten (10) days after notice of such sale has been given by one (1) publication in a legal newspaper of the town, and the town may be a bidder at such sale.
4. If on any such sale, an amount is bid in excess of the charges of lien of the town, such excess shall be deposited to the credit of the general fund of the town.

## **CHAPTER 8-3 SPECIFIC OFFENSES**

### **8-3-1 MAKING DISTURBANCES**

Any person who shall disturb the peace of Hosmer, or any lawful assembly of persons or any neighborhood or family, shall, upon conviction thereof, be fined with a sum not to exceed one hundred dollars (\$100.00).

*Authority:*  
*SDCL § 9-29-3; Compare SDCL Ch. 22-13.*

### **8-3-2 PROFANE AND DISORDERLY LANGUAGE**

Any person who shall curse, swear, quarrel or use violent or abusive language, or make any other noise so as to disturb the peace of any person or neighborhood, shall upon conviction thereof be fined a sum not to exceed one hundred dollars (\$100.00).

*Authority:*  
*SDCL § 9-29-3; Compare SDCL Ch. 22-13.*

### **8-3-3 RESISTING OR ESCAPING ARREST**

It is unlawful for any person to intentionally prevent or attempt to prevent a law enforcement officer jailer acting under color of his authority from effecting an arrest of the actor or another, by:

1. Threatening to use physical force or violence against the law enforcement officer, jailer or any other person; or
2. Using any other means which creates a substantial risk of causing physical injury to the law enforcement officer, jailer or other person.

*Authority:*  
*SDCL Ch. 22-1.*

### **8-3-4 DISORDERLY CONDUCT**

It is unlawful for any person to intentionally cause serious public inconvenience, annoyance or alarm to any other person or create a risk thereof by:

1. Engaging in fighting or in violent or threatening behavior;
2. Making unreasonable noise;
3. Disturbing any lawful assembly or meeting of persons without lawful authority;
4. Obstructing vehicular or pedestrian traffic.

### **8-3-5 INDECENT EXPOSURE**

It is unlawful for any person to intentionally and with an immoral purpose expose his or her genitalia in any place where there are present other persons to be offended or annoyed thereby.

### **8-3-6 FALSE FIRE ALARMS**

Any person or persons who shall knowingly or willfully create a false alarm of fire, shall upon conviction thereof be fined.

*Authority:*  
*SDCL § 9-29-2.*

**8-3-7****TAMPERING WITH FIRE EQUIPMENT**

Any person, who is not a member of any paid or voluntary fire company of the town of Hosmer, or any officer or employee of the town, who shall knowingly and willfully tamper with any hose, or other supplies, including the hydrant, hydrant wrench, windmill, pump, tank, pipes or any other part of the system of waterworks or fire fighting apparatus belonging to the said town of Hosmer, without due authority from the officers thereof, shall upon conviction thereof be fined.

*Authority:*

*SDCL § 22-11-6.*

**8-3-8****OBSTRUCTING PUBLIC OFFICER**

It is unlawful for any person to intentionally obstruct or attempt to obstruct a public officer or employee, not a law enforcement officer, jailer or firefighter in the performance of any official duty, or resist a public officer in performance of his duty.

**8-3-9****DISCHARGING FIREARMS**

It is unlawful for any person to discharge any guns, pistols, air rifles, pellet guns or other firearms in the city.

**8-3-10****LOADED GUNS**

It shall be unlawful for any person to carry a loaded firearm in a public place, within the corporate limits of Hosmer, except as is provided in SDCL §23-7-6,7.

**8-3-11****VAGRANCY**

It shall be unlawful for any vagrant to be or to remain in the corporate limits of the town. For the purposes of this section, a "vagrant" is an idle person having no legitimate means of support, who does not seek or desire employment, and subsists through charity of others, or by unlawful means. In a prosecution under this section, whenever it shall be shown that any person who is able to work:

- A. Wanders about in idleness or lives in idleness, without property for his sufficient support;
- B. Leads an idle, immoral, or profligate life and does not work;
- C. Loafs, loiters, or idles in the town or upon a public highway or upon any public place, without any regular employment, and without sufficient property for his support;
- D. Trades or barter stolen property;
- E. Unlawfully sells or barter any spirituous, vinous, malt or other intoxicating liquors;
- F. Engages in practicing any trick or device to procure money, or other things of value;
- G. Engages in any unlawful calling;
- H. Begs in any place or from house to house, or induces children or others to do so;
- I. Falsely represents himself as a collector of alms for a charitable institution or purpose;

which shall constitute a prima facie of presumption, that such person is a vagrant, as defined in this section, and guilty of a misdemeanor.

**8-3-12****ASSAULT AND BATTERY**

No person shall attempt or offer, with force or violence, to do corporal hurt to the person of another, nor shall any person use force or violence upon the person of another, unless it is a case of justifiable or excusable assault or battery, and any person committing an assault or assault and battery shall be guilty of a misdemeanor.

**8-3-13****MALICIOUS MISCHIEF**

Any person who maliciously injures, defaces, or otherwise damages or destroys any real or personal property, public or private, and not his own, in any case not otherwise specified in this code, is guilty of a misdemeanor.

**8-3-14****PETTY LARCENY**

Larceny is the taking of personal property accomplished by fraud or stealth, and with the intent to deprive another thereof. Any person committing larceny of property of less than one-hundred dollars (\$100.00) in value shall be guilty of a misdemeanor.

**8-3-15****SHOPLIFTING**

Any person who shall willfully take possession of any goods, wares, or merchandise offered for sale by any store or other mercantile establishment, with the intention of converting the same to his or her use without paying the purchase price thereof, shall be guilty of a misdemeanor. Any person willfully concealing unpurchased goods or merchandise of any store or other mercantile establishment, either on the premises or outside of the premises of such store, shall be prima facie presumed to have so concealed such article, with the intention of converting the same to his own use without paying the purchase price thereof, and the finding of such unpurchased goods or merchandise concealed upon the person or among the belongings of such person shall be prima facie evidence of willful concealment, and if such person conceals, or causes to be concealed, such unpurchased goods or merchandise upon the person or among the belongings of another, the finding of the same shall also be prima facie evidence of willful concealment on the part of the person so concealing such goods. Persons concealing such goods may be detained in a reasonable manner for a reasonable length of time until the arrival of the police, and such detention shall not render such merchant or his employees criminally or civilly liable for false arrest, false imprisonment or unlawful detention.

**8-3-16****CARRYING WEAPONS**

It shall be unlawful for any person to carry concealed about his person, any firearm, sling shot, brass knuckles, knife with a blade exceeding three inches (3") in length, or any other sharp or dangerous weapon or any other weapon which, when used, is likely to produce death or bodily harm. Any person violating this section shall be guilty of a misdemeanor. This section shall not apply to police officers or other persons whose duty it is to execute process or warrants, or make arrests, or to persons licensed to carry such weapons under State law.

**8-3-17****LITTERING**

Any person who shall throw, deposit, or keep, within the town of Hosmer, any garbage, debris, dead or decayed animals, bottles, cans, or any other matter or property, and without maintaining proper containers or storage for same, shall be guilty of a misdemeanor.

**8-3-18****FALSELY OBTAINING LODGING OR FOOD SERVICE FROM LODGING OR FOOD SERVICE ESTABLISHMENT**

Any person who shall obtain food, lodging or other accommodations at any lodging establishment or food service establishment as those terms are defined, with intent to defraud the owner or keeper thereof, or, any person who shall obtain Board or lodging or any other accommodations at any lodging establishment or food service establishment as those terms are defined, by any other than his or her real and proper name, and fail or refuse to pay for the same upon demand, shall be presumed to have obtained the same with intent to cheat or defraud such lodging establishment or food service establishment, and shall be deemed guilty of a misdemeanor.

**Lodging Establishment:** as used herein, shall mean any building or other structure and property or premises kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to two (2) or more transient guests.

**Food Service Establishments:** as used herein shall mean any fixed restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, catering kitchen, delicatessen, bakery, grocery store, boardinghouse, or similar place in which food or drink is prepared for sale or for service to the public on the premises or elsewhere with or without charge.

**8-3-19****OPEN FIRES**

No person shall kindle, or maintain any open bonfire, campfire, or rubbish within the corporate limits of Hosmer, without a permit from the Hosmer Volunteer Fire Department, with the exception of barbeque grills. Violation of this provision shall result in a misdemeanor and upon conviction thereof, a fine not to exceed one-hundred dollars (\$100.00).

**8-3-20**

**Use of Engine Brakes Prohibited.** It is hereby declared to be unlawful to operate an Engine Brake, commonly referred to as Jake Brakes, at any time of the day (24 hour period) when traveling upon any street, highway, or public road or right-of-way located within the city limits of the City of Hosmer. Said prohibited use of an Engine Brake shall result in a fine not to exceed \$200.00 and or thirty (30) days in jail.

## **CHAPTER 8-4 PROSTITUTION**

### **8-4-1 PROHIBITED GENERALLY**

No person shall use or occupy any room, house, or place for the purpose of prostitution, nor engage in prostitution, within the City or within one mile of the outer boundary thereof.

*Authority:*

*SDCL § 9-29-10; See Also Ch. 22-23 generally.*

### **8-4-2 ENTICING**

No person shall within the City or within one mile of the outer boundary thereof, solicit, entice or urge any person to enter a house of prostitution nor solicit any person to occupy any room, house, building or other place for the purpose of prostitution.

*Authority:*

*SDCL § 9-29-10; See Also Ch. 22-23 generally.*

### **8-4-3 LEASING ROOM OR HOUSE FOR PROSTITUTION**

No person shall knowingly let or lease to another any room, house, or building for use as a place of prostitution within the City or within one mile of the outer boundary thereof. Any person after having been informed that such room, house or building so let or leased by him is being used for such purpose by the lessee or any other person, shall immediately take all legal measures to recover possession thereof.

*Authority:*

*SDCL § 9-29-10; See Also Ch. 22-23 generally.*

### **8-4-4 KEEPING HOUSE OF PROSTITUTION**

No person shall keep a house or place of prostitution within the City or within one mile of the outer boundary thereof.

*Authority:*

*SDCL §§ 9-29-3, 9-32-1, 9-29-10; See Also SDCL Ch. 22-23 generally.*

### **8-4-5 FREQUENTING HOUSE OF PROSTITUTION**

No person shall frequent any house or place of prostitution, nor be an inmate or visitor of such house or place within the City or within one mile of the outer boundary thereof.

*Authority:*

*SDCL §§ 9-29-3, 9-32-1, 9-29-19; See Also SDCL Ch. 22-23 generally.*

## **CHAPTER 8-5 FLOOD CONTROL PROVISIONS**

### **8-5-1 AUTHORIZATION FOR FLOOD CONTROL**

The City of Hosmer hereby assumes the responsibility and authorization granted by the state of South Dakota to adopt, regulate, enforce flood control ordinances on properties contained within the boundaries of the town of Hosmer.

### **8-5-2 PURPOSE OF FLOOD CONTROL**

The purpose of this chapter is to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditures of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding, generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas specified as flood hazards;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard, so as to minimize future flood areas;
- G. To ensure that potential property buyers are notified that the property is in an area of special flood hazard;
- H. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

## CHAPTER 8-6

### BONDS

#### 8-6-1

#### CITY TO PAY PREMIUMS

It shall be the duty of the City of Hosmer to pay the premium on all bonds required to be furnished by the city finance officer and employees.

**Authority:**

*SDCL Chapter 9-25 and 9-26 generally*

**Collateral References:**

*Records of bonds maintained by auditor or Clerk, SDCL §9-22-22.*

*Replacement of lost or destroyed state*

*Bond, SDCL §§4-12-14 to 4-12-18.*

*Constitutionality, construction and effect*

*Of statutes in relation to issuance by public*

*Body of duplicates of mutilated, lost or*

*Destroyed bonds or warrants, 39 ALR 1246;*

*63 ALR 388.*

*Printing, lithographing, or other mechanical*

*Signature on public bonds, coupons or other*

*Public pecuniary obligations, 94 ALR 768.*

*Right to call government bonds in advance*

*Of their maturity, 109 ALR 988.*

**Opinions of the Attorney General:**

*Surplus of bond fund, disposition of, Report 1957-58, P. 189.*

*Improvement bonds as general obligations of municipality,*

*Report 1929-30, p. 57; 1931-31, p. 89*

*Notice requirements for bond election, Report 1919-20, p. 62.*

*Partial bond issuance followed by addition issuance a*

*"reasonable time" later is permitted without another vote,*

*Opinion No. 76-60.*

*Valid ballots counted in determining percentage of "legal*

*Voters voting", Report 1955-56, p. 67.*

*Authorization procedures for general obligation and utility*

*Revenue bonds compared, Opinion No. 81-27*



## **CHAPTER 8-7 AMENDMENTS**

### **8-7-1 AMENDMENT IN GENERAL**

This ordinance or any section, title or chapter thereof, may be amended as provided by law, but any such amendment shall specifically define and describe the section, chapter or title so amended and such amendment shall cover and embody the entire portion so amended and such portion so amended shall be entirely rewritten.

*Authority:*  
*SDCL § 9-19-3*

### **8-7-2 THIS CODE AND/OR ORDINANCE**

This code and/or ordinance being a complete revision of the ordinances of the City of Hosmer shall be known as Ordinance Number Two Thousand One and any ordinance to be hereafter adopted shall be numbered consecutively above that number.

*Authority:*  
*SDCL § 9-19-3*

## **CHAPTER 8-8**

### **REPEAL CLAUSE AND GENERAL PROVISIONS**

#### **8-8-1**

##### **REPEAL CLAUSE**

All ordinances and parts or ordinances in conflict with the provisions of this ordinance are hereby repealed.

*Authority:*

*SDCL § 9-19-3*

#### **8-8-2**

##### **UNCONSTITUTIONAL CLAUSE**

Should any section, paragraph, chapter or title of this ordinance be declared unconstitutional or invalid, for any reason, the remainder of this ordinance shall not be affected thereby.

*Authority:*

*SDCL § 9-19-3*

## **CHAPTER 8-9**

### **GENERAL PENALTY**

#### **8-9-1 PENALTY**

Except as this code and/or ordinance otherwise specifically provides, any person or persons, firm or corporation, violating any of its provisions or failing to comply with any of the provisions thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding thirty (30) days or both such fine and imprisonment.

*Authority:*  
*SDCL § 9-19-3*

#### **8-9-2 GUILTY PARTIES**

Whenever any person, clerk, servant, agent or employee of any other person, firm or corporation shall violate any of the provisions of this code, he shall be deemed guilty as a principal and shall be punished as provided in the preceding section.

*Authority:*  
*SDCL § 9-19-3*

#### **8-9-3 SEPARATE OFFENSES**

Each and every violation of the provisions of this code shall constitute a separate offense and may be so charged and prosecuted.

*Authority:*  
*SDCL § 9-19-3*