

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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§ 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “town code”, for which designation “code of ordinances” or “codified ordinances” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) *Acts by assistants.* When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(2) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(3) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited. General terms descriptive of an officer, act, proceeding or thing shall have reference to the municipality concerned or affected.

Statutory reference:

General terms descriptive of an officer, act, proceeding and the like, see SDCL § 9-1-1

§ 10.03 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.04 DEFINITIONS.

For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPUTATION OF TIME. The time in which any act provided by this code or other ordinance is to be done is computed by excluding the first day and including the last, unless the last is a holiday, and then it also is excluded. Fractions of a day are to be disregarded in computations which include more than one day, and involve no questions of priority.

COUNTY. Custer County, South Dakota.

ELECTOR(S) or QUALIFIED ELECTOR(S). Voter(s).

(SDCL § 9-1-1)

GOVERNING BODY. The Board of Trustees of the Town of Hermosa, South Dakota.

LOT. Includes **PARCEL** or **TRACT OF LAND**.

(SDCL § 9-1-1)

MONTH. A calendar month.

MUNICIPALITY or MUNICIPAL CORPORATION. The Town of Hermosa, South Dakota.

ORDINANCE. A permanent legislative act within the limits of its powers of the governing body of the town.

OWNER. As used in this code relating to local improvements, the grantee in the last deed of conveyance of any lot or parcel of land recorded in the office of the Register of Deeds of Custer County, or his or her heirs or successors.

(SDCL § 9-1-1)

PUBLICATION. Any requirement for publication shall mean publication in the official newspaper of the town concerned or affected, if any; but if none, then, in a legal newspaper published in the town, if any; but if none, then in any legal newspaper which serves the town, except as provided by SDCL § 9-13-13. Personal service either within or without the state upon the person affected thereby by delivery of a copy of a notice required to be published shall be equivalent to the required **PUBLICATION**.

(SDCL § 9-1-1)

RESOLUTION. Any determination that, decision or direction of the governing body of the town of a temporary or special character for the purpose of initiating effecting, or carrying out its administrative duties and functions.

(SDCL § 9-19-1)

SDCL. South Dakota Codified Laws.

STREET. Includes **AVENUE**.

(SDCL § 9-1-1)

YEAR. A calendar year.

§ 10.05 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.06 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered, unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.07 REFERENCES TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this local government exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change

in the official title of the functionary.

§ 10.08 ERRORS AND OMISSIONS.

(A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.09 POWERS TO ENACT, AMEND OR REPEAL ORDINANCES AND RESOLUTIONS; GENERALLY.

The town may enact, make, amend, revise or repeal all the ordinances, resolutions and regulations as may be proper and necessary to carry into effect the powers granted thereto.

§ 10.10 ORDINANCES REPEALED.

(A) This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced.

(B) All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.11 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.12 REPEAL OR MODIFICATION OF AN ORDINANCE.

(A) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(B) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.13 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.14 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws.

(B) This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code.

(C) (1) The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted.

(2) In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

The town is authorized to provide for the punishment of each violation of an ordinance, resolution or regulation with a fine not to exceed \$500, or by imprisonment not exceeding 30 days, or by both the fine and imprisonment.

Statutory reference:

Maximum penalty, see SDCL §§ 9-19-3 and 22-6-2(2)