

## CHAPTER 1 – CODES & ORDINANCES

### ARTICLE 2 - CONSTRUCTION, EFFECT AND PUBLICATION

#### SECTIONS:

Sections 1-2-101 to 199, inclusive. General provisions.

Section 1-2-101. Construction of code.

Section 1-2-102. When rules of construction not applicable.

Section 1-2-103. Reference to chapters, articles or sections - conflicting provisions.

Section 1-2-104. Time of laws taking effect.

Section 1-2-105. Effect of repeal.

Section 1-2-106. Publication and effect of this code.

Section 1-2-107 to 199, inclusive. Reserved.

#### **Section 1-2-101 Construction of code.**

In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed, unless it shall otherwise be expressly provided in any section or ordinance or unless inconsistent with the manifest intent of the commission or unless the context clearly requires otherwise.

**1) General rule.** All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

**2) City.** The words "the city" shall mean the City of Pierre, South Dakota.

**3) Commission.** The words "the commission" or "board" shall mean the board of commissioners of the City of Pierre, South Dakota.

**4) County.** The words "the county" shall mean the County of Hughes, South Dakota.

**5) Gender - singular and plural.** Every word in any ordinance importing the masculine genders shall extend to and be applied to females as well as males; and every word importing the singular

number only shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.

**6) Joint authority.** Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons, unless it shall be otherwise expressly declared in the law giving the authority.

**7) Acts by agent.** When an ordinance requires an act to be done which may be law as well be done by an agent as by the principal such requisition shall be construed to include all such acts when done by an authorized agent.

**8) Month.** The word "month" shall mean a calendar month.

**9) Oath.** The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

**10) Owner.** The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

**11) Person.** The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this code prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of said section.

**12) Property.** The word "property" shall include real and tangible and intangible personal property.

**13) Public way.** The words "public way" shall include any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

**14) Real property.** The terms "real property" or "premises" or "real estate" or "lands" shall be deemed to be coextensive with lands, tenements and hereditaments.

**15) Revised ordinances or code.** See section 1-1-101.

**16) Revision.** The words "this revision" or "the revision" shall mean the Revised Ordinances of the City of Pierre, South Dakota, 1990. See: Section 1-1-101.

**17) Signature or subscription.** Where the written signature or subscription of any person is required, the proper handwriting of such person or his mark shall be intended.

**18) State.** The words "the state" shall mean the State of South Dakota.

**19) Street.** The word "street" shall mean and include any public way, highway, street, avenue, boulevard, parkway, alley, or other public thoroughfare, and each of such words shall include every other of them.

**20) Tangible personal property.** Tangible personal property shall include goods, chattels, and all personal property except intangible personal property.

**21) Tenant.** The words "tenant" or occupant," applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

**22) Tenses.** The use of any verb in the present tense shall include the future when applicable. Whenever the word "heretofore" occurs in any ordinance it shall be construed to mean any time previous to the day when such ordinance shall take effect; and whenever the word "hereafter" occurs it shall be construed to mean the time after the ordinance containing such word shall take effect. The words "preceding" and "following" shall mean next before and next after, respectively. The words "shall have been" include past and future cases.

**23) Time - how computed.** The time within which an act is to be done as provided in any ordinance or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Sunday or a legal holiday it shall be excluded; and when any such time is expressed in hours the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded.

**24) Reasonable time.** In all cases where any ordinance shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice.

**25) Variances.** No variances in punctuation, either formal or informal, consistent or not, shall affect the validity of this code, nor shall obvious or apparent defects in spelling or typography be construed as to invalidate any portion hereof, so long as the purpose and intent of the section are clear.

**26) Week.** The word "week" shall be construed to mean seven days; but publication in a newspaper of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week; and all publications heretofore made in accordance herewith are hereby validated.

**27) Writing.** The words "writing" and "written" shall include printing, lithographing or other mode of representing words and letters.

**28) Year.** The word "year" shall mean a calendar year.

**Section 1-2-102 When rules of construction not applicable.**

The rules of construction set forth in this ordinance shall not be applied to any ordinance which shall contain any express provision excluding such construction, or when the subject matter or context of such ordinance may be repugnant thereto. All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the commission may be fully carried out.

**Section 1-2-103 Reference to chapters, articles or sections - conflicting provisions.**

In addition to the rules of construction specified in section 1-2-101, the following rules shall be observed in the construction of these ordinances:

1) All references to chapters, articles, or sections are to the chapters, articles and sections of this ordinance unless otherwise specified.

2) If the provisions of different chapters, articles or sections of this ordinance conflict with or contravene each other, the provisions of each chapter, article and section shall prevail as to all matters and questions growing out of the subject matter of such chapter, article or section.

3) If conflicting provisions are found in different sections of the same chapter or article, the provisions of the section which is last in numerical order shall prevail unless such construction is inconsistent with the meaning of such chapter or article.

**Section 1-2-104 Time of laws taking effect.**

All ordinances and resolutions passed by the commission, except when otherwise specifically provided by law, shall take effect and be in force on the twentieth day after publication unless suspended by operation of a referendum.

**Statutory reference:** SDCL 9-19-13, effective date of ordinance.

**Section 1-2-105 Effect of repeal.**

When any ordinance repealing a former ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former ordinance clause or provision, unless it shall be expressly so provided.

**Section 1-2-106 Publication and effect of this code.**

Upon its printing and publication in book form, this code shall take effect as provided as SDCL 9-19-17.

**Statutory reference:** SDCL 9-19-17, notice of adoption of ordinances in revision - effective date - publication in book form.

**Section 1-2-107 to 199, inclusive. Reserved.**