

CHAPTER 1 – CODES & ORDINANCES

ARTICLE 3 - PENALTIES, COSTS, SEVERABILITY, REPEAL AND SAVINGS

SECTIONS:

Section 1-3-101 to 199, inclusive. General provisions.

Section 1-3-101. General penalty - continuing violations.

Section 1-3-102. Amendments of section subject to penalty.

Section 1-3-103. Offenses having two penalties.

Section 1-3-104. Costs - taxation in addition to fine or imprisonment - imprisonment for failure to pay. (REPEALED)

Section 1-3-105. Severability of parts of code.

Section 1-3-106. Effect of repeal of ordinances.

Section 1-3-107. Repeal of other ordinances - savings clause.

Section 1-3-108. Adoption of code to have no effect on pre-existing offices, officers, agents and employees.

Section 1-3-109 to 199, inclusive. Reserved.

Section 1-3-101 General penalty - continuing violations.

Whenever in any section of this code or in any ordinance, or any regulation promulgated thereunder, or resolution the doing of any act is required or is prohibited or is declared to be unlawful, and no specific fine or penalty is provided for a violation thereof, any person who shall be convicted of a violation of any provision of this code or of any such ordinance, or any regulation promulgated thereunder, or resolution shall, for each offense, be fined not less than one dollar nor more than two hundred dollars or be punished by imprisonment in the city jail for not exceeding thirty days, or by both such fine and imprisonment.

Statutory reference: SDCL 9-19-3, maximum penalty; Ord. No. 1298, 1992.

Section 1-3-102 Amendment of section subject to penalty.

In case of the amendment of any section of this code or of any ordinance containing provisions for which a penalty is provided in another section thereof, the penalty so provided in such other section shall be held to relate and apply to the section so amended, whether re-enacted in the amendatory ordinance or not, unless otherwise specifically provided therein.

Statutory Reference: SDCL 9-19-3, maximum penalty.

Section 1-3-103 Offenses having two penalties.

In all cases where the same offense is made punishable by different clauses or sections of the code or of any ordinance, now or hereafter becoming a law, the city, in a prosecution based thereunder, may elect under which clause or section to proceed; but not more than one recovery shall be had against the same person for the same offense.

Statutory reference: SDCL 9-19-3, maximum penalty.

Section 1-3-104 Costs - taxation in addition to fine or imprisonment - imprisonment for failure to pay. (REPEALED)

Source: R.O. Pierre, 1957, 1.0507.

Statutory reference: SDCL 9-29-22, costs in prosecutions for ordinance violations.

Section 1-3-105 Severability of parts of code.

It is hereby declared to be the intention of the commission that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code, since the same would have been enacted by the commission without the incorporation in this code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 1-3-106 Effect of repeal of ordinance.

No offense committed or failure to do any act or duty required by any ordinance, regulation promulgated thereunder, or resolution, no tax, fee or license due the city, and no right or proceeding begun, or fine, penalty or forfeiture incurred, previous to the time when the

provision of such ordinance or regulation or resolution shall be repealed, shall be affected, released or in any way discharged by such repeal; but the trial, conviction and punishment of all such offenses and failures and the recovery and collection of such taxes, fees, licenses, fines, penalties and forfeitures, shall be had, prosecuted, recovered and received as fully in every respect as if said provisions had remained in force and effect.

When any ordinance repealing another ordinance, or a provision of this code shall itself be repealed, such repeal shall not constitute a revival of such other ordinance, or provision, unless it is expressly so provided.

Section 1-3-107 Repeal of other ordinances - savings clause.

All ordinances or parts of ordinances of a general and permanent nature passed prior to the 7th day of August, 1990, and not contained in the Revised Ordinances of Pierre, South Dakota, 1990, are hereby repealed; provided that this section shall not affect any offense or act committed or done or any penalty, fine or forfeiture incurred or any contract or right established or accruing or amount due the city as a tax, fee or license, before the date on which this code becomes effective; nor shall it affect any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city; nor shall this section affect the administrative ordinances, including appropriations, of the commission not in conflict or inconsistent with the provisions of this code; nor shall it affect any right or franchise or privilege conferred by any ordinance or action of the commission to any person or corporation; nor shall it affect the following ordinances, namely; any ordinance adopting or making additional deletions, modifications and amendments to any uniform, national or state code by reference including, but not limited to, the uniform building code, national electrical code, fire prevention code, uniform housing code, state plumbing code, and the like; nor shall it affect any ordinance amending, or adding new sections to, the general or airport zoning ordinances for the purpose of changing the zone maps; nor shall it affect any ordinance heretofore duly enacted, amending or adding new sections to the general or airport zoning ordinances for the purpose of changing the zone maps which shall not be deemed repealed by this section; nor shall it affect any ordinance heretofore duly enacted, amending or adding new sections to the several plats of the divisions or subdivisions of the city setting forth the names of the streets, avenues and alleys of the city; nor shall it affect any ordinance heretofore duly enacted, amending or adding new sections to schedule A or schedule B respectively setting forth the curb lines and the grades of the streets, alleys and curbs of the city; nor shall it affect any ordinances authorizing, approving or confirming rules and regulations adopted pursuant to the provisions of ordinances heretofore duly enacted or contained in this code; nor shall it affect any ordinance passed after August 7, 1990; nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or before the day on which this code becomes effective.

Cross-reference: Appendix A, franchises; chapter 11, building, housing, safety and special codes; chapter 12, planning and zoning; section 6-1-101, names of streets and avenues; section 6-2-101, curb lines established; section 6-2-201, grades of streets, alleys and curbs established.

Section 1-3-108 Adoption of code to have on effect on preexisting offices, officers, agents and employees.

The adoption of this code shall have no affect, nor shall it be so construed, on the rights, privileges, duties and obligations of any office or officer, agent or employee of the city and the same, and each and every one of them, are hereby continued without impairment or change, except as might be otherwise specifically provided.

Section 1-3-109 to 199, inclusive. Reserved.