

# CODE OF ORDINANCES

## Chapter 1

### GENERAL PROVISIONS

#### **Sec. 1-1 Title.**

This Ordinance, hereinafter also referred to as this Code, shall be known as the "Revised Ordinances of Madison, South Dakota" and may be so cited. It may also be cited as the "Code of Ordinances, City of Madison."

(Code 1953, 18.0201)

**State law reference**-Authority to adopt revised Ordinances, SDCL 1967, 9-19-16, 9-19-17.

#### **Sec. 1-2. Catch-lines of Sections.**

The catch-lines of the several Sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the Section and shall not be deemed or taken to be titles of such Sections, nor as any part of the Section, nor, unless expressly so provided, shall they be so deemed when any of such Sections, including the catch-lines, are amended or reenacted.

#### **Sec. 1-3. Rules of construction and definitions.**

In the construction of this Code, the following rules shall be observed and the following definitions shall apply, unless such construction would be inconsistent with the manifest intent of the Board of Commissioners:

*Generally.* The provisions of this Code shall be liberally construed to effect the purposes expressed therein or implied from the expression thereof. In case of doubt or ambiguity in the meaning of such provisions, the general shall yield to the particular. Reference for interpretation and construction shall tend to further the accomplishment of the elimination of the particular mischiefs for which the provisions were enacted. Words shall be construed in the common and usual significance unless the contrary is clearly indicated.

*Board of Commissioners or City commission.* The Board of Commissioners of the City of Madison, South Dakota.

*City.* The words "the City" or "this City" shall mean the City of Madison, in the State of South Dakota.

*Code.* The term "Code" or "this Code" shall be taken to mean the Revised Ordinances of Madison, South Dakota in their entirety, including each and every Section thereof. The entire Code is intended by the Council to constitute an Ordinance in revision of the Ordinances of the City, within the meaning of the Sections 9-19-16 and 9-19-17 of the South Dakota Compiled Laws, 1967.

*Computation of time.* In computing any period of time mentioned in the provisions of this Code, the day of the act, event or default after which the designated period of time begins to run is not to be included, and the last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday.

*Duties performed by agents.* Wherever in this Code any act is required to be done by an officer in the line of his general duties, or by a department head or inspector, the same shall be construed to permit the doing of such act by the agent or subordinate of such person; provided that the agent or subordinate is duly authorized and duly qualified to perform such act. Such rule shall apply also to license holders, where such act is not otherwise required to be performed personally by such person, either by specific law or by the nature of such act.

*Gender.* A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, associations and corporations, as well as to males.

*Joint authority.* Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

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

*Number.* Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

*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."

*Officers and employees.* Whenever reference is made in this Code to a City officer or employee by the title only, this shall be construed as though followed by the words "of the City of Madison" and shall be taken to mean the officer or employee of this City having the title mentioned or performing the duties indicated.

*Or, and.* "Or" may be read "and," and "and" may be read "or," if the sense requires it.

*Person.* The word "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies political and corporations as well as to individuals.

*Signature or subscription.* The words "signature" or "subscription" shall include a mark when a person cannot write.

*State.* The words "the state" or "this state" shall be construed to mean the State of South Dakota.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Variations in punctuation; typographical errors; etc.* No variation 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 is clear.

*Written or In writing.* The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

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

(Code 1953, 18.0101)

**Sec. 1-4. Continuance of City's rights and obligations.**

The City shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Code takes effect and shall be subject to all its debts, obligations, liabilities and contracts.

**Sec. 1-5. Code does not impair vested rights or valid obligations.**

Nothing in this Code shall be so construed as to impair any vested rights or valid obligations existing when it takes effect. (Code 1953, 18.0302)

**Sec. 1-6. Territorial application of Code.**

Except as otherwise provided in this Code or by state law, the provisions of this Code shall be applicable in and over all territory within the corporate limits of the City.

(Code 1953, 18.0101(6))

**State law reference-**Territorial jurisdiction of municipalities. SDCL 1967, 9-29-1.

**Sec. 1-7. Miscellaneous Ordinances not affected by Code.**

Nothing in this Code shall affect the validity of any of the following:

- (a) Any offense or act committed or done or any penalty of forfeiture incurred or any contract or right established or accruing before the effective date of such Code.
- (b) Any Ordinance or resolution 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 obligations assumed by the City.
- (c) Administrative Ordinances or resolutions of the City Council and in conflict or inconsistent with provisions of such Code.
- (d) Any right or franchise granted by any Ordinance of the City.
- (e) Any Ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the City or setting grades for same.
- (f) Any appropriation Ordinances.

- (g) Any Ordinance levying or imposing taxes.
  - (h) The zoning Ordinance or any amendment, exception, variance or special use granted thereto.
  - (i) Any Ordinance establishing or prescribing grades in the City.
  - (j) Any Ordinance providing for local improvements and assessing taxes therefore.
  - (k) Any Ordinance dedicating or accepting any plat or subdivision in the City.
  - (l) Any Ordinance extending or contracting the boundaries of the City.
  - (m) Any Ordinance prescribing the number, classification, or compensation of any City officers or employees, not inconsistent herewith.
  - (n) Any Ordinance declaring certain property to be a public nuisance and authorizing procedures for the demolition of same.
  - (o) Any subdivision or zoning Ordinance.
  - (p) Any master or comprehensive plan.
  - (q) Any Ordinance setting utility rates not inconsistent herewith.
  - (r) Any Ordinance relating to swimming pool rates.
  - (s) Any Ordinance adopted after March 13, 1978.
- (Code 1953, 18.0303-18.0306)

**Sec. 1-8. General penalty; continuing violations.**

Whenever in this code or in any Ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense of a misdemeanor, or wherever in such Code or Ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided, therefore, any person who shall be convicted of any such violation shall be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), or by imprisonment for not exceeding thirty (30) days, or by both such fine and imprisonment. Each day any violation of this Code or other Ordinance continues shall constitute a separate offense.

(Ord. No. 1154, 4-15-93; Ord. No. 1421, 2-5-07)

**State law reference-Penalties** for Ordinance violations, SDCL 1967, 9-19-3.

**Sec. 1-9. Liability of corporations for violations.**

For a violation of this Code or any other Ordinance of the City which, by nature, does not require intent exercisable only by natural persons, a corporation may be fined or punished by appropriate penalties in addition to any punishment provided for its agents who violate this Code or other Ordinance while acting as such agents.

**Sec. 1-10. Prosecution's election when offense created by more than one Section.**

In all cases where the same offense is made punishable or is created by different clauses or Sections of this Code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

**Sec. 1 -11. Arrests and notices to appear for violations.**

- (a) Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any drug, and except in the more serious and aggravated cases of speeding or careless and reckless driving, or when necessary to protect persons or property and except when reasonably necessary to secure appearance, a person charged with violation of an Ordinance of the City by a police officer need not be arrested in the regular manner, but may first be given an opportunity, after notice, to appear voluntarily to answer for such violation.
- (b) A person charged with violation of an Ordinance by notice shall be given a notice to appear before the appropriate court or at the office of the clerk of said court at the time or within the time stated in such notice, which shall be at least five (5) days from the time of the offense, and that, in event of failure to do so, a warrant will be issued for his arrest. The notice shall state the name, description and address of the offender, if known, the nature and date of the offense and a description of any vehicle involved in the violation by trade name and license number. The notice shall be signed by the police officer executing it.
- (c) The notice provided for in this Section shall be made in triplicate, one copy to be given to the person charged with the offense or to be left in or upon the vehicle or premises involved in the violation, one copy to be filed with the Police Department, and one copy to be filed with the clerk of the court.
- (d) If the person charged with the offense is available, he shall be given an opportunity to sign an agreement to appear to answer the charge at the time and place specified in the notice, and if he shall refuse to sign such an agreement, then he shall be placed under arrest for the offense in the manner otherwise provided by law.

**Sec. 1-12. Failure to appear for violations.**

- (a) Upon failure of a person to appear in response to a notice of an Ordinance violation as provided in this chapter, he shall be subject to arrest in the manner otherwise provided by law.
- (b) It shall be unlawful for any person to fail to obey the promises given to appear in court pursuant to Section 1-11.

**Sec. 1-13. Default in payment of fine.**

Whenever any person shall be found guilty under any of the provisions of any of the Ordinances of the City, the judgment shall provide that the defendant shall be committed to jail for one day for every five dollars (\$5.00) of such fine and costs as he is unable to pay, and that such defendant shall work for the City under the direction of the Chief of Police, at such labor as the strength of the person shall permit.

(Code 1953, 20.0102; Ord. No. 701, 12-8-69)

**Sec. 1-14. Powers and authorities are cumulative; separability of parts of Code.**

Except as otherwise expressly provided, all powers and authorities conferred by any provision of this Code shall be cumulative and additional to, and not in derogation of, any powers and authorities otherwise existing. Notwithstanding any other evidence of intent, it is hereby declared to be the controlling intent of the Board of Commissioners that, if any provision of this Code or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Code, or its application to other persons and circumstances, but such judgment shall be confined in its operation to the provisions of the particular chapter, Section, subSection or provision involved, or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment is rendered.

(Code 1953, 18.0301)

**Sec. 1-15. General repealer.**

All Ordinances and parts of Ordinances in conflict with the provisions of this Code or relating to the subject matter of this Code and not reenacted as a part of this Code are hereby repealed, except as otherwise specifically provided.

(Code 1955, 18.0307)

**Sec. 1-16. Effect of repeal.**

- (a) The repeal of an Ordinance shall not affect any punishment or penalty incurred before the repeal took effect, not any suit, prosecution or proceeding pending at the time of the repeal, or any offense committed under the Ordinance repealed.
- (b) The repeal of an Ordinance shall not revive any Ordinances in force before or at the time the repealed Ordinance took effect.

**Sec. 1-17. Publication and effect of Code.**

This Code shall be printed and published in book form and shall take effect as provided by law.  
(Code 1953, 18.0308)

**State law reference**-Authority to publish revised Ordinances in book form, SDCL 1967, 9-19-17.

**Sec. 1-18. Code of conduct.**

- (a) *Purpose.* The purpose of this Code of conduct is to ensure the efficient, fair, and professional administration of federal grant funds in compliance with Federal Office of Management and Budget (OMB) Circular A-102, Attachment O, Paragraph 7 and other applicable federal and state standards, regulations and laws.
- (b) *Application.* This Code of conduct applies to an officers, employees or agents of the City of Madison engaged in the award or administration of contracts supported by federal grant funds.
- (c) *Requirements.* No officer, employee or agent of the City of Madison shall participate in the selection, award or administration of a contract supported by federal grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for award.

The City officers, employees or agents shall neither solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors or subcontractors.

- (d) *Remedies.* To the extent permitted by federal, state or local laws or regulations, violations of these standards may cause penalties, sanctions or other disciplinary actions to be taken against the City's officers, employees or agents, or the contractor's, potential contractors, subcontractors or their agents.

(Ord. No. 1042-A, 2-9-87)

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