

Title 1

GENERAL PROVISIONS

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Chapter 1.01

CODE ADOPTION

Sections:

- 1.01.010 Adoption.
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- 1.01.030 Reference applies to all amendments.
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- 1.01.050 Reference to specific ordinances.
- 1.01.060 Ordinances passed prior to adoption of the code.
- 1.01.070 Effect of code on past actions and obligations.
- 1.01.080 Constitutionality.
- 1.01.090 References to prior code.

1.01.010 Adoption.

There is adopted the Acuster Municipal Code, as compiled, edited and published by Book Publishing Company, Seattle, Washington. (Ord. 469 (part), 1996)

1.01.020 Title Citation Reference.

This code shall be known as the Acuster Municipal Code and it shall be sufficient to refer to said code as the Acuster Municipal Code in any prosecution for the violation of any provision thereof or in any proceeding

at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Custer Municipal Code." References may be made to the titles, chapters, sections and subsections of the "Custer Municipal Code" and such references shall apply to those titles, chapters, sections or subsections as they appear in the code. (Ord. 469 (part), 1996)

1.01.030 Reference applies to all amendments.

Whenever a reference is made to this code as the "Custer Municipal Code" or to any portion thereof, or to any ordinance of the city, codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 469 (part), 1996)

1.01.040 Title, chapter and section heading.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 469 (part), 1996)

1.01.050 Reference to specific ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 469 (part), 1996)

1.01.060 Ordinances passed prior to adoption of this code.

The last ordinance included in this code was Ordinance 462, passed March 19, 1996. The following ordinances, passed subsequent to Ordinance 462, but prior to adoption of this code, are hereby adopted and made a part of this code: Ordinances No. 463, No. 464, No. 465, No. 466, No. 467, and No. 468. (Ord. 469 (part), 1996)

1.01.070 Effect of code on past actions and obligations.

The adoption of this code does not affect prosecutions for ordinance violations committed prior to the

effective date of this code, does not waive any fee or penalty due and unpaid on the effective date of this code, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance. (Ord. 469 (part), 1996)

#### 1.01.080 Constitutionality.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. (Ord. 469 (part), 1996)

#### 1.01.090 References to prior code.

References in city forms, documents and regulations to the chapters and sections of the former city code shall be construed to apply to the corresponding provisions contained within this code. (Ord. 469 (part), 1996)

### Chapter 1.04

#### GENERAL PROVISIONS

##### Sections:

1.04.010 Definitions.

1.04.020 Interpretation of language.

1.04.030 Grammatical interpretation.

1.04.040 Acts by agents.

1.04.050 Prohibited acts include causing and permitting.

1.04.060 Computation of time.

1.04.070 Construction.

1.04.080 Repeal shall not revive any ordinances.

#### 1.04.010 Definitions.

The following words and phrases, whenever used in the ordinances of the city of Custer, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

ACity@ means the city of Custer, or the area within the territorial limits of the city, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

ACouncil@ means the city council of the city of Custer. AAll its members@ or Aall councilmembers@ means the total number of councilmembers holding office.

ACounty@ means the county of Custer.

ALaw@ denotes applicable federal law, the Constitution and statutes of the state of South Dakota, the ordinances of the city, and when appropriate, any and all rules and regulation which may be promulgated thereunder.

AMay@ is permissive.

AMonth@ means a calendar month.

AMust@ and Ashall@ are each mandatory.

AOath@ includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words Aswear@ and Asworn@ shall be equivalent to the words Aaffirm@ and Aaffirmed.@

AOwner,@ applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

APerson@ includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

APersonal property@ includes money, goods, chattels, things in action and evidences of debt.

APreceding@ and Afollowing@ means next before and next after, respectively.

AProperty@ includes real and personal property.

AReal property@ includes lands, tenements and hereditaments.

ASidewalk@ means the portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

AState@ means the state of South Dakota.

AStreet@ includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

ATenant@ and Aoccupant,@ applied to a building or land, include any person who occupies the whole

or a part of such building or land, whether alone or with others.

“Written” includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

“Year” means a calendar year. (Ord. 448 (part), 1996: prior code ' 13-401)

#### 1.04.020 Interpretation of language.

All words and phrases shall be construed 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. (Ord. 448 (part), 1996: prior code ' 13-402)

#### 1.04.030 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the city unless it is apparent from the context that a different construction is intended:

A. Gender. Each gender includes the masculine, feminine and neuter genders.

B. Singular and Plural. The singular number includes the plural and the plural includes the singular.

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. 448 (part), 1996: prior code ' 13-403)

#### 1.04.040 Acts by agents.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Ord. 448 (part), 1996: prior code ' 13-404)

#### 1.04.050 Prohibited acts include causing and permitting.

Whenever in the ordinances of the city any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Ord. 448 (part), 1996: prior code ' 13-405)

#### 1.04.060 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded. (Ord. 448 (part), 1996: prior code ' 13-406)

**1.04.070 Construction.**

The provisions of the ordinances of the city, and all proceedings under them are to be construed with a view to effect their objects and to promote justice. (Ord. 448 (part), 1996: prior code ' 13-407)

**1.04.080 Repeal shall not revive any ordinances.**

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby. (Ord. 448 (part), 1996: prior code ' 13-408)



**Chapter 1.08**

**ELECTIONS**

**Sections:**

- 1.08.010      **Annual municipal election date and hours.**
- 1.08.020      **Secondary elections.**
- 1.08.030      **Campaign material.**

**1.08.010      Annual municipal election date and hours.**

The annual election shall be held on the second Tuesday of June each year and may be combined with the local school district election and/or the county primary, at such place that is designated. Special elections may be held on the regular date set for the general municipal election, the school district election, or as designated by the state for the county election, and all dates associated with the election pursuant to Chapter 9-13, Title 12, and Chapter 13-7 shall be adjusted accordingly. The polls at such election shall be kept open continuously from seven o'clock in the forenoon until seven o'clock in the evening. (Ord. 677, 2010; Ord. 642 (part), 2007; Ord. 630, 2006; Ord. 578, 2003; Ord. 551, 2002)

**1.08.020      Secondary elections.**

A. The city shall, when no candidate in a race involving three or more candidates receives a majority of votes cast, establish a secondary election to be held two weeks from the date of first election.

B. At the secondary election only the two candidates who received the highest number of votes from the first election shall be voted for. The candidate receiving the highest votes at the secondary election is elected.

C. The secondary election shall be held at the same polling places, be conducted, returned and canvassed and the result declared and entered upon the journal of the municipality in the same manner as the first election.

D. The finance officer shall have a notice of election published once during the week next preceding any secondary election. Such notices shall include the list of candidates on the election ballot. However, a copy of the official ballot need not be published for any secondary election. (Ord. 415 ' ' 1C4, 1994)

**1.08.030 Campaign material.**

No public display of campaign posters, signs, or other campaign materials or solicitation for any votes for or against any person, political party, or position on a question submitted, will be allowed thirty (30) days after any election held within the jurisdiction of Custer City, whether the same be primary, general, school, special, secondary, or otherwise.

Any persons in violation of this section will be assessed a fifty-dollar (\$50.00) penalty if they do not remove the campaign material and the city personnel removes the campaign material; if the city personnel cannot access the campaign material, then the fine will be a Class II misdemeanor as set forth in Title 1, Chapter 1.12 General Penalty of the Custer City Municipal Code. (Ord. 642 (part), 2007)

**Chapter 1.12**

**GENERAL PENALTY**

**Sections:**

**1.12.010 Classes of penalties.**

**1.12.010 Classes of penalties.**

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements

of any ordinances of the city is guilty of a Class II misdemeanor pursuant to SDCL 22-6-2.

B. The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor as described in subsection A of this section, may order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of SDCL 22-6-2.

C. Where the performance of an act is prohibited by an ordinance of this municipality, and whether a penalty for the violation of such ordinance is imposed by an ordinance or not, the doing of such act is a Class II misdemeanor. (Ord. 683, 2011; Ord. 449, 1996; Ord. 397, 1993; prior code ' 13-100)

