

CHAPTER 4
GENERAL PENALTY

SECTION:

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1-4-1: **GENERAL PENALTY¹:**

- A. General Offense: Unless otherwise provided, any person violating any provision of the City Code shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed seven hundred dollars (\$700.00), or by imprisonment not to exceed ninety (90) days, or both, or any different amounts adopted by statute. In either case, the costs of prosecution may be added. (1997 Code)
- B. Misdemeanor Violation: Every person violates a chapter, section, subsection or provision of this City Code when he intentionally performs an act thereby prohibited or declared unlawful, or intentionally fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof, but within the limits of punishment for a misdemeanor. (1986 Code § 105)
- C. Petty Offense: Whenever an act or omission is declared by this Code to be a petty offense or a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of not more than one hundred dollars (\$100.00). (1986 Code § 103.14)

1. M.S.A. §§ 412.231, 609.03(3), 609.033 and 609.034.

1-4-2: APPLICATION OF PROVISIONS:

- A. The penalty provided in this Chapter shall be applicable to every section of this City Code the same as though it were a part of each and every separate section.
- B. In all cases where the same offense is made punishable or is created by different clauses or sections of this City 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.
- C. Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this City Code and there shall be no fine or penalty specifically declared for such breach, the provisions of this Chapter shall apply. (1997 Code)

1-4-3: OTHERWISE UNLAWFUL: This Code does not authorize an act or omission otherwise prohibited by law. (1986 Code § 107)

1-4-4: LIABILITY OF OFFICERS: No provision of this City Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the City Council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (1997 Code)

1-4-5: PROSECUTIONS, VIOLATIONS OF ORDINANCES:

- A. **Complaint:** All prosecution for violation of ordinances shall be brought in the name of the City upon complaint and warrant as in other criminal cases. If the accused be arrested without a warrant, a written complaint shall thereafter be made, to which he shall be required to plead, and a warrant shall issue thereon. The warrant and all other process in such cases shall be directed for service to any police officer, court officer, if there is a municipal court in the

City, marshal, or constable of any town, city or village in the County, to the Sheriff of the County, or all of them.

- B. **Form And Contents Of Complaint:** It shall be a sufficient pleading of the ordinances or resolutions of the City to refer to them by section and number or chapter. They shall have the effect of general laws within the City and need not be given in evidence upon the trial of civil or criminal actions.
- C. **Judgment:** Judgment shall be given, if for the plaintiff, for the amount of fine, penalty, or forfeiture imposed, with costs; and the judgment shall direct that, in default of payment, the defendant be committed to the County jail for such time not exceeding ninety (90) days, as the Court shall see fit.
- D. **Commitment:** The commitment shall state the amount of judgment, the costs, and the period of commitment. Every person so committed shall be received by the keeper of the jail and kept, at the expense of the County, until lawfully discharged.
- E. **Release:** The committing court may release the defendant at any time upon payment of the fine and costs. (1986 Code § 277)
- F. **Appeal To District Court:** Appeals may be taken to the District Court in the same manner as from judgments in civil actions; but, if taken by the defendant, he shall give bond to the City, to be approved by the Court, conditioned that, if the judgment be affirmed in whole or in part, he will pay the judgment, and all costs and damages awarded against him on the appeal. In case of affirmance, execution may issue against both defendant and his sureties. Upon perfection of the appeal, defendant, shall be discharged from custody. (1986 Code § 277; 1997 Code)

1-4-6: **FINES AND PENALTIES:** All fines, forfeitures, and penalties recovered for the violation of any ordinance shall be paid into the City Treasury. Every court or officer receiving such monies, within thirty (30) days thereafter, shall make return thereof under oath and be entitled to duplicate receipts for the amounts paid. One of the receipts shall be filed with the City Clerk. (1986 Code § 279)