

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. RULES OF CONSTRUCTION; GENERAL PENALTY**



## CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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### § 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “Verndale City Code”, for which designation “code of ordinances”, “codified ordinances” or “code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “traffic code”. Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01”. Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

## § 10.02 RULES OF INTERPRETATION.

(A) *Generally*. Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation*. The construction of all ordinances of the city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) *AND or OR*. Either conjunction shall include the other as if written “and/or”, whenever the context requires.

(2) *Acts by assistants*. When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(3) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

## § 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

## § 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY.** The City of Verndale, Minnesota. The term **CITY**, when used in this code, may also be used to refer to the City Council and its authorized representatives.

**CLERK/TREASURER.** The Clerk/Treasurer of the City of Verndale, Minnesota.

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** This city code, as modified by amendment, revision and adoption of new titles, chapters or sections.

**COUNCIL.** The City Council of the City of Verndale.

**COUNTY.** The County of Wadena, Minnesota.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath and, in those cases, the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT.** An officer, office, employee, commission or department of the city unless the context clearly requires otherwise.

**PERSON.** Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER**, as applied to any unincorporated entity, shall mean the partners or members thereof and, as applied to corporations, the officers or agents thereof.

**PRECEDING or FOLLOWING.** Next before or next after, respectively.

**SHALL.** The act referred to is mandatory.

**SIGNATURE or SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The State of Minnesota.

**SUBCHAPTER.**

(a) A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading.

(b) Not all chapters have **SUBCHAPTERS**.

**WRITTEN.** Any representation of words, letters or figures, whether by printing or otherwise.

**YEAR.** A calendar year, unless otherwise expressed.

**§ 10.06 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

**§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

**§ 10.08 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the city exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

**§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same

effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**§ 10.10 OFFICIAL TIME.**

The official time, as established by applicable state and federal laws, shall be the official time within the city for the transaction of all city business.

**§ 10.11 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, **REASONABLE TIME OR NOTICE** shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) (1) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last.

(2) If the last day is a legal holiday or a Sunday, it shall be excluded.

**§ 10.12 ORDINANCES REPEALED.**

(A) This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced.

(B) All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

**§ 10.13 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

**§ 10.14 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

**§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

**§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the City Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

**§ 10.17 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.**

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

**§ 10.18 COPIES OF CODE.**

The official copy of this code shall be kept in the office of the city's Clerk/Treasurer for public inspection. The Clerk/Treasurer shall provide a copy for sale for a reasonable charge.

**§ 10.19 ADOPTION OF STATUTES AND RULES AND SUPPLEMENTS BY REFERENCE.**

(A) It is the intention of the City Council that, when adopting this code of ordinances, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

(B) It is the intention of the City Council that, when adopting this code of ordinances, all future supplements are hereby adopted as if they had been in existence at the time this code was enacted, unless there is clear intention expressed in the code to the contrary.

**§ 10.20 ENFORCEMENT.**

(A) Any licensed peace officer of the city's Police Department, the County Sheriff or any Deputy Sheriff shall have the authority to enforce any provision of this code.

(B) As permitted by M.S. § 626.862, as it may be amended from time to time, the city's Clerk/Treasurer shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk/Treasurer or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

(C) The city's Clerk/Treasurer and any city official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

(D) If the licensee, owner, resident or other person in control of a premises objects to the inspection of or entrance to the property, the city's Clerk/Treasurer, peace officer or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) Every licensee, owner, resident or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the city's Clerk/Treasurer or any other authorized city officer or employee only to determine whether the provisions of this code enacted

to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the city's Clerk/Treasurer to object to the termination before it occurs, subject to appeal of the Clerk/Treasurer's decision to the City Council at a regularly scheduled or special meeting.

(F) Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

#### § 10.98 ADMINISTRATIVE OFFENSES.

(A) *Purpose.* Administrative offense procedures established pursuant to this section are intended to provide the public and the city with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain city ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provide for thereafter, the individual may withdraw from participation in the procedures, in which event the city may bring criminal charges in accordance with law. Likewise, the city, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures, but does not pay the monetary penalty which may be imposed, the city will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

(B) *"Administrative offense" defined.* An **ADMINISTRATIVE OFFENSE** is a violation of a provision of the city ordinance and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in division (I) below.

(C) *Notice.* Any officer of the city's Police Department or any other person employed by the city, and having authority to enforce the city ordinance, shall upon determining that there has been a violation, notify the violator or, in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice and the amount of the scheduled penalty.

(D) *Payment.* Once such notice is given, the alleged violator may, within seven days of the time of the issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereinafter. The penalty may be paid in person or by mail and payment shall be deemed to be an admission of the violation.

(E) *Hearing*. Any person contesting an administrative offense pursuant to this section may, within seven days of the time of issuance of the notice, request a hearing by a Hearing Officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The Hearing Officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the Hearing Officer, the violator shall pay the penalty imposed within seven days.

(F) *Hearing Officer*. The Mayor shall designate, in writing, a Hearing Officer. The Hearing Officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this section and may be compensated by the city for such hearings and related findings.

(G) *Failure to pay*. In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the Hearing Officer, no such charge may be brought by the city for the same violation.

(H) *Disposition of penalties*. All penalties collected pursuant to this section shall be paid to the city and deposited in the General Fund.

(I) *Offenses and penalties*. Offenses which may be charged as administrative offenses and the penalties for such offenses shall be established by resolution of the City Council from time to time. Copies of such resolution shall be maintained in the office of the city's Clerk/Treasurer.  
(Ord. 73, passed 5-5-2003)

#### **§ 10.99 GENERAL PENALTY AND ENFORCEMENT.**

(A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) Any person, firm or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(C) Pursuant to M.S. § 631.48, as it may be amended from time to time, in either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

(E) In addition to any penalties provided for in this section or in § 10.98 of this chapter, if any person, firm or corporation fails to comply with any provision of this code, the Council, or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.