

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 “Parkers Prairie 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 Parkers Prairie, 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.

COUNTY. The County of Otter Tail, 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 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. 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.

(A) 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.

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

§ 10.12 ORDINANCES REPEALED.

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. 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 PASSING ORDINANCES; EFFECTIVE DATE OF ORDINANCES.

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

(B) (1) Except as provided herein or in the case of an emergency ordinance, no ordinance of the city, including an ordinance to amend or repeal an existing ordinance, may be passed at the City Council meeting when it is introduced.

(2) If an ordinance is approved by the City Council at or after the meeting when it is introduced, it shall then be scheduled for a final vote at a subsequent City Council next meeting which is at least 28 days after the meeting when the ordinance was introduced.

(3) Pursuant to M.S. § 415.19, as it may be amended from time to time, at least ten days before the City Council meeting at which the proposed ordinance is scheduled for a final vote, the city shall post notice of a proposed ordinance in the same location as other public notices are posted.

(4) If the city adopts a process for posting ordinances on the city's website, then pursuant to M.S. § 415.19, as it may be amended from time to time, the city shall then also post proposed

ordinances on its website at least ten days before the City Council meeting at which the proposed ordinance is scheduled for a final vote.

(5) If the city adopts an electronic notification system as defined by state law, then, pursuant to M.S. § 415.19, as it may be amended from time to time:

(a) The city shall notify any person who has signed up for e-mail notification of proposed ordinances at least ten days before the City Council meeting at which the proposed ordinance is scheduled for a final vote; and

(b) The city shall notify a person of the notification procedure at the time the person applies for a new business license or license renewal.

(6) Every ordinance shall be enacted by a majority vote of all the members of the City Council, except where a larger number is required by law. Upon final passage, the ordinance shall be signed by the Mayor and City Clerk-Administrator-Treasurer.

(7) When an ordinance is finally enacted by the City Council, the full text of the ordinance shall be published in the city's official newspaper, unless publication of a summary of the ordinance is approved by the City Council in the manner allowed by state law. Unless otherwise specified in the ordinance, the ordinance shall be effective immediately after its publication.

(8) Within 20 days of publication, the City Clerk-Administrator-Treasurer shall cause each ordinance to be recorded in the city's ordinance book as required by M.S. §§ 412.151, subd. 1, and 412.191, subd. 4, as they may be amended from time to time.

(9) Pursuant to M.S. § 415.19, as it may be amended from time to time, failure to provide notice does not invalidate the ordinance or amendment to an ordinance adopted.

(10) This procedure shall not apply to emergency ordinances, to interim ordinances adopted pursuant to M.S. § 462.355, subd. 4, as it may be amended from time to time, or to any other ordinance where a different procedure is required by law. Where state law mandates a different process or additional measures to be taken with respect to the city's ordinances, state law shall control.
(Ord. 2018-08, passed 3-19-2018)

§ 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 Clerk-Administrator-Treasurer for public inspection. The Clerk-Administrator-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 the 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, or 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 Clerk-Administrator-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 City Clerk-Administrator-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 Clerk-Administrator-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 Clerk-Administrator-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 Clerk-Administrator-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

Clerk-Administrator-Treasurer to object to the termination before it occurs, subject to appeal of the Clerk-Administrator-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.

§ 10.21 HEARINGS; PROCEDURE.

(A) *General.* Unless otherwise provided in this code, or by law, every public hearing required by law, ordinance or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

(B) *Notice.* Every hearing shall be preceded by ten days' mailed notice to all persons entitled thereto by law, ordinance or regulation unless only published notice is required. The notice shall state the time, place and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this section.

(C) *Conduct of hearing.* At the hearing, each party in interest shall have an opportunity to be heard and to present evidence as is relevant to the proceeding. The Council may adopt rules governing the conduct of the hearings, records to be made and such other matters as it deems necessary.

(D) *Record.* Upon the disposition of any matter after hearing, the Council shall have prepared a written summary of its findings and decisions and enter the summary in the official Council minutes.
(Ord. passed - -)

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

(A) In addition to those administrative penalties established in this code and the enforcement powers granted in § 10.20 of this chapter, the City Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. The resolution may not proscribe administrative penalties for traffic offenses designated by M.S. § 169.999, as it may be amended from time to time.

(B) These administrative penalty procedures in 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 provisions of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

(C) Administrative penalties for violations of various provisions of the code, other than those penalties established in the code or in statutes that are adopted by reference, may be established from

time to time by resolution of a majority of the members of the City Council. In order to be effective, an administrative penalty for a particular violation must be established before the violation occurred.

(D) In the discretion of the peace officer, City Clerk-Administrator-Treasurer or other person giving notice of an alleged violation of a provision of this code, in a written notice of an alleged violation, sent by first class mail to the person who is alleged to have violated the code, the person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the City Treasurer within 14 days of the notice of the violation. In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given. In addition to the administrative penalty, the person giving notice may request in the notice to the alleged violator to adopt a compliance plan to correct the situation resulting in the alleged violation and may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, that the payment of the administrative penalty will be waived.

(E) At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

(F) At any time after the date the payment of the administrative penalty is due, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the city, through its Attorney, may bring criminal charges in accordance with state law and this code. Likewise, the city, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty, even if a penalty for the particular violation has been established by Council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the city for the alleged violation.

§ 10.99 GENERAL PENALTY AND ENFORCEMENT.

(A) *Petty offenses.* 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 in accordance with the current city fee schedule.

(B) *General misdemeanors.* In any other case, unless another penalty is expressly provided in this code, any person violating any provision of this code, or any rule or regulation adopted in pursuance thereof, or any other provision of any code adopted in this code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to a fine of not more than an amount in accordance with the current city fee schedule or imprisonment for a term not to exceed 90 days or both, plus, in either case, the costs of prosecution.

(C) *Separate violations.* Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

(D) *Application to city personnel.* 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 violation unless a penalty is specifically provided for the failure.

(Ord. passed - -)

