

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**



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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 “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 this 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 provision, 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; and 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, or 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 area within the corporate boundaries of the City of Morristown, Minnesota, as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term **CITY** when used in this code may also be used to refer to the City Council and its authorized representatives.

**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.** Rice County, 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 this 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 this 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 this 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 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 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 BY REFERENCE.**

It is the intention of the City Council that, when adopting this code, 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.

**§ 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/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 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 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 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 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 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.**

(A) *Purpose.* The purpose of this section is to provide the public and the city with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain city ordinances. The city funds that such an alternative will have the effect of reducing nuisance violations within the city, will facilitate compliance with certain code provisions, will avoid unnecessary delay in the enforcement of the Code, and will provide the city's law enforcement officials with an additional, effective enforcement tool.

(B) *Administrative offense defined.* An administrative offense is a violation of any section of the City Code and is subject to the civil fines identified in the city's fee schedule, updated from time to time by resolution of the City Council. An administrative offense is not a crime. Imposition of an administrative fine by the city shall be in addition to any other legal or equitable remedies available to the city for City Code violations.

(C) *Enforcement.* Upon the reasonable belief that an administrative offense has occurred, any police officer, city clerk, the zoning inspector or the building inspector may implement the administrative penalty procedure contained herein.

(1) *Demand for corrective action.* Depending upon the severity of the violation and necessity for immediate action, city officials may serve on the violator a demand to correct the violation. The demand shall be presented in person or by U.S. mail to the person's last known address. The demand shall state the date, time, and nature of the violation, the name of the official issuing the demand, the corrective action required, and the amount of the administrative fine if the violation is not corrected within the time specified in the demand. Nothing herein shall be interpreted to require that a demand be sent prior to issuing a citation for and administrative fine.

(2) *Issuance of administrative citation.* At any time city official may serve on the violator an administrative citation. The administrative citation shall state the date, time, and nature of the violation, the name of the official issuing the citation, the amount of the administrative fine, the manner and requirements for paying the fine or appealing the fine through the criminal justice process, and required compliance actions if applicable. The administrative citation shall be provided to the violator in person, by U.S. mail at the person's last known address, or in the case of a vehicular violation, by attaching the administrative citation to the vehicle.

(D) *Payment of administrative fine; request for criminal charge.* A person upon whom an administrative citation had been issued shall either pay the administrative fine or request a criminal charge within seven days after issuance of the administrative citation. During that period, only the City Attorney has authority to dismiss the citation and/or waive the administrative fine.

(1) *Request for criminal charge.* If the person upon whom an administrative citation has been issued requests that a criminal charge be issued within the time specified in this subdivision, the administrative offense procedure set forth in this section shall terminate and the City Attorney may issue a misdemeanor or petty misdemeanor charge against the violator in accordance with applicable City Code or state law.

(2) *Failure to request criminal charge.* If the person upon whom an administrative citation has been issued fails to pay the fine and fails to request a criminal charge within the time specified in this subdivision, the administrative fine shall constitute a personal obligation of the violator. The personal obligation may be collected by the city by any appropriate legal means. If the fine was imposed for a property-related violation, the city may assess the applicable property.

(3) *Late payment fee.* A late payment fee of 10% of the administrative fine amount shall be imposed if the person upon whom an administrative citation has been issued fails to pay the fine and fails to request a criminal charge within the time specified in this subdivision.

(E) *Repeat violations.* Repeated violations of two or more similar offenses within a 12-month period shall result in a doubling of the administrative fine established for the violation. Additional offenses within another 12-month period shall result in additional fines not to exceed five times the amount of the original penalty.

(F) *Collection of administrative fines.* The City Administrator and City Clerk are hereby authorized to utilize all methods available under Minnesota law to collect the administrative fines. The violator shall be responsible for all costs of collection, including but not limited to the costs of utilizing a collection agency and reasonable attorney's fees, incurred in the collection of the administrative fines.

(G) *Disposition of fines.* All fines collected pursuant to this section shall be paid to the city and deposited into the General Fund.

(Am. Ord. 2010-4, passed 3-5-2010; Am. Ord. 2010-1, passed 4-5-2010)

#### **§ 10.99 GENERAL PENALTY.**

(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 Minnesota 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 Minnesota 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 sentence of a fine of not more than \$300.

(C) 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, 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.

**AND VOLUNTARY ADMINISTRATIVE PENALTIES**

WHEREAS, the City Council wishes to adopt the provisions of City Code, § 10.98, establishing a procedure for requesting the voluntary payment of administrative penalties for certain violations of the code; and

**APPENDIX A. RESOLUTION TO ADOPT A SCHEDULE OF OFFENSES**

WHEREAS, the provisions of City Code, § 10.98, authorize the City Council, by a resolution adopted by a majority of its members, to identify administrative offenses and establish penalties for these offenses;

NOW THEREFORE, be it resolved by the City Council as follows:

The City Council hereby adopts the provisions of City Code, § 10.98, and adopts the following administrative penalties:

<i>Offense</i>	<i>Code Section</i>	<i>Amount of Administrative Penalty</i>
All offenses for which an administrative penalty may be established under this code, other than those specified below:		\$75

EFFECTIVE DATE: The effective date of the resolution is the date of its passage by a majority of the members of the City Council. Passage of this resolution implements the provisions of City Code, § 10.98.

Mayor:

Attest:

City Clerk/Treasurer



To: (Name and address of person who is alleged to have violated the code)

From: (Name and title of city official giving the notice)

**APPENDIX B. NOTICE OF CODE VIOLATION**

Re: Alleged violation of City Code, § \_\_\_\_\_ (section number), relating to (give title of section)

Date: (Date of notice)

I hereby allege that on (date of violation) you violated § \_\_\_\_\_ of the City Code relating to

The City Council has by resolution established an administrative penalty in the amount of \$ \_\_\_\_\_ for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it the city may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by \_\_\_\_\_ (establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the city reserves the right to institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Before the due date, you 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.

If you pay the administrative penalty, the city will not initiate criminal proceedings for this alleged violation. However, 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.

Payment of the administrative penalty may be made by check, cash, or money order to the City Clerk/Treasurer.

Signed:

(Name and title of person giving notice)