

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. 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

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designated as the "Cokato 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".

### § 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 City Council 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 may do as well 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, 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 Cokato, 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 or to the municipal corporation.

**CITY ADMINISTRATOR** - The City Administrator or designee.

**CITY CLERK-TREASURER** - The City Clerk-Treasurer.

**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.

**COUNTY** - The County of Wright.

**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.

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**PERSON** - Extends to and includes an individual, person, persons, firm, corporation, partnerships, co-partnership, limited liability company, 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.  
(Prior Code, § 100.02)

### § 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**

(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 City Council 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 City 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, 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 Administrator 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 Administrator 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 Administrator 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 Administrator, 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 Administrator or any other authorized city officer or employee only to determine whether the provisions of this code enacted

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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 Administrator to object to the termination before it occurs, subject to appeal of the City Administrator'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 ADDITIONS

New ordinances proposing amendments or additions to the code shall be assigned appropriate code numbers and shall be incorporated into the code as of their effective date. Reference or citation to the code shall be deemed to include the amendments and additions. When an ordinance is integrated into the code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this chapter, the clause indicating date of adoption and validating signatures and dates.

(Prior Code, § 100.01)

### § 10.22 NUMBERING

(A) Each section number of this code consists of two component parts separated by a decimal.

(B) The first digit of the number refers to the chapter number, and the digits after the period refer to the position of the section within the chapter.

(Prior Code, § 100.01)

### § 10.23 STATUTORY RULES ADOPTED

The definitions and rules of construction, presumptions and miscellaneous provisions pertaining to construction contained in M.S. Chapter 645, as it may be amended from time to time, are adopted by reference and made a part of this code. As so adopted, references in that chapter to laws and statutes mean provisions of this code and references to the legislature mean the Council.

(Prior Code, § 100.04)

**§ 10.24 EXISTING RIGHTS AND LIABILITIES**

(A) The repeal of prior ordinances and adoption of this code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this code.

(B) Insofar as provisions in this code are substantially the same as pre-existing ordinances, they shall be considered as continuations thereof and not as new enactments.

(Prior Code, § 100.04)

**§ 10.25 HEARINGS**

(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 division.

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

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

(Prior Code, § 100.05)

**§ 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.

(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.

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(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, 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.