

TITLE 1: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

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CHAPTER 10: GENERAL PROVISIONS

§ 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 “Eyota 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 of ordinances 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 of ordinances 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 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 1 compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code of ordinances unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code of ordinances 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 of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

CLERK-TREASURER. The City Clerk-Treasurer of the City of Eyota.

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 Eyota, and shall consist of the Mayor and four Trustees.

COUNTY. Olmsted 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 of ordinances 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.
(Ord. 1-1, passed 4-2-1969; Ord. 30, passed 5-15-1974)

§ 10.06 SEVERABILITY.

If any provision of this code of ordinances 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.

(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 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 of ordinances, 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 of ordinances shall be deemed repealed from and after the effective date of this code of ordinances.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code of ordinances 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 of ordinances, 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 of ordinances, 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.

(A) All offenses committed under laws in force prior to the effective date of this code of ordinances shall be prosecuted and remain punishable as provided by those laws. This code of ordinances does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code of ordinances.

(B) The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code of ordinances had not been enacted.

(C) In particular, any agreement granting permission to utilize highway rights-of-ways, 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 of ordinances had not been enacted.

§ 10.18 COPIES OF CODE.

The official copy of this code of ordinances 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 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 of ordinances or referenced in this code of ordinances, are hereby adopted by reference or referenced as if they had been in existence at the time this code of ordinances 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 of ordinances was enacted, unless there is clear intention expressed in the code of ordinances to the contrary.

§ 10.20 ENFORCEMENT.

(A) Any licensed peace officer of the State of Minnesota shall have the authority to enforce any provision of this code of ordinances.

(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 of ordinances. 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 of ordinances who has the responsibility to perform a duty under this code of ordinances 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 of ordinances.

(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 of ordinances 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 of ordinances 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 of ordinances enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions.

(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 PROCEEDINGS UNDER PREVIOUS ORDINANCES.

No action, suit, proceeding, cause of action, obligation, right, or liability hitherto created by, or instituted or existing under the terms and provisions of any of the ordinances repealed hereby shall by such repeal be abolished, annulled, altered, or amended, but such action, suit, proceeding, cause of action, obligation, right, or liability shall continue in full force and effect without regard to the terms and provisions of this section, subject to further action by the city in accordance with law.

(Ord. 1-1, passed 4-2-1969)

§ 10.22 PERIODIC REVISION.

The City Council shall annually, or at such other interval of time as it may determine, cause said ordinances to be periodically revised to include amendments thereto, and new ordinances.

(Ord. 1-1, passed 4-2-1969)

§ 10.23 DISTRIBUTION TO THE PUBLIC.

The City Clerk-Treasurer is hereby authorized and directed to prepare a sufficient quantity of said ordinances for general distribution to the public, and to publish in the official newspaper for at least two successive weeks, a notice that copies of said ordinances are available at his or her office. He or she is further authorized and directed to cause to be separately printed such portion or portions of said ordinances as may be convenient and desirable, and to keep them available for distribution from time to time, such amendments to ordinances and new ordinances as the City Council may direct, in accordance with §§ 10.16 and 10.22.

(Ord. 1-1, passed 4-2-1969)

§ 10.24 TERRITORIAL APPLICATION.

Unless otherwise stated, ordinances shall be deemed to apply only to acts done in the city, or to the omission of acts which should have been done in the city.
(Ord. 1-1, passed 4-2-1969)

§ 10.25 EVIDENCE.

Said ordinances are hereby declared to be prima facie evidence of the law of the city.
(Ord. 1-1, passed 4-2-1969)

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

(A) In addition to those administrative penalties established in this code of ordinances and the enforcement powers granted in § 10.20, the City Council is authorized to create, by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. Such resolution may not prescribe 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 of ordinances. 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-Treasurer, or other person giving notice of an alleged violation of a provision of this code of ordinances, 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 Clerk-Treasurer within 14 days of the notice of the violation. A sample notice is contained in the Appendix to this chapter. 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.

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(E) (1) 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.

(2) 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) (1) 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 of ordinances.

(2) 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) Any person, firm, or corporation who violates any provision of this code of ordinances 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 of ordinances, including state statutes specifically adopted by reference, shall be punished as provided by law.

(B) Any person, firm, or corporation who violates any provision of this code of ordinances, 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 punished as provided by law.

(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 of ordinances 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 of ordinances, 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.

APPENDIX A: NOTICE OF CODE VIOLATION

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

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

Re: Alleged violation of section of the City Code, 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)

