

Chapter 1

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### Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Afton, Minnesota."  
(Code 1982, § 101.101)

**State law reference(s)--Codification, M.S.A. § 415.021.**

### Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council:

*Agent or employee.* Whenever the Code requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, such requirement shall be satisfied by the performance of such act by an authorized agent or employee.

*City.* The word "city" shall mean the City of Afton, Minnesota, and shall extend to and include its several officers, agents and employees.

*City Council; council.* The terms "City Council" and "council" shall mean the City Council of the City of Afton, Minnesota.

*Code.* The word "Code" shall mean the Code of Ordinances, City of Afton, Minnesota as designated in section 1-1.

*Computation of time.* The time, where the performance or doing of any act, duty, matter, payment or thing is ordered or directed and the period of time or duration for the performance or doing thereof is prescribed and fixed by law or ordinance, shall be computed so as to exclude the first and include the last day of the prescribed period or duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

*County.* The word "county" shall mean the County of Washington, Minnesota.

*Gender.* A word importing either the masculine or feminine gender shall extend and be applied to both the masculine and feminine genders, and to firms, partnerships and corporations.

*Joint authority.* Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

*Keeper and proprietor.* The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and co-partnerships, whether acting by themselves or through a servant, agent or employee.

*Month.* The word "month" shall mean a calendar month.

*M.S.A.* The abbreviation "M.S.A." shall mean and refer to the latest edition or supplement of Minnesota Statutes Annotated.

*Number.* A word importing the singular may extend and be applied to the plural, and vice versa.

*Oath.* The word "oath" shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

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*Officer, employee, department, board, commission or other agency.* Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the City of Afton, Minnesota." Whenever, by the provisions of this Code, any officer, employee, department, board, commission or other agency of the city is assigned any duty or empowered to perform any act or duty, reference to such officer, employee, department, board, commission or other agency shall mean and include such officer or any designee or authorized subordinate and shall also include the successor in function to such officer, employee, department, board, commission or agency.

*Or, and.* The word "or" may be read as "and" and the word "and" may be read as "or" where the sense requires it.

*Owner.* The word "owner" when applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

*Person.* The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

*Personal property.* The term "personal property" shall include every species of property except real property.

*Property.* The word "property" shall include real, personal and mixed property.

*Public place.* The term "public place" shall mean any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard or open space adjacent thereto and any lake or stream.

*Real property.* The term "real property" shall include lands, tenements and hereditaments.

*Shall, may.* The word "shall" is mandatory; the word "may" is permissive.

*Sidewalk.* The word "sidewalk" shall mean any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians.

*State.* The word "state" shall mean the State of Minnesota.

*Street.* The word "street" shall embrace streets, avenues, boulevards, roads, highways, alleys, lanes, viaducts and all other public ways in the city.

*Tenant; occupant; lessee.* The words "tenant," "occupant" and "lessee," when applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or part of, such building or land, either alone or with others.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Words and phrases.* The words and phrases shall be construed in their plain, ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

*Written and in writing.* The words "written" and "in writing" shall include any representation of words, letters or figures, whether by printing or otherwise.

(Code 1982, § 102.101--103.103)

**State law reference(s)--Construction of words and phrases, M.S.A. § 645.08 et seq.; definitions of words and phrases, M.S.A. § 645.44 et seq.**

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### **Sec. 1-3. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

### **Sec. 1-4. References to chapters or sections.**

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

### **Sec. 1-5. History notes.**

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

### **Sec. 1-6. References and editor's notes.**

References and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

### **Sec. 1-7. Code does not affect prior offenses, penalties and rights.**

Nothing in this Code or the ordinances adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

### **Sec. 1-8. Effect of repeals.**

The repeal of an ordinance or portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this Code shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed.  
(Code 1982, § 102.109)

### **Sec. 1-9. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issue of any bonds of the city, or any evidence of the city's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the city.
- (3) Any administrative ordinances of the city not in conflict or inconsistent with the provisions of this Code.
- (4) Any right or franchise granted by any ordinance.
- (5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the city.
- (6) Any appropriation ordinance.
- (7) Any ordinance levying or imposing taxes.

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- (8) Any ordinance prescribing fees, fines, charges, rates, or other specific monetary values.
- (9) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the city.
- (10) Any ordinance establishing traffic or parking regulations on any street or public way, including traffic schedules.
- (11) Any ordinance regarding salaries or compensation of city officers or employees.
- (12) Any temporary or special ordinances.
- (13) Resolution No. 1995-6, adopted August 15, 1995, imposing a moratorium on certain development within the city for an interim period.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. All ordinances are on file in the office of the city clerk.

### **Sec. 1-10. Amendments to Code.**

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the City Council to make such additions or amendments a part of this Code, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, Article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Afton, Minnesota, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full.

(d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of Afton, Minnesota, is hereby amended by adding a section to be numbered \_\_\_\_\_, which section reads as follows: . . . ." The new section may then be set out in full.

(e) All sections, divisions, Articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, Article or chapter number, as the case may be.

### **Sec. 1-11. Supplementation of Code.**

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the City Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the City Council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person authorized to prepare the supplement, may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

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- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of supplement, and make changes in catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this Article," "this division," or "this section," as the case may be, or to "sections \_\_\_\_\_ through \_\_\_\_\_." The inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and
- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

### **Sec. 1-12. Severability of parts of Code.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

### **Sec. 1-13. General penalty.**

(a) Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful, an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of any such provision of this Code or city ordinance shall be punished as a misdemeanor, that is with a fine of up to \$1,000.00 or imprisonment for not more than 90 days or by both such fine and imprisonment, or a voluntary administrative penalty may be issued and followed up by a criminal misdemeanor if the alleged violation is not paid, unless otherwise provided in this Code. The term "misdemeanor" shall be as defined in M.S.A. § 609.02, subd. 3. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

(Ord. 03-2013, § 1-13 (a))

(b) In case of the amendment by the City Council of any section of this Code for which a penalty is not provided, the general penalty as provided in subsection (a) of this section shall apply to the section as amended; or in case such amendment contains provisions for which a specified penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so specified shall be held to relate to the amended section, unless such penalty is specifically repealed therein.

(Code 1982, § 104.101)

#### (c) Voluntary Administrative Penalty

- (1) The City Council is authorized to create by resolution, adopted by a majority of the members of Council, supplemental administrative penalties.
- (2) The 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.
- (3) 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

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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.

- (4) In the discretion of the City Administrator 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 within seven (7) business days of the notice of the violation. For each day a violation exists shall constitute as a separate offense.
- (5) 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 any administrative penalties, only after the first day, will be waived.
- (6) 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, reduce, or renew the request for payment. Because the payment of an administrative penalty is voluntary, there shall be no appeal from the decision of the Council.
- (7) 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 results in the violation is completed, no criminal charges shall be initiated by the City for the alleged violation.

d) Effective Date. This Ordinance shall become effective July 20, 2005.

(Ord. 2005-9, Sec. 1-13(a)(b)(c)(d), 3/15/05)

**State law reference(s)--Authority to adopt penalty of up to \$1,000.00, M.S.A. § 609.02, subd. 3.**