

TITLE I: GENERAL PROVISIONS

Chapter

**10. GENERAL CODE CONSTRUCTION; GENERAL
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11. CITY STANDARDS

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CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Bayard, Nebraska, shall be designated as the Code of Bayard, and may be so cited.

§ 10.02 INTERPRETATION.

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.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing 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, MUNICIPAL CORPORATION or MUNICIPALITY. The City of Bayard, Nebraska.

CITY COUNCIL, COUNCIL or GOVERNING BODY. The legislative body of the City of Bayard.

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. Morrill County, Nebraska.

KNOWINGLY. Imports only a knowledge that the facts exist, which brings the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of the act or omission.

MAY. The act referred to is permissive.

MONTH. A calendar month.

NEGLECT, NEGLIGENCE, NEGLIGENT and NEGLIGENTLY. Imports a want of the attention to the nature or probable consequences of the act or omission as a prudent person ordinarily bestows in acting in his or her own concern.

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**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT. An officer, office, employee, commission or department of this city unless the context clearly requires otherwise.

OWNER. Applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of the building or land.

PERSON. Includes bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies and associations.
(Neb. RS 49-801(16))

PERSONAL PROPERTY. Every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or

interest therein.

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 Nebraska.

STREETS. Alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

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**.

TENANT or **OCCUPANT**. Applied to a building or land, shall include any person who occupies the whole or any part of the building or land, whether alone or with other.

WILLFULLY. When applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire an advantage.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.
(Prior Code, § 1-1-5)

§ 10.06 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 Mayor and City Council or of the context of the same ordinance.

(A) **AND** or **OR**. Either conjunction shall include the other as if written “and/or”, if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *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.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 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.

§ 10.08 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 materially altered by the amendment or revision.

§ 10.09 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.

§ 10.10 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.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city business.

§ 10.12 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 Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

(A) This code contains all of the provisions of a general nature pertaining to the subjects enumerated and embraced in this code.

(B) All prior ordinances pertaining to the subjects treated by this code are repealed, except that nothing shall affect any rights acquired under, actions involving, or fines, penalties, forfeitures or liabilities incurred pursuant to those ordinances prior to repeal.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code, including ordinances specified in this section, shall remain in full force and effect unless repealed expressly or by necessary implication:

- (A) Vacating or setting the boundaries of streets, alleys or other public places;
- (B) Annexing or detaching territory;
- (C) Granting or accepting easements, plats or dedication of land to public use;
- (D) Providing for the acquisition or conveyance of real or personal property;
- (E) Authorizing or directing public improvements to be made;
- (F) Levying taxes or special assessments;
- (G) Appropriating money;
- (H) Granting franchises or special licenses; or
- (I) Providing for the issuance of bonds or other instruments of indebtedness.

§ 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 to give effect thereto.

(B) No suit, proceedings, right, liability, 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 is itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.16 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. Example: (Neb. RS 17-100)

(2) A statutory cite set forth as a “statutory reference” following the text of the section indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see Neb. RS 84-712 et seq.

(C) If a section of this code was derived from the previous code of ordinances of the city, as subsequently amended, the prior code section number shall be indicated in the history by “(Prior Code, § ___)”.

§ 10.17 SUPPLEMENTATION OF CODE OF ORDINANCES.

(A) *Discretion.* When preparing a supplement to this municipal code, the codifier (that is, the person, agency or organization authorized to prepare the supplement) may make formal nonsubstantive changes in ordinances and parts of ordinances included in the supplement as necessary to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate sections and divisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the ordinance printed in the supplement and make changes in the catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other divisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other division numbers;

(4) Change the words “this ordinance” or words of the same meaning to “this chapter”, “this subchapter”, “this section” and the like, as may be appropriate, or to “§§ ___ through ___” (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code);

(5) Insert appropriate section numbers in references to code sections such as “§ ___” or “§§ through ___” which are not filled in prior to adoption of an ordinance;

(6) Correct the spelling of words, correct obvious typographical errors, correct erroneous division and hyphenation of words, capitalize or decapitalize words, and make other similar changes in accordance with accepted usage or for consistency with other provisions of the code;

(7) Change terminology for consistency with terminology used in other provisions of the code; and

(8) Make other nonsubstantive changes necessary to incorporate ordinance material into the code while preserving the original meaning of the ordinance sections.

(B) *Prohibition.* 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 and not repealed by any ordinance.

§ 10.99 GENERAL PENALTY.

Any person who violates any of the provisions of this municipal code, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this code.

Statutory reference:

Authority to abate nuisances, see Neb. RS 18-1720 and 18-1722

Ordinance enforcement powers, see Neb. RS 17-505

CHAPTER 11: CITY STANDARDS

Section

11.01 Official corporate seal

§ 11.01 OFFICIAL CORPORATE SEAL.

(A) There shall be owned by the city and kept in the office the City Clerk a common seal of the corporation having engraved thereon the words "Corporate Seal, City of Bayard, Nebraska".

(B) The City Clerk shall affix an impression of the official seal to all warrants, licenses, ordinances and other papers issued by order of the Mayor and City Council to be signed by the Mayor and countersigned by the Clerk.

CHAPTER 12: WARDS

Section

- 12.01 Division into wards
- 12.02 Representation

§ 12.01 DIVISION INTO WARDS.

The city shall be divided into two wards, to be known as East Ward and West Ward.

(A) *West Ward.* All that part of the city lying west of Main Street, shall be and constitute the West Ward.

(B) *East Ward.* All that part of the city lying east of Main Street shall be and constitute the East Ward.

(Prior Code, § 1-4-1)

Statutory reference:

Similar provisions, see Neb. RS 17-102

§ 12.02 REPRESENTATION.

Each ward shall be represented by three Council members, who shall be elected from their respective wards, and shall serve for a term of four years, and until their successors shall be elected and qualified.

(Prior Code, § 1-4-2)

Statutory reference:

Similar provisions, see Neb. RS 17-103

