

TITLE I: GENERAL PROVISIONS

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CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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' 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Tillamook shall be designated as the Code of the City of Tillamook 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 Tillamook, Oregon.

CODE, THIS CODE or **THIS CODE OF ORDINANCES.** This municipal code as modified by amendment, revision and adoption of new titles, chapters or sections.

COUNTY. Tillamook County, Oregon.

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**.

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 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 Oregon.

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 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.

(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, that 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 changed or 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 and 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 be Sunday, it shall be excluded.

' 10.13 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.

' 10.14 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.

' 10.15 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. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

' 10.16 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 due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, 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.

' 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body 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 that chapter or section. In addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

' 10.18 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. 161, passed 5-13-1960; Ord. 170, passed 1-1-1970; Ord. 180, passed 1-1-1980; Ord. 185, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:
(O.R.S. 192.410)

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

' 39.01 PUBLIC RECORDS AVAILABLE.

This city 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 O.R.S. 192.420

(C) If a section of this code is derived from the prior compilation of ordinances of the city, the prior compilation section number shall be indicated in the history by A(1977 Code, ' ____).@

' 10.19 ADDITIONAL PROCEDURES FOR THE JURISDICTION AND ENFORCEMENT OF CITY ORDINANCE OFFENSES.

(A) *Purpose.* The purposes of this procedural provision are to:

- (1) Provide rules and procedures necessary for the enforcement of city ordinances;

(2) Supplement existing jurisdictional law and to supplement Oregon Revised Statutes (“O.R.S.”) Chapter 153 by being “other specifically provided law” for the issuance of a summons and complaint of any alleged city ordinance offense whether or not prosecuted as a violation; and

(3) Make clear the bases for obtaining jurisdiction over persons and property for offenses committed within the jurisdiction of the city.

(B) *Rules.* Oregon Civil Rules of Procedure (ORCP) Nos. 4 (Personal Jurisdiction), 5 (In rem Jurisdiction), 6 (Jurisdiction without Service), 7 (Summons) and 8 (Process) are incorporated here, are adopted by reference and are made a part of this section. Where Astate@ is referenced within those rules, then ACity of Tillamook@ shall be included within the definition of Astate@ or shall replace Astate@ as may be required to fulfill the purposes of the law or laws. Each ORCP rule above shall apply to the enforcement of city ordinances in addition to rules for the enforcement of violations within O.R.S. Chapter 153 and any other law. Where any conflict exists, then this section shall control. However, this section shall as far as possible be interpreted broadly to complement, rather than conflict with, other law.

(C) *Persons authorized to issue and serve citation, summons and complaints.* Peace officers are authorized to issue citations for ordinance violations provided the citation is subscribed in a manner provided by law. The City Attorney or other authorized public official may issue a summons and complaint provided the citation is subscribed in a manner provided by law. **OTHER AUTHORIZED PUBLIC OFFICIAL** shall include a land use or code enforcement officer. A citizen may sign a citation in a manner provided by law, which manner shall include a signature under an acknowledgment of penalty for any false swearing or perjury. Peace officers shall cause the service of any citation, summons and complaint, or any other process authorized by this section in a manner consistent with the law, including division (B) above. This service shall include but is not limited to service by another police department as agent for the City Police Department.

(D) *City Attorney.* The City Attorney shall act as legal counsel for the city in any enforcement proceeding conducted pursuant to this section. The City Attorney may prosecute a violator of any city ordinance in the name of the city.

(E) *Resolution reaffirmation.* The provisions of division (B) of this section may be reaffirmed by resolution annually or any other time as the Council may decide.
(Ord. 1207, passed 3-20-2006)

' 10.99 GENERAL PENALTY.

(A) *Application of state penalties.* It is hereby declared to be the policy of this city that, for acts, conduct or offenses proscribed by the city, the fines and penalties under all existing ordinances and the fines and penalties under all ordinances which may be enacted in the future shall be no greater than the fines and penalties imposed under state law for any act, conduct or offense proscribed by state law which is of a like or similar nature to the offense proscribed by the city.

(B) *Limitation on present penalty provisions.* The maximum fine and penalty which may be assessed against any person for the commission of any offense proscribed by any ordinance in effect in the city shall be no greater than the maximum fine and penalty provided by the statutes of this state which provide for a fine and penalty for an act, conduct or offense proscribed by the state, which act, conduct or offense is identical or similar to the act, conduct or offense proscribed by any city ordinance.

(C) *Limitation on future penalty provisions.* The maximum fine and penalty which may be assessed against any person for the commission of any offense proscribed by any future ordinance enacted by the city shall be no greater than the maximum fine and penalty provided by the statutes of the state which may be enacted in the future and which provide for a fine and penalty for an act, conduct or offense proscribed by the state; which act, conduct or offense is identical or similar to the act, conduct or offense proscribed by any future city ordinance.

(D) *Continuation of ordinance provisions.* The fines and penalties provided in ordinances of the city for acts, conduct or offenses which are not the subject of proscription by state law shall continue to remain in full force and effect and shall continue to have the fines and penalties provided for in those respective ordinances.

(E) *Penalties set by resolution.* Unless otherwise indicated, any offense against provisions of the CCT is classified as a violation punishable by a fine set by resolution.

(1977 Code, ' 1-2) (Ord. 842, passed 11-3-1975; Ord. 1301, passed 4-20-2015; Ord. 1315, passed 6-6-2016)

CHAPTER 11: CITY STANDARDS

Section

11.01 Ward boundaries

11.01 WARD BOUNDARIES.

(A) *Map.* An updated ward/precinct map describing the city's exterior jurisdictional boundary and interior ward boundaries is attached to the ordinance codified herein and incorporated here by reference.

(B) *Ward boundaries.* The boundaries of each ward are established by map and tax lot number. An updated listing describing each ward's list of property is attached to the ordinance and codified herein and incorporated here by reference.

(C) *Tenure of present officials.* The boundaries of each ward as established by this section shall not affect the tenure of any Council member who is in office on the effective date of this section.
(Ord. 1340, passed 12-4-2018)