

GENERAL PROVISIONS

PART I CODE OF ORDINANCES

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Mound, Minnesota City Code" and may be so cited. Such ordinances may also be cited as the "Mound City Code."

(Code 1987, § 100.20, subd. 1)

State law reference—Codification of ordinances, Minn. Stats. § 415.021.

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

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise or unless a different definition is provided:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the City Council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

City. The term "city" means the City of Mound, Minnesota. Whenever the term "city" is used in this Code with respect to approvals, permission, administration, or similar matters, the term shall be deemed to mean the City Manager or designee of the City Manager.

City Council, Council. The term "City Council" or "Council" means the Council of the City of Mound, Minnesota.

Code. The term "Code" means the Mound, Minnesota City Code, as designated in section 1-1.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that when appropriate from the context, the terms "and" and "or" are interchangeable:

- (1) "And" indicates that all the connected terms, conditions, provisions or events apply.
- (2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) "Either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Hennepin County, Minnesota.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Following. The term "following" means next after.

Gender. Words of one gender include all other genders.

Includes. The term "includes" does not limit a term to a specified example.

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Joint authority. Words giving a joint authority to three or more persons give such authority to a majority of such persons.

LMCD. The abbreviation "LMCD" means the Lake Minnetonka Conservation District.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

Minn. Stats. The abbreviation "Minn. Stats." mean the Minnesota Statutes, as now or hereafter amended or renumbered.

Month. The term "month" means a calendar month.

Must. The term "must" shall be construed as being mandatory.

Number. Words in the singular include the plural. Words in the plural include the singular.

Oath. A solemn affirmation is the equivalent to an oath and a person shall be deemed to have sworn if such person makes such an affirmation.

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Ordinary high water level (OHWL). The term "ordinary high water level (OHWL)" means as defined in section 129-2.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

Personal property. The term "personal property" means any property other than real property.

Preceding. The term "preceding" means next before.

Premises. The term "premises," as applied to real property, includes lands and structures.

Property. The term "property" includes real property, personal property and mixed property.

Real property, real estate, land, lands. The terms "real property," "real estate," and "land" include lands, buildings, tenements and hereditaments and all rights and interests therein except chattel interests.

Shall. The term "shall" is to be construed as being mandatory.

State. The term "state" means the State of Minnesota.

Street. The term "street" means any alley, avenue, boulevard, highway, road, lane, viaduct, bridge and the approach thereto, and any other public thoroughfare in the city. The term "street" also means the entire width thereof between abutting property lines. The term "street" includes a sidewalk or footpath.

Tenant, occupant. The term "tenant" or "occupant," as applied to a building or land, includes:

- (1) Any person holding either alone or with others a written or oral lease of such building or land.
- (2) Any person who either alone or with others occupies such building or land.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Will. The term "will" is to be construed as being mandatory and not permissive.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is authorized or required, it shall be made in writing in the English language.

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Year. The term "year" means a calendar year.

(Code 1987, §§ 100.20, subd. 1, 100.40)

Sec. 1-3. Headings of sections; history notes; references.

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

(b) The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history. Editor's notes and state law references and other footnotes that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 1987, §§ 100.25, 100.30)

State law reference—Similar provisions, Minn. Stats. § 645.49.

Sec. 1-4. Effect of repeal of ordinances.

(a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any repealed ordinance.

(b) Unless stated specifically in the ordinance, the repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

(Code 1987, § 100.50)

State law reference—Similar provisions, Minn. Stats. §§ 645.35, 645.36.

Sec. 1-5. Supplementation of Code.

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

(b) In preparing a supplement to this Code, all portions of the Code that 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 person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

- (1) Arrange the material into appropriate organizational units.
- (2) Supply appropriate headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

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- (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or insert section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code.
- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code, including correction of obvious errors in spelling, punctuation or wording.

(Code 1987, § 100.20, subd. 2)

Sec. 1-6. General penalty; continuing violations.

- (a) In this section the term "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (4) Violation of or failure to comply with any resolution adopted in conformity with this Code or an ordinance.
 - (5) Counseling, aiding or abetting a violation of this Code as defined above.
- (b) In this section the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) Except as otherwise provided by law or ordinance, a violation of this Code shall be a misdemeanor and punishable by a fine of not more than \$1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof; provided, however, that if the violation is declared to be a petty misdemeanor the penalty shall be a fine not exceeding \$300.00.
- (d) Except as otherwise provided by law or ordinance:
 - (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) With respect to violations that are not continuous with respect to time, each act is a separate offense.
- (e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(Code 1987, § 100.60)

State law reference—Authorized penalty for ordinance violations, Minn. Stats. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 1-7. Severability.

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall

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not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code, for the Council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions. If any provision of this Code is declared to be inapplicable to specific property by a valid judgment of a court of competent jurisdiction, such judgment shall not restrict the applicability of such provision to other property.

(Code 1987, § 100.65)

Sec. 1-8. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as a restatement and continuation thereof and not as new enactments.

Sec. 1-9. Code does not affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of the ordinance adopting this Code. Nothing in this Code or the ordinance adopting this Code creates or eliminates any preexisting nonconforming uses.

(Code 1987, § 100.50)

Sec. 1-10. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code affects the validity of the actions listed below. Such ordinances continue in full force and effect to the same extent as if published at length in this Code.

- (1) Annexing property into the city.
- (2) Deannexing property or excluding property from the city.
- (3) Providing for salaries or other employee benefits not codified in this Code.
- (4) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (5) Authorizing or approving any contract, deed, or agreement.
- (6) Making or approving any appropriation or budget.
- (7) Fixing or establishing any fee or charge.
- (8) Granting any right or franchise.
- (9) Vacating any easement or park land.
- (10) Adopting or amending the comprehensive plan.
- (11) Levying or imposing any special assessment.
- (12) Creating a special district.
- (13) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street.
- (14) Establishing the grade of any street or sidewalk.
- (15) Dedicating, accepting or vacating any plat or subdivision.
- (16) Levying, imposing or otherwise relating to taxes not codified in this Code.
- (17) Establishing traffic regulations for specific locations not codified in this Code.
- (18) Rezoning specific property.
- (19) That is temporary, although general in effect.

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- (20) That is special, although permanent in effect.
- (21) The purpose of which has been accomplished.

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