

ARTICLE 1.100 CODE OF ORDINANCES*

Sec. 1.101 Designation and Citation of Code

The ordinances embraced in this and the following chapters, articles and sections shall constitute and be designated the "Code of Ordinances, 1996, City of Abernathy, Texas," and may be so cited.

Sec. 1.102 Catchlines of Articles and Sections

The catchlines of the several articles and sections of this code are intended as mere catchwords to indicate the contents of the article section and shall not be deemed or taken to be titles of such articles and sections, nor as any part of the articles and sections, nor, unless expressly so provided, shall they be so deemed when any of such articles and sections, including the catchlines, are amended or reenacted.

Sec. 1.103 Definitions and Rules of Construction

In the construction of this code, and of all ordinances and resolutions passed by the city council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

City. The words "the city" or "this city" shall be the City of Abernathy, the Counties of Hale and Lubbock and the State of Texas.

City Commissioner. As used herein, shall refer to a member of the governing body of the City of Abernathy, Texas. The terms "city commissioner" and "city councilmember" shall be interchangeable herein.

City Council. Shall refer to the governing body of the City of Abernathy. The terms "governing body" and "board of aldermen" shall mean the city council.

City Manager, City Secretary and Other City Officers or Departments. Shall be construed to mean the city manager, city secretary or such other municipal officers or departments, respectively, of the City of Abernathy, Texas. Reference to an officer or employee by title shall include his or her duly authorized assistants or representatives. The term "city clerk" shall be interpreted to mean the city secretary of the City of Abernathy, Texas.

Computation of Time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

Council. Whenever the term "council," "this council," or "the council" is used, it shall mean the city council of the City of Abernathy, Texas.

County. The term "county" or "this county" shall mean the Counties of Hale and Lubbock, Texas.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, associations and corporations as well as to males.

Month. Shall mean a calendar month.

Number. Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

Oath. Shall be construed to include an affirmation in all cases in which, by law, an affirmation may be submitted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

Official Time Standard. Whenever certain hours are named herein, they shall mean standard time or daylight savings time as may be in current use in the city.

Owner. The word “owner,” 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, corporations, firms, partnerships, fiduciaries, representatives and bodies politic and corporate as well as to individuals.

Preceding and Following. Shall mean next before and next after, respectively.

Sidewalk. Shall mean that portion of a street between the curblineline or the lateral line of a roadway, and the adjacent property line intended for the use of pedestrians.

Signature or Subscription. Shall include a mark when a person cannot write.

State. The words “the state” or “this state” shall be construed to mean the State of Texas.

Street. Shall have its commonly accepted meaning and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way including the entire right-of-way.

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

V.T.C.S., V.T.P.C., V.T.C.C.P. Refer to the divisions of Vernon’s Texas Statutes Annotated.

Written or In Writing. The term “written” or “in writing” shall be construed to include any representation of words, letters, or figures, whether by printing or otherwise.

Year. Shall mean a calendar year.

Sec. 1.104 Amendments to Code

(a) 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, section or subsection or any portion thereof, such repealed portions may be excluded from the code by omission from reprinted pages. The subsequent ordinances as numbered and printed or omitted in the case of repeal, shall be prima facie evidence on such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are readopted as a new code by the city council.

(b) Amendments to any of the provisions of this code shall be made by amending such provisions by specific reference to the article and section number of this code in the following language:

“That Chapter , Article _____, Section _____, of the Code of Ordinances, City of Abernathy, Texas, is hereby amended to read as follows: ...”

The new provisions shall then be set out in full as desired.

(c) In the event a new article or section not heretofore existing in the code is to be added, the following language shall be used:

“That Chapter _____, of the Code of Ordinances, City of Abernathy, Texas, is hereby amended by adding a section, to be number Article/Section _____, which said article/section shall read as follows: ...”

The new article or section shall then be set out in full as desired.

(d) It is hereby provided, however, that any subsequent ordinance which fails to amend this code in the manner provided for above shall not be deemed invalid as a result of such failure to follow the procedure outlined in this section.

Sec. 1.105 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 the 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 omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning 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, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for articles, sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;
- (4) Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this section,” “this subsection,” etc., as the case may be; and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance articles or 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. 1.106 General Penalty for Code Violations*

(a) Whenever in this code or in any ordinance of the city, an act is prohibited or is made or declared to be unlawful of an offense or a misdemeanor, or wherever in such code or ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00), except for:

- (1) violations of municipal ordinances that govern fire, safety, zoning, public health and sanitation, including dumping of refuse, vegetation and litter violations in which the maximum fine shall be two thousand dollars (\$2,000.00) for each offense, and

(2) violations of traffic laws and ordinances which are punishable as a Class C misdemeanor shall be punished by a fine not to exceed two hundred dollars (\$200.00).

However, no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state.

(b) Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. Any violation of any provision of this Code of Ordinances which constitutes an immediate danger to the health, safety, and welfare of the public may be enjoined in a suit brought by the city for such purposes.

Sec. 1.107 Severability of Parts of Code

It is hereby declared to be the intention of the city council that the articles, sections, paragraphs, sentences, clauses and phrases of this code are severable and, if any article, section, paragraph, sentence, clause or phrase of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining articles, sections, paragraphs, sentences, clauses and phrases of this code since the same would have been enacted by the city council without the incorporation in this code of any such unconstitutional article, section, paragraph, sentence, clause or phrase.

(Ordinance adopting Code)