

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS*

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*Cross references—Motor vehicles and traffic, ch. 11; municipal court, ch. 12; offenses and miscellaneous provisions, ch. 13; police, ch. 15.



Sec. 1-1. Code designated and cited.

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

State law reference—Authority of city to adopt a civil and criminal code of ordinances, V.T.C.A., Local Government Code §§ 53.001—53.006.

Sec. 1-2. Section catchlines and other headings.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

Sec. 1-3. Rules of construction and definitions.

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 council:

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

Alderman. The term "alderman" shall mean a member of the city council and shall include the term "councilmember."

City. The term "the city" or "this city" shall mean the City of Shepherd, in the County of San Jacinto and the State of Texas.

City secretary, chief of police or other city officers, employees, departments, boards, commissions or agencies. The term "city secretary," "chief of police" or "other city officers, employees, departments, boards, commissions or agencies" shall be construed to mean the city secretary, chief of police or such other municipal officers, employees, departments, boards, commissions or agencies, respectively, of the City of Shepherd, Texas.

Code. The term "Code" or "this Code" shall mean the Code of Ordinances, City of Shepherd, Texas printed in this volume.

Computation of time.

- (1) In computing a period of days, the first day is excluded and the last day is included.
- (2) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.
- (3) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

State law reference—Similar provisions, V.T.C.A., Government Code § 311.014.

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

County. The term "county" or "this county" shall mean the County of San Jacinto, Texas.

Gender. Words of one gender include the other genders.

Highway. The term "highway," when used in this Code, shall include any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass and causeway in the city, dedicated or devoted to public use.

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.

Judge. The term "judge" shall mean the person who presides over the municipal court.

State law reference—Similar provisions, V.T.C.A., Government Code § 29.004.

Month. The term "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.

State law reference—Similar provisions, V.T.C.A., Government Code § 311.012(b).

Oath. The term "oath" shall be construed to include an affirmation, and the term "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Or, and. The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

Owner. The term "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 term "person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Roadway. The term "roadway" shall mean the portion of a highway, other than the berm or shoulder, that is improved, designed, or ordinarily used for vehicular traffic. If a highway includes at least two separate roadways, the term applies to each roadway separately.

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

Sidewalk. The term "sidewalk" shall mean any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.

Signature or subscription. The term "signature" or "subscription" shall include any symbol executed or adopted by a person with present intention to authenticate a writing.

State. The term "the state" or "this state" shall be construed to mean the State of Texas.

Street. The term "street," when used in this Code, shall include any highway, alley, street, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel and causeway in the city, dedicated or devoted to public use.

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

Vernon's Ann. C.C.P. The term "Vernon's Ann. C.C.P." shall mean Vernon's Annotated Code of Criminal Procedure, as amended from time to time.

Vernon's Ann. Civ. St. The term "Vernon's Ann. Civ. St." shall mean Vernon's Annotated Civil Statutes, as amended from time to time.

V.T.C.A. The term "V.T.C.A." shall mean Vernon's Texas Codes Annotated, as amended from time to time.

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

Year. The term "year" shall mean 12 consecutive months.

Sec. 1-4. 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 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, when 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, 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 sections and other subdivisions of the Code printed in the supplement, and make changes to such 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," etc., as the case may be, or the "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive 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.

(d) All ordinances passed subsequent to this Code of Ordinances 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 in this Code. In the case of repeal of chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.

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

(f) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, City of Shepherd, Texas, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(g) If a new section not existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, City of Shepherd, Texas, is hereby amended by adding a section, to be numbered _____, which section reads as follows:" The new section shall then be set out in full as desired.

(h) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

Sec. 1-5. Fines and penalties; continuing violations.

(a) A person who commits an offense under this Code or under any rule or police regulation of the city shall, upon conviction, be punished by a fine. If the offense is a violation of any ordinance, rule, or police regulation governing fire safety, zoning, or public health and sanitation, including dumping of refuse, the fine shall not exceed \$2,000.00. In all other cases, the fine shall not exceed \$500.00.

(b) In all criminal cases arising under the criminal laws of the state in which concurrent jurisdiction has been vested in the municipal court under Vernon's Ann. C.C.P. art. 4.14, a person who commits an offense under any of such laws shall, upon conviction, be fined an amount not exceeding \$500.00.

(c) Each day that a violation of this Code continues is a separate offense.

State law references—Authority of city to prescribe penalties for violation of Code of Ordinances, V.T.C.A., Local Government Code § 54.001, and V.T.C.A., Government Code § 29.003; further penalty limits, Vernon's Ann. C.C.P. art. 4.14.

Sec. 1-6. Failure to pay fine and costs.

(a) Any person who, on conviction for a violation of this Code or any city ordinance, shall fail or neglect to pay any fine or costs imposed for such violation shall be committed to jail or to work on

the parks, streets or any city property or to perform community service, until such fine and costs have been fully paid or satisfied, as provided by law, and the decree of the court or the verdict of the jury shall in all cases be presumed to include such commitment or failure or refusal or neglect to pay the fine and costs.

(b) Every person committed to work on the streets shall be required to work for the city under the direction of the chief of police or other proper officer at such labor as the health and strength of the person so committed will permit, not exceeding eight hours each day for such labor. The person so employed shall be allowed the sum provided by law for each day's work, which amount shall go toward paying such fine and costs.

State law reference—Similar provisions, Vernon's Ann. C.C.P. art. 43.09.

Sec. 1-7. 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, or its application to any person or circumstances, shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, or their application, since they would have been enacted by the city council without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Sec. 1-8. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- (1) Promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (2) Granting any right or franchise and establishing any rates therefor;

- (3) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;
- (4) Making any appropriation;
- (5) Levying or imposing taxes, not inconsistent with this Code;
- (6) Establishing or prescribing grades in the city;
- (7) Providing for local improvements and assessing taxes therefor;
- (8) Dedicating or accepting any plat or subdivision in the city;
- (9) Adopting, extending or contracting the boundaries of the city;
- (10) Prescribing the number, classification, or compensation of any city officers or employees, not inconsistent with this Code;
- (11) Prescribing traffic regulations for specific locations or streets, or portions thereof, not inconsistent with this Code;
- (12) Pertaining to zoning;
- (13) Adopted after the effective date of this Code;
- (14) Any other ordinance, or part thereof, which is not of a general and permanent nature;

and 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. Such ordinances are on file in the city secretary's office.

Sec. 1-9. History notes.

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

Sec. 1-10. Editor's notes and references.

The editor's notes, cross references and state law references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code.

Sec. 1-11. Code does not affect prior offenses, rights or other acts.

Nothing in this Code or the ordinance 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.

