

PART II
CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of St. Louis Park, Minnesota."

Charter reference(s)--Revision and codification of ordinances, § 3.10.

State law reference(s)--Codification, M.S.A. § 415.021.

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

(a) In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

Agent or employee. Whenever the Code requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, such requirement shall be satisfied by the performance of such act by an authorized agent or employee.

Charter. The term "Charter" shall mean and refer to the Home Rule Charter of the City of St. Louis Park, Minnesota, as printed in part I of this volume.

City. The term "city" shall mean the City of St. Louis Park, Minnesota, and shall extend to and include its several officers, agents and employees.

City council; council. The terms "city council" and "council" shall mean the city council of the City of St. Louis Park, Minnesota.

Code. The term "Code" shall mean the Code of Ordinances, City of St. Louis Park, Minnesota, as designated in section 1-1.

Computation of time. The time, where the performance or doing of any act, duty, matter, payment or thing is ordered or directed and the period of time or duration for the performance or doing thereof is prescribed and fixed by law or ordinance, shall be computed so as to exclude the first and include the last day of the prescribed period or duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

County. The term "county" shall mean the County of Hennepin, Minnesota.

Demolition debris. The term "demolition debris" means solid waste resulting from the demolition of buildings, roads, and other manmade structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition debris does not include asbestos wastes.

Garbage. The term "garbage" means discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.

Gender. A word importing either the masculine or feminine gender shall extend and be applied to both the masculine and feminine genders, and to firms, partnerships and corporations.

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.

Keeper and proprietor. The terms "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

Month. The term "month" shall mean a calendar month.

M.S.A. The abbreviation "M.S.A." shall mean and refer to the latest edition or supplement of Minnesota Statutes Annotated.

Number. A word importing the singular may extend and be applied to the plural, and vice versa.

Oath. The term "oath" shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Officer, employee, department, board, commission or other agency. Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the phrase "of the City of St. Louis Park, Minnesota." Whenever, by the provisions of this Code, any officer, employee, department, board, commission or other agency of the city is assigned any duty or empowered to perform any act or duty, reference to such officer, employee, department, board, commission or other agency shall mean and include such officer or any designee or authorized subordinate and shall also include the successor in function to such officer, employee, department, board, commission or agency.

Owner. The term "owner," when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. The term "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals. For the purpose of imposing penalties or fines for violation of any section of this Code and whenever the term "person" is used in such section for which a penalty is imposed, the term "person" shall include partners or members of an association and, as to corporations, shall include the officers, agents or members thereof, who are responsible for any such violation.

Personal property. The term "personal property" shall include every species of property except real property.

Property. The term "property" shall include real, personal and mixed property.

Public place. The term "public place" shall mean any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard or open space adjacent thereto and any lake or stream.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Refuse. The term "refuse" means putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.

Rubbish. The term "rubbish" means nonputrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

Sidewalk. The term "sidewalk" shall mean any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians.

Solid waste. The term "solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, and rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or byproduct material as defined by The Atomic Energy Act of 1954, as amended.

State. The term "state" shall mean the State of Minnesota.

Street and highway. The terms "street" and "highway" mean the entire width between boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic.

Tenant; occupant; lessee. The terms "tenant," "occupant," and "lessee," when applied to a building or land, shall include any person holding a written or oral lease of or who occupies the whole or part of such building or land, either alone or with others.

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

Written and in writing. The terms "written" and "in writing" shall include any representation of words, letters or figures, whether by printing or otherwise.

Yard waste. The term "yard waste" means the garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste and prunings generated at residential or commercial properties.

(b) The words and phrases used in this Code shall be construed in their plain, ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

State law reference(s)--Construction of words and phrases, M.S.A. § 645.08 et seq.; definitions of words and phrases, M.S.A. § 645.44 et seq.

Sec. 1-3. Catchlines of sections.

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

Sec. 1-4. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

Sec. 1-5. History notes.

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

Sec. 1-6. References and editor's notes.

References and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

Sec. 1-7. Prior offenses, penalties and rights not affected by Code.

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.

Sec. 1-8. Effect of repeals.

The repeal of an ordinance or portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this Code shall not affect any punishment or penalty incurred before the repeal took effect or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the provision repealed.

Sec. 1-9. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issue of any bonds of the city or any evidence of the city's indebtedness or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the city.
- (3) Any administrative ordinances of the city not in conflict or inconsistent with the provisions of this Code.
- (4) Any right or franchise granted by any ordinance.
- (5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the city.
- (6) Any appropriation ordinance.
- (7) Any ordinance levying or imposing taxes.
- (8) Any ordinance prescribing fees, fines, charges, rates, or other specific monetary values.
- (9) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the city.
- (10) Any ordinance establishing traffic or parking regulations on any street or public way, including traffic schedules.
- (11) Any ordinance regarding salaries or compensation of city officers or employees.
- (12) Any temporary or special ordinances.
- (13) Any rezoning ordinance.
- (14) Any official map ordinance.

(b) All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code. All ordinances are on file in the office of the city clerk.

Sec. 1-10. Amendments to Code.

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

(b) 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, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by the omission thereof from reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of Ordinances, City of St. Louis Park, Minnesota, is hereby amended to read as follows:" The new provisions shall then be set out in full.

(d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of St. Louis Park, Minnesota, is hereby amended by adding a section to be numbered _____, which section reads as follows:" The new section may then be set out in full.

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

Sec. 1-11. 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 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 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 in 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 term "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," or "this section," as the case may be, or to "sections _____ through _____." The inserted section numbers will 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.

Sec. 1-12. Severability of parts of Code.

It is 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 shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-13. General penalty.

(a) Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful, an offense or a misdemeanor or whenever in this Code or in any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or city ordinance shall be punished as a misdemeanor, that is, with a fine of up to \$1,000.00 or imprisonment for not more than 90 days, or by both such fine and imprisonment, unless otherwise provided in this Code. The term "misdemeanor," as defined in M.S.A. § 609.02, means a crime for which a sentence of not more than 90 days or a fine not more than \$1,000.00, or both, may be imposed. The term "petty misdemeanor," as defined in M.S.A. § 609.02, means an offense which does not constitute a crime and for which a sentence of a fine of not more than \$300.00 may be imposed. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

(b) In case of the amendment by the city council of any section of this Code for which a penalty is not provided, the general penalty as provided in subsection (a) of this section shall apply to the section, as amended, or if such amendment contains provisions for which a specified penalty other than the general penalty is provided in another section in the same chapter, the penalty so specified shall be held to relate to the amended section, unless such penalty is specifically repealed therein.

(Code 1976, § 2-203)

State law reference(s)--Authority to adopt penalty of up to \$700.00, M.S.A. § 609.034.

Sec. 1-14. Administrative penalties.

(a) *Purpose.* The city council finds that there is a need for alternative methods of enforcing the city code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the city and the accused. The delay inherent in that system does not ensure prompt resolution. The higher burden of proof and the potential of incarceration do not appear appropriate for most Code violations; and the criminal process does not always regard city code violations as being important. Accordingly, the city council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for city code violations.

(b) *Alternative methods of enforcement.*

- (1) The administrative hearing process provided for in this Article shall be in addition to any other legal or equitable remedy available to the city for city code violations.
- (2) The city may initiate a civil enforcement action to obtain code compliance before, during or after an administrative enforcement proceeding.
- (3) If the final adjudication in the administrative penalty procedure is a finding of no violation, then the city may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the city from pursuing an administrative penalty or a criminal conviction for a violation of the same provision of the City Code based on a different set of facts. A different date of violation will constitute a different set of facts and a separate offense.

(c) *General provisions.*

- (1) A violation of a provision of the city code or a violation of the terms and conditions of a city approval, including permits and licenses, required and granted under this code is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.
- (2) An offense may be subject to a civil penalty not exceeding \$2000.00 per separate offense.
- (3) The city council will adopt by ordinance a schedule of fines for offenses initiated by administrative citation. The city council is not bound by the schedule when a matter is appealed to it for administrative review.
- (4) The city council may adopt a schedule of fees to be paid to administrative hearing officers for his or her services.

(d) *Administrative citation.*

- (1) A person authorized to enforce provisions of the city code may issue an administrative citation upon belief that a code violation has occurred. The citation must be issued in person or by first class mail to the person responsible for the violation. The citation must state the date, time, and nature of the offense, the identity of the person issuing the citation, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation. If the city seeks to impose more than one fine for a continuing violation, a separate citation shall be issued for each violation date.

- (2) The person responsible for the violation must either pay the scheduled fine or request a hearing within ten calendar days after issuance of the citation. Payment of the fine constitutes admission of the violation. A late payment fee of 10% of the scheduled fine amount will be imposed in accordance with section 1-14(h).

(e) *Administrative hearing.*

- (1) The city council will periodically approve a list of attorneys licensed to practice law in the State of Minnesota, from which the city manager will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. The accused will have the right to request no later than five calendar days before the date of the hearing that the assigned hearing officer be removed from the case. One request for each case will be granted automatically by the city manager. A subsequent request must be directed to the assigned hearing officer who will decide whether he or she cannot fairly and objectively review the case. The city enforcement officer may remove a hearing officer only by requesting that the assigned hearing officer find that he or she cannot fairly and objectively review the case. If such a finding is made, the officer shall remove himself or herself from the case, and the city manager will assign another hearing officer. The hearing officer must not be a city employee. The city manager must establish a procedure for evaluating the competency of the hearing officers, including comments from accused violators and city staff. These reports must be provided to the city council.
- (2) Upon the hearing officer's own initiative or upon written request of a party demonstrating the need, the officer may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents that are material to the matter being heard. The party requesting the subpoena is responsible for serving the subpoena and for paying the fees and expenses of a witness in accordance with the same rules governing civil lawsuits in state court. A person served with a subpoena may file an objection with the hearing officer promptly but no later than the time specified in the subpoena for compliance. The hearing officer may cancel or modify the subpoena if it is unreasonable or oppressive. A person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena is guilty of a misdemeanor. Alternatively, the party requesting the subpoena may seek an order from district court directing compliance.
- (3) Notice of the hearing must be served in person or by mail on the person responsible for the violation at least 10 calendar days in advance, unless a shorter time is accepted by all parties. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence will not apply. The hearing officer must tape record the hearing and receive testimony and exhibits. The officer must receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.
- (4) The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose or modify (increase or decrease) the scheduled fine, and to modify, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer may consider any or all of the following factors:
 - a. The duration of the violation;

- b. The frequency or reoccurrence of the violation;
 - c. The seriousness of the violation;
 - d. The history of the violation;
 - e. The violator's conduct after issuance of the notice of hearing;
 - f. The good faith effort by the violator to comply;
 - g. The economic impact of the penalty on the violator;
 - h. The impact of the violation upon the community; and
 - i. Any other factors appropriate to a just result.
- (5) The hearing officer's decision and supporting reasons must be in writing.
- (6) Except for matters subject to administrative review under subsection (f) *Appeal to City Council*, the decision of the hearing officer is final without any further right of administrative appeal.
- (7) The failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.
- (f) *Appeal to City Council*.
- (1) The hearing officer's decision in any of the following matters may be appealed by a party to the city council for administrative review by submitting a request in writing to the city clerk within 10 calendar days after the hearing officer's decision:
- a. An alleged failure to obtain a permit, license, or other approval typically granted by the city council as required by an ordinance;
 - b. An alleged violation of a permit, license, other approval, of the conditions attached to the permit, license, or approval, that was granted by the city council; and
- (2) The appeal will be heard by the city council after notice served in person or by registered mail at least 10 calendar days in advance. The parties to the hearing will have an opportunity to present oral or written arguments regarding the hearing officer's decision.
- (3) The city council must consider the record, the hearing officer's decision, and any additional arguments before making a determination. The council is not bound by the hearing officer's decision, but may adopt all or part of the officer's decision. The council's decision must be in writing.
- (4) If the council makes a finding of a violation, it may impose a civil penalty not exceeding \$2,000.00 per violation, and may consider any or all of the factors contained in section 1-14(e)4. The council may also modify, stay, or waive a fine unconditionally or based on reasonable and appropriate conditions.

- (5) In addition to imposing a civil penalty, the council may suspend or revoke a city-issued license, permit, or other approval associated with the violation, if the procedure in the city code for suspension or revocation has been followed.

(g) *Judicial review.* An aggrieved party may obtain judicial review of the decision of the hearing officer or the city council in accordance with state law.

(h) *Recovery of civil penalties.*

- (1) If a civil penalty is not paid within the time specified, it constitutes:
- a. A personal obligation of the violator;
 - b. An obligation of a business or person(s) that is conducting an activity licensed by the City if the violation relates to the maintenance of the property or to an activity, use or delivery of services associated with the business or activity; and
 - c. A lien upon the real property upon which the violation occurred if the violation relates to the maintenance of the property or to an activity, use or delivery of City services associated with the property.
- (2) A lien may be assessed against the property and collected in the same manner as taxes. The lien may include the administrative and legal costs incurred by the city in connection with collecting the unpaid administrative penalty. Prior to assessing the lien against the property, the city must attempt to obtain voluntary payment of the administrative penalty and provide the property owner listed on the tax record with notice and an opportunity to be heard.
- (3) A personal obligation may be collected by any appropriate legal means.
- (4) A late payment fee of 10% of the fine will be assessed for each 30-day period, or part thereof, that the fine remains unpaid after the due date.
- (5) During the time that a civil penalty remains unpaid, no city approval will be granted for a license, permit, or other city approval sought by the violator or for property under the violator's ownership or control.
- (6) Failure to pay a fine is grounds for suspending, revoking, denying, or not renewing a license or permit associated with the violation.

(i) *Applicable laws.* Where differences occur between provisions of this chapter and other applicable code sections, this chapter applies.

(Ord. No. 2215-01, 11-19-2001; Ord. No. 2420-12, 9-14-2012)

Secs. 1-15--1-18. Reserved.

Sec. 1-19. Fees.

(a) *Set by ordinance.* Fees called for within individual provisions of this Code are set by ordinance of the city council and listed as appendix A of this Code.

(b) *Annual review.* Fees called for within individual provisions of this Code will be reviewed and reestablished annually by the city council. A notice of public hearing will be published once in the official newspaper no later than seven days prior to the hearing.

(c) *New fees.* New fees called for by any ordinance subsequently adopted may be adopted by ordinance of the council at second reading and codified into appendix A at the time of the next annual review by the council.

(d) *Administrative fees.* Department directors are given authority to set fees for other programs and services performed by their division.

(Ord. No. 2253-03, 11-3-2003)