

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

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 Quitman, Texas, shall be designated as the Code of Quitman and may be so cited.

Statutory reference:

Authority of municipality to codify ordinances, see Tex. Loc. Gov't Code, Ch. 53

§ 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 Quitman, Wood County, Texas.

CITY SECRETARY, CHIEF OF POLICE or OTHER CITY OFFICERS OR DEPARTMENTS. The City Secretary/Administrator, Chief of Police or such other municipal officers or department, respectively, of the City of Quitman, Texas.

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. Wood County, Texas.

HIGHWAY or STREET. When used in this code, shall include any street, alley, highway, avenue, public place or square, bridge, viaduct, tunnel, underpass, overpass and causeway in the city dedicated or devoted to public use.

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 such 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 municipality unless the context clearly requires otherwise.

OFFICIAL TIME STANDARD. Whenever certain hours are named in this code, they shall mean Central Standard Time or Central Daylight Saving Time, whichever is in current use in the city.

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 the part of the building or land, except as otherwise defined in this code.

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.

PERSONAL PROPERTY. Includes every species of property, except real property, as defined in this section.

PRECEDING or FOLLOWING. Next before or next after, respectively.

PROPERTY. Includes real and personal property, or a mixture of the 2, if the sense used so indicates.

REAL PROPERTY. Includes land, tenements and hereditaments.

ROADWAY. That portion of a street improved, designed or ordinarily used for vehicular traffic and that portion of a street used for drainage.

SHALL. The act referred to is mandatory.

SIDEWALK. Any portion of the street between the curb or the lateral lane of the roadway and the adjacent property line, all or a part of which is intended for the use of pedestrians.

SIDEWALK AREA. The space between the lateral lane of the roadway and the boundary separating the public right-of-way and the adjacent private property.

(1980 Code, § 1.6)

SIGNATURE or **SUBSCRIPTION**. Includes a mark when the person cannot write.

STATE. The State of Texas.

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 municipality 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, the 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 a section reference is made to another section hereof, the 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 municipality 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 municipality for the transaction of all municipal 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 that act or the giving of that notice.

(B) (1) 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.

(2) Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding or step in a 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 or step in a proceeding is to be had shall not be counted except as otherwise expressly

provided in this code.
(1980 Code, § 1.6)

§ 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.

(A) 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, including but not limited to the following types of ordinances:

(1) Any ordinance guaranteeing or promising the payment of money for the municipality or authorizing the issuance of any bonds of the municipality or any evidence of the municipality's indebtedness;

(2) Any appropriation ordinance or ordinance providing for an annual budget or prescribing salaries for municipal officers and employees;

(3) Any ordinance annexing territory to the municipality or discontinuing territory as a part of the municipality;

(4) Any ordinance designating or otherwise relating to municipal depositories;

(5) Any ordinance granting any franchise, permit or other right;

(6) Any ordinance approving, prescribing or otherwise relating to rates to be charged by private utility companies;

(7) Any ordinance approving, authorizing or otherwise relating to any contract or agreement;

(8) Any ordinance accepting, dedicating, vacating or otherwise relating to any easement;
and

(9) Any ordinance establishing or amending the zoning designation of land.

(B) All such ordinances mentioned in division (A) are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

§ 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 the chapter or section. In addition to such 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. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, 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:
(Tex. Loc. Gov't Code, § 54.001)

(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 municipality 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 Tex. Loc. Gov't Code, §§ 552.001 et seq.

§ 10.19 ALTERING OR TAMPERING WITH CODE.

It shall be an offense for any unauthorized person to change or amend, by addition or deletion, any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or to tamper with this code in any manner whatsoever which will cause a law of the city to be misrepresented thereby.

Penalty, see § 10.99

§ 10.20 LIABILITY FOR PENALTY.

Whenever a corporation or association violates any provision of this code or other ordinance of the city, the president, vice-president, secretary, treasurer, manager or any agent or employee of the corporation or association shall be severally liable for the penalty prescribed for the violation.

(1980 Code, § 1.8)

§ 10.21 COPIES OF CODE AS EVIDENCE.

In any prosecution for a violation of any provision of this code, the code or a copy, certified by the City Secretary/Administrator, may be admitted in evidence without further proof and shall be prima facie evidence of the existence and regular enactment of the provision, without the necessity of introducing in evidence the entire code.

(1980 Code, § 1.9)

§ 10.22 BURDEN OF PROVING EXCEPTION.

In any prosecution for a violation of any provision of this code, upon proof of the provisions of the code, it shall not be necessary to negate any exception, excuse, proviso or exemption contained in the code and the burden or proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

(1980 Code, § 1.10)

§ 10.99 GENERAL PENALTY.

(A) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the code or ordinance the doing of any 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:

(1) A fine not to exceed \$2,000 in all cases arising under municipal ordinances that govern fire safety, zoning, and public health and sanitation, including dumping of refuse;

(2) A fine not to exceed \$500 in all other cases; provided, however, that no penalty shall be greater or less than the penalty provided for the same or a 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. In the event that any such violation is designated as a nuisance under the provisions of this code, the nuisance may be summarily abated by the City Manager or the Chief of Police or their assigns.

Statutory reference:

Municipal penalties, see Tex. Loc. Gov't Code, § 54.001

