

CHAPTER 1 GENERAL

Section 100 - General Provisions

100.01 City Code.

**Subd. 1 How Cited.** This code of ordinances shall be known as the Eagle Bend City Code and may be cited in the Eagle Bend City Code as "this Code" or "the Code". Reference or citation to the Code will be deemed to include amendments and additions to the Code.

**Subd. 2 Additions.** New ordinances proposing amendments or additions to the Code shall be assigned appropriate code numbers and shall be incorporated into the Code as of their effective date. Reference or citation to the Code shall be deemed to include such amendments and additions. When an ordinance is integrated into the Code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this Code, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the Code, the Clerk-Treasurer/Administrator, in cooperation with the city attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance"; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

**Subd. 3 Numbering.** Each section number of this Code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter number and the digits after the period refer to the position of the section within the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number.

**Subd. 4 Title Headings; Cross References.** Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this Code but are intended for convenience only and not necessarily as comprehensive titles.

**Subd. 5 Copies.** Copies of this Code shall be kept in the office of the Clerk-Treasurer/Administrator for public inspection or sale for a reasonable charge.

**100.02 Definitions.** Unless the context clearly indicates otherwise, the following words and phrases have the meaning given them in this Section.

**Administrator** means City Clerk-Treasurer/Administrator

**City** means City of Eagle Bend.

**Clerk** means City Clerk-Treasurer/Administrator.

**Council** means the City Council.

**Person** means any natural individual, firm, partnership, association or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations the term includes the officers, agents or employees.

**State** means State of Minnesota.

**Treasurer** means City Clerk-Treasurer/Administrator

**100.03 Statutory Rules Adopted.** The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645, are adopted by reference and made a part of this Code. As so adopted, references in that chapter to laws and statutes mean provisions of this Code and references to the legislature mean the Council.

**100.04 Existing Rights and Liabilities.** The repeal of prior ordinances and adoption of this Code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this Code. Insofar as provisions in this Code are substantially the same as pre-existing ordinances, they shall be considered as continuations and not as new enactments. Any act done, offense committed, or right accruing or liability, penalty, forfeiture, or punishment incurred or assessed prior to the effective date of this Code is not affected by the enactment of the Code.

**100.05 Hearings.**

**Subd. 1 General.** Unless otherwise provided in this Code, or by law, every public hearing required by law, ordinance or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this Section.

**Subd. 2 Notice.** Every hearing shall be preceded by 10 days mailed notice to all persons entitled by law, ordinance or regulation unless only published notice is required. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subsection.

**Subd. 3 Conduct of Hearing.** At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The Council may adopt rules governing the conduct of hearings, records to be made and such other matters as it deems necessary.

**Subd. 4 Record.** Upon the disposition of any matter after hearing, the Council shall have prepared a written summary of its findings and decisions and enter the summary in the official council minutes.

#### **100.06 Penalties.**

**Subd. 1 Petty Misdemeanor.** Whenever an act or omission is declared by this Code to be a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of not more than \$200.

**Subd. 2 Misdemeanors.** Unless another penalty is expressly provided in this Code, any person violating any provision of this Code, or any rule or regulation adopted in the pursuance thereof, or any other provision of any code adopted in this Code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to a fine of not more than \$700 or imprisonment for a term not to exceed 90 days or both, plus, in either case, the costs of prosecution.

**Subd. 3 Separate Violations.** Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

**Subd. 4 Application to City Personnel.** The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

#### **100.07 Administrative Offenses.**

**Subd. 1 Purpose.** Administrative offenses procedures established pursuant to this Section are intended to provide the public and the city with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain Code provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for thereafter, the individual may withdraw from participation in the procedures, in which event the city may bring criminal charges in accordance with law. Likewise, the city in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures, but does not pay the monetary penalty which may be imposed, the city will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence, in the event the party is charged and is adjudicated guilty of the criminal violation.

**Subd. 2 Administrative Offenses Defined.** An administrative offense is a violation of a provision of this Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Subd. 9 of this Subsection hereinafter.

**Subd. 3 Notice.** Any officer of the city Police Department or any other person employed by the city, and having authority to enforce the Code, shall upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

**Subd. 4 Payment.** Once such notice is given, the alleged violator may, within seven (7) days of the time of the issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail; and payment shall be deemed to be an admission of the violation.

**Subd. 5 Hearing.** Any person contesting an administrative offense pursuant to this Section may, within seven (7) days of the time of issuance of this notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed within seven (7) days.

**Subd. 6 Hearing Officer.** The Mayor shall designate in writing a hearing officer. The hearing officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this Section and may be compensated by the city for such hearings and related findings.

**Subd. 7 Failure to Pay.** In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the city for the same violation.

**Subd. 8 Disposition of Penalties.** All penalties collected pursuant to this Section shall be paid to the city and deposited in the General Fund.

**Subd. 9 Offenses and Penalties.** Offenses which may be charged as administrative offenses and the penalties for such offenses shall be established by resolution of the City Council from time to time. Copies of such resolution shall be maintained in the office of the City Clerk.

(Ord. 03-08-18-01, passed 8-18-03)

**100.08 Separability.** If any portion of this Code or part of it hereafter enacted is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the Code unless it is specifically provided otherwise.