

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

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

Sec. 1-3. Catchlines of sections.

Sec. 1-4. References to chapters, articles, divisions, or sections.

Sec. 1-5. References and editor 's notes.

Sec. 1-6. History notes.

Sec. 1-7. Code does not affect prior offenses, rights, penalties.

Sec. 1-8. Continuation of existing Code provisions.

Sec. 1-9. Effect of repeal.

Sec. 1-10. Certain ordinances not affected by Code.

Sec. 1-11. Amendments or additions to Code.

Sec. 1-12. Supplementation of Code.

Sec. 1-13. Severability of parts of Code.

Sec. 1-14. General penalty; continuing violations.

Sec 1.15 Use of city owned/leased equipment and city personnel

Sec. 1-1. How 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 East Tawakoni, Texas," and may be so cited. Such Code may also be cited as "East Tawakoni Code."

- (a) All ordinances shall apply to owners and /or occupants
(Code 1987, § 1.1)

Sec. 1-2. 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 council:

Boards, committees, commissions, officers, employees, etc. Whenever reference is made to a board, committee, commission, officer, employee, etc., in this Code, it shall be construed to mean that of the City of East Tawakoni, Texas.

City. The term "city" shall mean the City of East Tawakoni, in the County of Rains and State of Texas.

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

Code. The term "Code" shall mean the "Code of Ordinances, City of East Tawakoni, 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 not be counted in computing the time, but the day on which such proceeding is to be had shall be counted. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

County. The term "county" shall mean Rains County, Texas.

Delegation of authority. Whenever a provision appears requiring the city manager, head of a department, or some other city officer or employee to do some act or perform some duty, it shall be construed to authorize the city manager, head of the department, or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

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

Highway. The term "highway" shall include any street, alley, highway, avenue, or public place or square, bridges, viaducts, tunnels, underpasses, overpasses, and causeways 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.

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.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, bylaw, 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."

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" shall extend and be applied to associations, corporations, firms, partnerships, and bodies political and corporate as well as to individuals.

Personal property. The term "personal property" includes every species of property except real property as defined in this section.

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

Roadway. The term "roadway" shall mean that portion of a street improved, designed, or ordinarily used for vehicular traffic.

Shall. The term "shall" shall always be mandatory and never 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, subscription. The terms "signature" and "subscription" shall include a mark when a person cannot write.

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

Street. The term "street" shall include any highway, alley, street, avenue, or public place or square, bridges, viaducts, underpasses, overpasses, tunnels, and causeways 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. Civ. St. The abbreviation "Vernon's Ann. Civ. St." shall mean the latest edition or supplement to Vernon's Annotated Civil Statutes.

V.T.C.A. The abbreviation "V.T.C.A." shall mean and refer to the latest edition or supplement of Vernon's Texas Code Annotated.

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

Year, the term "year" shall mean a calendar year.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall

not be deemed or taken to be the titles of such sections; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Code 1987 §1.2

Sec. 1-4. References to chapters, articles, divisions, or sections.

All references in this Code to chapters, articles, divisions, or sections are to the chapters, articles, divisions or sections of this Code unless otherwise specified.

Sec. 1-5. 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 not controlling or meant to have any legal effect

Sec. 1-6. History notes.

The history or source 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 section.

Sec. 1-7. Code does not affect prior offenses, rights, penalties.

(a) 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.

(b) The adoption of this Code shall not be interpreted as permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

Sec. 1-8. Continuation of existing Code provisions.

The sections appearing in this Code, so far as they are the same as those of the Code of Ordinances, City of East Tawakoni, Texas, 1987, and of ordinances existing at the time of adoption of this Code, shall be considered as a continuation of such ordinances and not new enactments.

Sec. 1-9. Effect of repeal.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suits, prosecution or proceeding pending at the time of repeal, for an offense committed under the ordinance repealed.

Code 1987 §1.8

Sec. 1-10. Certain ordinances not affected by Code.

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

- (1) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of indebtedness;
- (2) Any contract or obligation of the city;
- (3) Any right or franchise granted by the city;
- (4) Any ordinance dedicating, naming, establishing, locating, opening, paving, widening, vacating, etc., any street or public way;
- (5) Any ordinance establishing or prescribing grades or specifications for streets or other public ways;
- (6) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;

(7) Any ordinance relating to local improvements and assessments for such improvements;

(8) Any ordinance annexing territory to the city or dis-annexing territory from the city;

(9) Any ordinance dedicating or accepting any plat or subdivision;

(10) Any ordinance regulating public utility rates;

(11) Any ordinance rezoning property;

(12) Any ordinance prescribing personnel policies and procedures or any ordinance establishing positions, classifying positions, establishing pension or employee benefits, setting salaries of city officers and employees or any personnel regulations;

(13) Any temporary or special ordinance;

(14) Any ordinance calling an election;

(15) Any ordinance authorizing street maintenance agreements;

(16) Any ordinance levying a fee, rate, deposit, or charge;

(17) Any ordinance establishing specific street regulations; and all such ordinances are on file in the city secretary's office.

Sec. 1- 11. Amendments or additions to Code.

(a) All ordinances passed subsequent to 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 in the Code. When subsequent ordinances repeal any chapter, section or subsection or any portion of a chapter, section or subsection, 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 of such subsequent ordinances until such time as 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 section number of this Code in the following language: "That section ____ of the Code of Ordinances, City of East Tawakoni, Texas, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

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

(d) All sections, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, article, or chapter number, as the case may be.
Code 1987 §1.6

Sec. 1-12. 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. A supplement to the Code shall include substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made by the supplement 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 that have been repealed shall be excluded from the Code by their omission 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, non-substantive 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 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 to "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 non-substantive 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.

Code 1987 §1.11

Sec. 1-13. 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 by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code since they would have been enacted by the council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Code 1987 §1.9

Sec. 1-14. General penalty; continuing violations.

(a) Whenever in this Code or in any ordinance of the city or in any rule, regulation or order promulgated by any officer or agency of the city under authority duly vested in such officer or agency any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided, the violation of any provision of this Code or of any ordinance, rule, regulation or order that governs or regulates fire, safety, zoning or public health or sanitation, including dumping of refuse, shall be punished by a fine not exceeding \$2,000.00. The violation of any other provision of this Code or any other ordinance, rule, regulation, or order shall be punished by a fine of not exceeding \$500.00 unless specifically stated otherwise in the Code. If the maximum penalty provided by this Code for any offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, the maximum penalty for such violation provided by the state statute shall be the maximum penalty under this Code. Except where otherwise provided in this Code, each day an

offense shall continue shall constitute a separate offense.

(b) Violation of any of the terms or provisions of this Code by any corporation or association shall subject the officers and agents actively in charge of the business of such corporation or association to the penalty for violation of such term or provision.

(c) Notwithstanding the provisions of subsection (a) of this section, the city may seek injunctive relief to abate violations of this Code.
Code 1987 §1.12

Sec 1.15 Use of city owned/leased equipment and city personnel

No equipment owned or leased by the City or its Enterprise Subsidiaries (herein referred to as City) shall be not used by any individual or organization other than the city.

City employees shall not be outsourced to any individual or organization other than for tasks associated with the operation of the City.

EXCEPTION:

When it is determined by the mayor that it is in the best interest of the City that an exception to this policy is required; then and only then may this policy be circumvented. If this should occur then an executed Release of Liability, Claim and Trespass from the individual or organization must be filed with the City Secretary, a fair market rent for the equipment, and a labor rate must be paid to the City. All equipment must be operated and maintained by the City Personnel.
Adopted 2-17-2004