

**CODE OF ORDINANCES**

Chapter 1

**GENERAL PROVISIONS**



**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 Cooper, 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.

**Sec. 1-2. Rules of construction.**

In the construction of this Code and of all ordinances and resolutions passed by the city council, words shall be construed in their common and usual significance unless the contrary is clearly indicated and the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

*City.* The word "city" shall mean the City of Cooper, Texas.

*City administrator, city secretary, or other city officer, board, commission, or committee.* The words "city administrator," "city secretary," or other city officers, departments, boards, commissions, or committees shall be construed to mean the city administrator, city secretary, or such other municipal officers, departments, boards, commissions, or committees respectively, of the City of Cooper, Texas.

*City council.* Whenever the words "council" or "city council" are used, they shall mean the city council of the City of Cooper, Texas.

*Code.* The word "Code" shall mean this Code of Ordinances of the City of Cooper as designated in section 1-1.

*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 unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or holiday.

**State law reference**—Similar provision, Vernon's Ann. Civ. St., Texas Rules of Civil Procedure, Rule 4; V.T.C.A., Government Code § 311.014.

*County.* The word "county" shall mean the County of Delta, Texas.

*Delegation of authority.* Whenever a provision appears requiring the head of a department or other officer of the city to do some act or to make certain inspections, it is to be construed to authorize the head of the department or other officer of the city, as the case may be, to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision designate otherwise.

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

*Highway.* The word "highway" 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.

*Month.* The word "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 word "oath" shall be construed to include 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."

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

*Owner.* The word "owner," applied to a building or land, shall include any owner, 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 word "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

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

*Shall, will.* The word "shall" is mandatory; the word "will" is permissive.

*Sidewalk.* The word "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 word "signature" or "subscription" shall include a mark when a person cannot write.

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

*Street.* The word "street" 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. Civ. St.* The abbreviation Vernon's Ann. Civ. St. shall mean the latest edition or supplement of Vernon's Annotated Civil Statutes.

*V.T.C.A.* The abbreviation V.T.C.A. shall mean the latest edition or supplement of Vernon's Texas Codes Annotated.

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

*Year.* The word "year" shall mean a calendar year.

**State law reference**—Definitions, V.T.C.A., Government Code § 311.005.

**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 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.

**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. References and editor's notes.**

The references and editor's notes appearing throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

**Sec. 1-6. 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 section.

**Sec. 1-7. Certain ordinances not affected by Code.**

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 or any contract or right established or accruing before the effective date of such Code;
- (2) 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 the city's indebtedness;
- (3) Any contract or obligation assumed by the city;
- (4) Any right or franchise granted by the city;
- (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;
- (6) Any ordinance relating to municipal street maintenance agreements with the state;
- (7) Any ordinance establishing or prescribing grades for streets in the city;
- (8) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;
- (9) Any ordinance relating to local improvements and assessments therefor;

- (10) Any ordinance annexing territory to the city or discontinuing territory as a part of the city;
- (11) Any ordinance dedicating or accepting any plat or subdivision in the city;
- (12) Any ordinance or resolution establishing or amending personnel rules or regulations;
- (13) Any ordinance adopting sales and use taxes;
- (14) Ordinances prescribing traffic regulations for specific streets, such as ordinances establishing speed limits or designating one-way streets, no-parking areas, truck routes, stop intersections, intersections where traffic is to be controlled by signals, etc.;
- (15) Any ordinance establishing or amending zoning or land use regulations or the zoning map or rezoning property;
- (16) Any ordinance calling municipal elections or prescribing the manner of conducting the election in accordance with state law;
- (17) Any ordinance prescribing any rates, fees or payment of money to the city;
- (18) Any ordinance prescribing the number, classification, benefits or compensation of any city officers or employees, not inconsistent herewith;
- (19) Any ordinance which is temporary although general in effect;
- (20) Any ordinance which is special although permanent in effect;
- (21) Any ordinance containing any administrative provisions;
- (22) Any agreement between the city and state department of highways and public transportation pertaining to state highways in city limits;
- (23) Any ordinance containing subdivision regulations;

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. 1-8. Effect of repeal of an ordinance.**

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

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

**Sec. 1-9. Code does not affect prior offenses, rights, etc.**

(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 authorizing or 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. 1-10. 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 therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, 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 that 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 Cooper, Texas, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(c) In the event 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 Cooper, 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.

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

**Sec. 1-11. Additions and amendments deemed incorporated in Code.**

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

**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 council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted 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 the 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 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 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. 1-13. 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 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 the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **Sec. 1-14. General penalty for violations of Code; continuing violations.**

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 wherever in such 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 punishable by a fine not to exceed \$2,000.00 in all cases arising under the ordinances of the city that govern fire safety, zoning or public health and sanitation, including dumping of refuse, and not to exceed \$500.00 in all other cases; provided 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. Each day or fractional part thereof any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

**State law references**—Authority of city to punish violations of ordinances, V.T.C.A., Local Government Code § 54.001; authority of city to prescribe penalties for Code of Ordinances, V.T.C.A., Local Government Code § 53.001; jurisdiction of municipal court, V.T.C.A., Government Code § 29.003.

