

Chapter 1 - GENERAL PROVISIONS

Article/Division/Section:

| | |
|------|---|
| 1-1 | How code designated and cited |
| 1-2 | Definitions and rules of construction |
| 1-3 | Computation of time |
| 1-4 | Catchlines of sections; history notes; references |
| 1-5 | Effect of repeal of ordinances |
| 1-6 | Supplementation of Code |
| 1-7 | General penalty; continuing violations |
| 1-8 | Severability |
| 1-9 | Provisions deemed continuation of existing ordinances |
| 1-10 | Code does not affect prior offenses or rights |
| 1-11 | Certain ordinances not affected by Code |

Sec. 1-1 - How Code designated and cited

The ordinances embraced in this and the following chapters shall constitute and be designated the "Falcon Heights, Minnesota City Code" and may be so cited. Such ordinances may also be cited as the "Falcon Heights Code."

State Law reference – Codification of ordinances, Minn. Stats. § 415.021.

Sec. 1-2 - Definitions and rules of construction

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

City. The term "city" means the City of Falcon Heights, Minnesota.

City council, council. The term "city council" or "council" means the council of the City of Falcon Heights, Minnesota.

Code. The term "Code" means the Falcon Heights, Minnesota City Code, as designated in [section 1-1](#).

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that when appropriate from the context, the terms "and" and "or" are interchangeable:

- (1) "And" indicates that all the connected terms, conditions, provisions or events apply.
- (2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) "Either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Ramsey County, Minnesota.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Following. The term "following" means next after.

Gender. Words of one gender include all other genders.

Includes. The term "includes" does not limit a term to a specified example.

Joint authority. Words giving a joint authority to three or more persons give such authority to a majority of such persons.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

Minn. Stat., Minn. Stats. The abbreviations "Minn. Stat." and "Minn. Stats." mean the Minnesota Statutes, as amended.

Month. The term "month" means a calendar month.

Must. The term "must" shall be construed as being mandatory.

Number. Words in the singular include the plural. Words in the plural include the singular.

Oath. A solemn affirmation is the equivalent to an oath and a person shall be deemed to have sworn if such person makes such an affirmation.

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other

legal representative of any of the foregoing or any other legal entity.

Personal property. The term "personal property" means any property other than real property.

Preceding. The term "preceding" means next before.

Premises. The term "premises," as applied to real property, includes land and structures. *Property.* The term "property" includes real property, personal property and mixed property. *Real property, real estate, land, lands.* The terms "real property," "real estate," and "land" include lands, buildings, tenements and hereditaments and all rights and interests therein except chattel interests.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means that portion of a street between the curblines, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians. If there is no public area between the lateral lines of the roadway and the abutting property line, then the area immediately abutting the street line shall be construed as the sidewalk.

Signature or subscription by mark. The term "signature" or "subscription" includes a mark when the signer or subscriber cannot write. In such situations, such person's name shall be written near the mark by a witness who writes his or her own name near such person's name.

State. The term "state" means the State of Minnesota.

Street. The term "street" means any alley, avenue, boulevard, highway, road, lane, viaduct, bridge and the approach thereto, and any other public thoroughfare in the city. The term "street" also means the entire width thereof between abutting property lines. The term "street" includes a sidewalk or footpath.

Tenant, occupant. The term "tenant" or "occupant," as applied to a building or land, includes:

- (1) Any person holding either alone or with others a written or oral lease of such building or land.
- (2) Any person who either alone or with others occupies such building or land.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is authorized or required, it shall be made in writing in the English language.

Year. The term "year" means a calendar year. (Code 1993, § 1-1.02)

Sec. 1-3 - Computation of time

- (a) When the term "successive weeks" is used in any ordinance providing for the publication of notices, the word "weeks" shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which the publication is made.
- (b) When in any ordinance the lapse of a number of months before or after a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in which the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.
- (c) 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, the time, except as otherwise provided in subsections (a) and (b) of this section, shall be computed so as to exclude the first and include the last day of the prescribed or fixed 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.
- (d) When an application, payment, return, claim, statement or other document is to be delivered to or filed with a department, agency or instrumentality of the city on or before a prescribed date and the prescribed date falls on a Saturday, Sunday or legal holiday, it is timely delivered or filed if it is delivered or filed on the next succeeding day which is not a Saturday, Sunday or legal holiday.

State Law reference – Similar provisions, Minn. Stats. §§ 645.13 – 645.151.

Sec. 1-4 - Catchlines of sections; history notes; references

- (a) 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 are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.
- (b) The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history. Editor's notes and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.
- (c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 1993, § 1-1.04)

State Law reference – Similar provisions, Minn. Stats. § 645.49.

Sec. 1-5 - Effect of repeal of ordinances

- (a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any repealed ordinance.
- (b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

State Law reference – Similar provisions, Minn. Stats. §§ 645.35, 645.36.

Sec. 1-6 - Supplementation of Code

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this 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 the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. 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 the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:
 - (1) Arrange the material into appropriate organizational units.
 - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
 - (5) Change the words "this ordinance" or similar words to "this chapter," "this

article," "this division," "this subdivision," "this section" or insert section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code.

- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-7 - General penalty; continuing violations

- (a) In this section "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (4) Intentionally aiding, advising, hiring, counseling or conspiring to commit a violation of this Code as defined above.
- (b) In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine of not more than \$1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof; provided, however, that if the violation is declared to be a petty misdemeanor, the penalty shall be a fine not exceeding \$300.00. In any case a person convicted of a violation of this Code shall pay the costs of prosecution.
- (d) Except as otherwise provided by law or ordinance:
 - (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) With respect to violations that are not continuous with respect to time, each act is a separate offense.
- (e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(Code 1993, §§ 1-4.02, 1-4.03, 1-5.01)

State Law reference – Authorized penalty for ordinance violations, Minn. Stats. §§ 410.33, 412.231, 609.0332, 609.034.

Sec. 1-8 - Severability

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code, for the council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions. If any provision of this Code is declared to be inapplicable to specific property by a valid judgment of a court of competent jurisdiction, such judgment shall not restrict the applicability of such provision to other property.

(Code 1993, § 1-6.01)

Sec. 1-9 - Provisions deemed continuation of existing ordinances

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Sec. 1-10 - Code does not affect prior offenses or rights

- (a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- (b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

(Code 1993, § 1-4.01)

Sec. 1-11 - Certain ordinances not affected by Code

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed below. Such ordinances continue in full force and effect to the same extent as if published at length in this Code.

- (1) Annexing property into the city.
- (2) Deannexing property or excluding property from the city.
- (3) Providing for salaries or other employee benefits not codified in this Code.

- (4) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (5) Authorizing or approving any contract, deed, or agreement.
- (6) Making or approving any appropriation or budget.
- (7) Granting any right or franchise.
- (8) Vacating any easement or parkland.
- (9) Adopting or amending the comprehensive plan.
- (10) Levying or imposing any special assessment.
- (11) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street.
- (12) Establishing the grade of any street or sidewalk.
- (13) Dedicating, accepting or vacating any plat or subdivision.
- (14) Levying, imposing or otherwise relating to taxes not codified in this Code.
- (15) Establishing traffic regulations for specific locations not codified in this Code.
- (16) Rezoning specific property.
- (17) That is temporary, although general in effect.
- (18) That is special, although permanent in effect.
- (19) The purpose of which has been accomplished.