

## CHAPTER 1

### GENERAL PROVISIONS

#### **Sec. 1-01. How code designated and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Municipal Code, City of Kankakee, Illinois," and may be so cited.

State law reference - for revision and codification of ordinances, see Ill. Rev. Stat., Ch. 24, 1-2-3 et seq.

#### **Sec. 1-02. Rules of construction and definitions.**

Terms used in this Code, unless otherwise specifically defined in this Code, shall have meanings prescribed by the Illinois Revised Statutes for the same terms. In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the City council. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the City council may be fully carried out.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Aldermen. The term "Aldermen" shall refer to the elected members of the City Council.

City shall mean the City of Kankakee, Illinois.

City Council, Council. Whenever the words "Council" or "City Council" are used, they shall be construed to mean the City Council of the City of Kankakee, Illinois.

Code. The words "Code" or "this Code" shall mean the Municipal Code, City of Kankakee, Illinois.

Computation of time. Whenever a notice is required to be given or an act to be done in 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 be counted in computing the time but the day on which such proceeding is to be held shall not be counted.

Corporate authorities. Mayor and City Council.

Corporate or corporate limits of town. The term "Corporate Limits" or "City Limits" shall mean the legal boundaries of the City of Kankakee.

County. The words "the county" or "this county" shall mean the County of Kankakee in the State of Illinois.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other City officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer 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.

Employee. Any personnel of the City, other than officers to whom an oath of office is administered, are employees including firemen and policemen.

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.

Illinois Municipal Code. Wherever the term "Illinois Municipal Code" is referred to, it shall mean Chapter 24 of the Illinois Revised Statutes.

Illinois Revised Statutes. Wherever the term "Illinois revised statutes" is mentioned, it shall refer to the latest publication thereof.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

May. The word "may" is permissive.

Mayor shall mean the Mayor of the City.

Month. The word "month" shall mean a calendar month.

Non-technical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

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."

Officer. An officer of the City is a person so designated by statute or ordinance to whom an oath of office is administered.

Officers generally. Whenever any officer is referred to by title, such as "Clerk," "Treasurer," "Chief of Police," etc., such reference shall be construed as if followed by the words "of the City of Kankakee."

Ordinances. The term "ordinances" shall mean the ordinances of the City and all amendments thereto, including this Code.

Owner. The word "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 mean any natural individual, firm, partnership, corporation, company, association, club, joint venture, estate, trust or any group or combination acting as a unit and the individuals constituting such group or unit. As applied to corporations, it includes the officers, agents or employees responsible for the acts referred to.

Personal property includes every species of property except real property, as herein described.

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

Property. The word "property" shall include real and personal property.

Real property shall include lands tenements and hereditament.

Shall. The word "shall" is mandatory.

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Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding terraces.

Signature or subscription includes a mark when the person cannot write.

State. The words "the state" or "this state" shall be construed to mean the State of Illinois.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, lanes, viaducts and all other public ways in the City, and shall include all areas thereof embraced between the property lines and dedicated to the public use.

Tenant or occupant. The word "tenant" or "occupant" applied to a building or land includes any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

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Tense. Words used in the past tense include the future as well as the past and present.

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Terrace. The word "terrace" shall refer to the area lying between the curb line and the area intended for use by pedestrians.

Township. The words "the township" or "this township" shall mean the Township of Kankakee in the State of Illinois.

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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. (Code 1965, Sec. 1.02)

State law reference- For similar rules of statutory constructions, see Ill. Rev. State., Ch. 131, Sec. 1 et seq.

### **Sec. 1-03. 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 re-enacted.

### **Sec. 1-04. Amendments to Code.**

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 herein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and 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 Municipal Code and subsequent ordinances numbered or omitted are readopted as a new Municipal Code by the City council. (Code 1965, Sec. 1.01)

### **Sec. 1-05. Unauthorized alteration or tampering with Code.**

It shall be unlawful for any person in the City to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever

which will cause the law of the City to be misrepresented thereby.

**Sec. 1-06. Effect of repeal of ordinances.**

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

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 or cause of action arising under the ordinance repealed.

**Sec. 1-07. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinances adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (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 the City's indebtedness:
- (2) Any appropriation ordinance or ordinance providing for the levy of taxes, making special assessments or for an annual budget, or prescribing salaries for City officers and employees:
- (3) Any ordinance annexing territory to the City or discontinuing territory as a part of the City, or the conveyance or acceptance of real property or easements in real property:
- (4) Any ordinance granting any franchise, or rights to corporations:
- (5) The zoning ordinance adopted August 19, 1974 and any amendments thereto:
- (6) Ordinances authorizing or relating to particular public improvements:
- (7) An ordinance to combine the existing sanitary sewerage system and a waterworks system, dated January 15, 1968:
- (8) Ordinances establishing polling places in ward precincts within the City, the rental fees for such places, and the pay of election judges serving in City elections:
- (9) An ordinance accepting ownership and responsibility of a sanitary sewer line, numbered 71-16 and dated April 19, 1971.
- (10) An ordinance providing fire protection and assumption of indebtedness and obligations of West Kankakee Fire Protection District, dated July 17, 1967:
- (11) An ordinance authorizing the City to enter into contracts for the operation and monitoring of the fire alarm systems, numbered 69-15, dated August 4, 1969, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein. (Code 1965, Sec. 1.03; Ord. No. 76-34, Sec. 1, 6-21-76).

And all such ordinances hereby recognized as continuing in full force and effect to the same extent as if set out at length herein (Code 1965 Sec 1.03; Ord. No. 76-34, Sec. 1, 6-21-76).

Cross references - Certain ordinances relating to streets not affected by Code, Sec. 29-1; ordinances removing parking meters not affected by Code, Sec. 32-204.

**Sec. 1-08. Severability of parts of Code.**

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, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code (Code 1965, Sec. 1.13).

**Sec. 1-09. Record of ordinances.**

- (a) All ordinances passed by the City council shall be deposited in the office of the City Clerk and shall be duly recorded by the City Clerk in the record book of ordinances and appropriately indexed by their titles or subjects.
- (b) The City Clerk shall file and carefully preserve the originals of all ordinances deposited in his office. He may correct errors on the numbering of any section of any ordinance, and insert the proper numbers, and correct clerical mistakes.
- (c) The City Clerk shall make at the foot of the record of each ordinance a recorded memorandum of the date of its passage, and the date of its publication, when required to be published, which record or memorandum or a certified copy thereof shall be prima facie evidence of the passage and legal publication of such ordinance for all purposes. (Code 1965, Sec. 1.05)

**Sec. 1-10. Publication of ordinances.**

- (a) The City Clerk shall cause every ordinance of the City Council making annual appropriation or imposing any fine, penalty, forfeiture or imprisonment, to be printed in book or pamphlet form, or to be published at least once in a newspaper of general circulation within the City of Kankakee, within ten (10) days after the passage thereof, and it shall be the duty of said City Clerk to see that the same is correctly printed and published. (Ord. No 98-88, Sec. 1-10, 11-02-98)
- (b) The revised ordinances of the City, when published in book or pamphlet form by authority of the Council, shall be deposited in the office of the City Clerk. He shall deliver one copy thereof to each officer of the City and to such other persons as the Mayor or Council may direct. (Code 1965, Sec. 1.06)

**Sec. 1-11. Effective date of ordinances.**

All ordinances of the City Council required to be published in pamphlet form or to be published in a newspaper of general circulation shall take effect ten (10) days after publication. All other Ordinances and Resolutions shall take effect and be in force from and after their passage unless otherwise therein provided. (Code 1965, Sec. 1.07; Ord. No. 98-88, Sec. 2 11, 11-0-98))

**Sec. 1-12. Jurisdiction.**

This Code applies to acts performed within the City Limits of the City and to those acts performed outside the City Limits and up to the limits prescribed by law in those instances, where the law confers power on the City to regulate such acts outside the City Limits. (Code 1965, Sec 1.08)

**Sec. 1-13. General penalty for violation of Code; continuing violations.**

In those offenses for which a Complaint and Notice of Violation of an Ordinance is delivered and for which no other penalty is provided, said penalty for said Violation shall be Fifty Dollars (\$50.00). If said sum is paid within fourteen

(14) days of the date of the Notice of Violation, One Hundred Dollars (\$100.00) if paid within thirty (30) days of the Notice of Violation and shall be a minimum of One Hundred Dollars (\$100.00), but as determined by the Administrative Adjudication Officer upon the determination of liability pursuant to Section 36-1 et. seq. of this Code. However, on those violations in which the Officer determines the compliance and verification of compliance is necessary, a fine shall be established, in an amount no more than Five Hundred Dollars, (\$500.00) by the Administrative Adjudication Officer of the City of Kankakee. (Ord. No. 98-88 , Sec. 2-13, 11-2-98). State law reference-for limitation on penalties, see Ill. Rev. Stat., Ch 24, Sec. Sec. 1-2- 1.

**Sec. 1-14. Penalty where violation declared misdemeanor; continuing violations.**

Whenever in this Code or in any ordinance of the City, any act is declared to be a misdemeanor or the failure to do any act is declared to be a misdemeanor, where no specific penalty is provided therefore, the violation of any such provision of this Code or ordinance shall be punished by incarceration in a penal institution other than the penitentiary not to exceed six (6) months. Each day any violation of such provision of this Code or ordinance shall continue shall constitute a separate offense.

State law reference - - Ordinances making violations misdemeanors, Ill. Rev. Stat. Ch. 24, Sec 1-2-1.1.

**Sec. 1-15. Responsibility for violations.**

Every person concerned in the commission of any act prohibited by this Code, whether he directly commits the act, or prosecutes, counsels, aids or abets in its commission may be prosecuted and on conviction is punishable as if he had directly committed the act. Any person so convicted is pecuniarily liable for all actual costs incurred by the City of Kankakee Code Enforcement Department for its rightful and authorized correction of conditions to reestablish the public safety, health and welfare as it may have been injured by the acts of the convicted. (Code 1965, Sec. 1.10, Ord. 94-11, Sec. 1-15; 2-21-94)

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