

**TITLE I: GENERAL PROVISIONS**

Chapter

**10.GENERAL PROVISIONS**



## CHAPTER 10: GENERAL PROVISIONS

### Section

- 10.01 Title of code
- 10.02 Acceptance
- 10.03 Interpretation
- 10.04 Application to future ordinances
- 10.05 Captions
- 10.06 Definitions
- 10.07 Rules of interpretation
- 10.08 Severability
- 10.09 Reference to other sections
- 10.10 Reference to offices
- 10.11 Errors and omissions
- 10.12 Official time
- 10.13 Reasonable time
- 10.14 Repeal of general ordinances
- 10.15 Public utility ordinances
- 10.16 Ordinances unaffected
- 10.17 Effective date of ordinances
- 10.18 Repeal or modification of ordinance
- 10.19 Ordinances which amend or supplement code
- 10.20 Section histories; statutory references
- 10.21 Code alteration
- 10.22 Liability of officers

- 10.99 General penalty

***Cross-reference:***

*Ordinances generally, see Charter, Chapter VIII, Article VIII*

**• 10.01 TITLE OF CODE.**

Upon adoption by the Council, this city code is hereby declared to be and shall hereafter constitute the official city code of the City of Condon. This city code of ordinances shall be known and cited as the *Condon City Code*, and it is hereby published by authority of the Council and shall be kept up to date as provided in ' 10.19 of this chapter under the direction of the City Attorney, acting for the City Council. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause,

relating thereto, as well as to the section itself, when reference is made to this city code by title in any legal documents.

(78 Code, ' 1-1-1)

▪ **10.02 ACCEPTANCE.**

The city code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this state as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in ' 10.14 of this code.

(78 Code, ' 1-1-2)

▪ **10.03 INTERPRETATION.**

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

▪ **10.04 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

▪ **10.05 CAPTIONS.**

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

▪ **10.06 DEFINITIONS.**

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AFFIRM, AFFIRMED.*** See ***OATH.***

***AGENT.*** A person acting on behalf of another.

**CITY, MUNICIPAL CORPORATION, or MUNICIPALITY.** The City of Condon, Oregon.

**CITY DEPARTMENTS.** Street, Water, Sewer, Fire, Police, Administration, Parks, Buildings Departments.

**CITY FARM REIMBURSEMENT.** An hourly rate is paid to the City Farm Assistant, a per day rate (\$25) is paid to a relief employee when the City Farm Assistant is unavailable.

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

**COUNTY.** Gilliam County, Oregon.

**DEPARTMENT HEAD.** Paid or voluntary employee in charge of any or all city departments.

**EMPLOYEE.** Whenever reference is made in this code to a city employee by title only, this shall be construed as though followed by the words Aof the City of Condon.@

**FEE.** A sum of money charged by the city for the carrying on of a business, profession or occupation.

**FULL TIME EMPLOYEE.** An employee who works the established amount of working hours for the class assigned.

**LICENSE.** The permission granted for the carrying on of a business, profession or occupation.

**MAY.** The act referred to is permissive.

**MISDEMEANOR.** Any offense for which a sentence to a term of imprisonment in other than a penitentiary for less than one year may be imposed.

**MONTH.** A calendar month.

**NUISANCE.** Anything offensive or obnoxious to the health and welfare of the inhabitants of the city, or any act or thing repugnant to, or creating a hazard to, or having a detrimental effect on the property of another person or to the community.

**OATH.** Includes 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**.

**OCCUPANT.** Applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

**OFFENSE.** Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT.** An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

**OPERATOR.** The person who is in charge of any operation, business or profession.

**OWNER.** Applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

**PART TIME EMPLOYEE.** An employee who is employed regularly for less than the established determined fixed pattern of working hours. Such employees are not entitled to be part of bargaining units, nor do they enjoy the privileges accorded in these rules to permanent employees.

**PERMANENT EMPLOYEE.** An employee who has been retained in his appointed position after the completion of his probationary period.

**PERSON.** Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PERSONAL PROPERTY.** Includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

**PRECEDING or FOLLOWING.** Next before or next after, respectively.

**PROBATIONARY EMPLOYEE.** All permanent full-time employees for first 12 months.

**RECOGNIZED BARGAINING GROUP.** Paid employees with a spokesperson selected by the employees.

**REPRESENTATIVE COUNCIL MEMBER.** A Council member appointed by the Mayor to a city department as listed in this section.

**RETAILER.** Shall be understood to relate to the sale of goods, merchandise, articles or things in small quantities directly to the consumer.

**RIGHT-OF-WAY.** The privilege of the immediate use of the roadway or other property.

**SHALL.** The act referred to is mandatory.

**SIGNATURE** or **SUBSCRIPTION**. Includes a mark when the person cannot write.

**SOLID WASTE SITE REIMBURSEMENT**. An employee manning the solid waste site on weekends shall be reimbursed compensatory time at the rate of time and one-half.

**STATE**. The State of Oregon.

**STREET**. Includes alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

**SUBCHAPTER**. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

**SWEAR, SWORN**. See **OATH**.

**TEMPORARY EMPLOYEE**. An employee who has been appointed for a limited period. Such employees are not entitled to be part of bargaining units, nor do they enjoy the privileges accorded in these rules to permanent employees.

**TENANT**. Applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

**WHOLESALE** or **WHOLESALE DEALER**. Shall be understood to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale.

**WRITTEN**. Includes printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond required by law, it shall be in the proper handwriting of such person, or in case he is unable to write, by his proper mark.

**YEAR**. A calendar year, unless otherwise expressed.  
(78 Code, ' 1-3-2) (Ord. 96-1, passed 1-10-96)

**10.07 RULES OF INTERPRETATION.**

The construction of all ordinances of this city shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) **AND** or **OR**. Either conjunction shall include the other as if written **and/or,** if the sense requires it.

(B) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(E) *Ordinance.* The word *Ordinance* contained in the ordinances of the city has been changed in the content of this city code to *Title*, *Chapter*, *Section*, and/or *Division* or words of like import for organizational and clarification purposes only. Such change to the city's ordinances is not meant to amend passage and effective dates of such original ordinances. (78 Code, ' 1-3-1)

#### ▪ **10.08 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

#### ▪ **10.09 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

#### ▪ **10.10 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

#### ▪ **10.11 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied,



omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

▪ **10.12 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city business.

▪ **10.13 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

▪ **10.14 REPEAL OF GENERAL ORDINANCES.**

All general ordinances of the city passed prior to the adoption of this city code are hereby repealed, except such as are included in this city code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the city; and all special ordinances.

(^78 Code, ' 1-2-1)

▪ **10.15 PUBLIC UTILITY ORDINANCES.**

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this city code or by virtue of the preceding section, excepting as this city code may contain provisions for such matters, in which case this city code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

(^78 Code, ' 1-2-2)

**▪ 10.16 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

**▪ 10.17 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body shall take effect as provided in Section 58 of the City Charter.

**▪ 10.18 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

**▪ 10.19 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

Any ordinance amending this code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this city code. All such amendments or revisions by ordinance shall be immediately forwarded to the City Recorder and the ordinance material shall be prepared for insertion in its proper place in each copy of this code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the city code.

(78 Code, ' 1-1-3) (Am. Ord. 11-D, passed 11-1-95)

▪ **10.20 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 161, passed 5-13-60; Am. Ord. 170, passed 1-1-70; Am. Ord. 180, passed 1-1-80; Am. Ord. 185, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

Example: (O.R.S. 192.410) (Ord. 180, passed 1-17-80; Am. Ord. 185, passed 1-1-85).

(2) If a statutory cite is set forth as a statutory reference following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

▪ **39.01 PUBLIC RECORDS AVAILABLE.**

This city shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

**Statutory reference:**

*For provisions concerning the inspection of public records, see O.R.S. 192.420*

(C) If a section of this code is derived from the previous code of ordinances of the city and subsequently amended, the previous code section number shall be indicated in the history by A(^78 Code, ' \_\_).@

▪ **10.21 CODE ALTERATION.**

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this city code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instruction when so authorized by the City Council. The City Recorder shall see that the replacement pages are properly inserted in the official copies maintained in the office of the Recorder. Any person having in his custody an official copy of the city code shall make every effort to maintain the code in an up to date and efficient manner. He shall see to the immediate insertion of new or replacement pages when such are delivered to him or made available to him through the office of the City Recorder. The code books, while in actual possession of officials and other interested persons, shall be and remain the property of the city and shall be returned to the office of the Recorder when directed so to do by order of the City Council.

(^78 Code, ' 1-1-4)

**Cross-reference:**

*Destroying or mutilating public records, see ' 130.36*

**10.22 LIABILITY OF OFFICERS.**

No provision of this city code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intent of the Council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

(78 Code, ' 1-4-3)

**10.99 GENERAL PENALTY.**

(A) Any person violating any provision of this code for which no other specific penalty is provided shall, upon conviction, be punished by a fine of at least \$100, but not to exceed \$500, subject to division (B) of this section.

(B) Any person violating any provision of this code which is identical to a state statute containing a lesser penalty shall, upon conviction, be punished by the penalty prescribed by state statute.

(C) Each calendar date on which a violation occurs constitutes a separate violation.