

CHAPTER 1 CODE INTRODUCTION

Section 100 - General Provisions

**100.01 Adoption of Code.** The ordinances of the City of Big Lake hereby are revised and codified. Such codification is hereby adopted as the "Municipal Code of Big Lake." References to the municipal code of Big Lake shall include all additions and amendments to it.

**100.02 Short Title.** The Municipal Code of Big Lake may be referred to as "this Code" or "the Municipal Code."

**100.03 Statutory Rules Adopted.** The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645, are adopted by reference and made a part of this Code. As so adopted, references in that chapter to laws and statutes mean provisions of this Code and references to the legislature mean the Council.

**100.04 Existing Rights and Liabilities.** The repeal of prior ordinances and adoption of this Code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this Code. Insofar as provisions in this Code are substantially the same as pre-existing ordinances, they shall be considered as continuations and not as new enactments. Any act done, offense committed, or right accruing or liability, penalty, forfeiture, or punishment incurred or assessed prior to the effective date of this Code is not affected by the enactment of the Code.

**100.05 Repeal of Ordinances.** All ordinances passed by the City of Big Lake up to the time of adoption of this Code are hereby repealed except those ordinances otherwise specifically provided for in this Code.

**100.06 Preservation of Existing Rights.** The repeal of any ordinance or portion thereof by the adoption of this Code shall not affect or impair any act done or right vested or accrued or any proceeding, suit or prosecution had or commenced in any cause before such repeal takes effect; but every such act done or right vested or accrued or proceeding, suit or prosecution had or commenced shall remain in full force and effect to all intents and purposes as if such repeal had not taken place. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred, prior to the time when such ordinance or part thereof shall be repealed by the adoption of this Code, shall be discharged or affected by such repeal; but prosecution and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded within all respects as if such prior ordinance or part thereof had not been repealed.

**100.07 Subsequent Ordinances.** Ordinances passed by the City of Big Lake after the effective date of this Code shall be passed as amendments or additions to this Code (unless they are of limited or special application or are otherwise deemed to be not a part of this Code). Such ordinances shall be incorporated into this Code at its annual revisions effective upon passage.

**100.08 Consecutive Numbering to Continue.** Consecutive chronological numbering of all ordinances as passed shall continue.

**100.09 Additions.** New ordinances proposing amendments or additions to the Code shall be assigned appropriate code numbers and shall be incorporated into the Code as of their effective date. Reference or citation to the Code shall be deemed to include such amendments and additions. When an ordinance is integrated into the Code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this Code, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the Code, the City Administrator, in cooperation with the City Attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance"; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

**100.10 Updating.** This Code is printed in loose-leaf form so that it may be kept up to date regularly by the insertion of revised or additional pages.

**100.11 Separability.** If any chapter, section, sentence, clause or other part of the Municipal Code of Big Lake shall be adjudged void or of no effect, for any reason whatsoever, such decision shall not affect the validity of any of the other portions of the Code.

**100.12 Copies.** Copies of this Code shall be kept in the office of the City Administrator for public inspection or sale for a reasonable charge.

**Section 110 - Interpretation and Rules of Construction**

**110.01 General.** Words and phrases shall be construed in their plain, ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

**110.02 Masculine, Feminine or Neuter.** Unless the context clearly requires otherwise, the use of the masculine, feminine, or neuter gender shall include the other genders.

**110.03 Singular or Plural.** Unless the context clearly requires otherwise, the use of either singular or plural numbers shall include the other number.

**110.04 Past, Present or Future.** Unless the context clearly requires otherwise, the use of the past, present or future tense shall include the other tenses.

**110.05 Joint Authority.** Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons.

**110.06 Computation of Time.** The time within which an act shall be done shall be computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, such day shall be excluded.

**110.07 Agents.** Whenever the Municipal Code requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, such requirement shall be satisfied by the performance of such act by an authorized agent or employee.

**110.08 Conjunctions.** The words "or" and "and" may be read interchangeably in situations where the context requires it.

**110.09 Catch Lines.** The catch lines of the various sections of the Municipal Code printed in bold type are intended to indicate the contents of the section for the convenience of the reader, but shall not be construed as a part of the section.

**110.10 Substantive Changes Not Intended.** The Municipal Code is intended as a Codification of the existing law, and shall be construed in accordance with such intent.

**110.11 Minnesota Rules of Construction to Apply.** Unless clearly in conflict with the provisions of this Code, or otherwise clearly inapplicable, rules of construction established for the State of Minnesota by statutes or case law shall apply in the construction of this Code.

**Section 120 - Definitions**

**120.01 Certain Terms Defined.** As used in the Municipal Code of Big Lake, unless the particular context shall clearly require some other meaning, the following terms shall mean:

**Subd. 1 City.** "City" shall mean the City of Big Lake.

**Subd. 2 City Plan.** "City Plan" shall mean the comprehensive City plan.

**Subd. 3 Administrator.** "Administrator" shall mean the person appointed by the Council to perform the duties of City Clerk and City Administrator. References to "Clerk" or "Clerk-Administrator" shall mean the "Administrator."

**Subd. 4 Code.** "Code" shall mean the Municipal Code of Big Lake.

**Subd. 5 Council.** "Council" shall mean the City Council of Big Lake.

**Subd. 6 Governing Body.** "Governing Body" shall mean the City Council.

**Subd. 7 Person.** "Person" shall mean any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law. Whenever the word "person" is used in any section prescribing a penalty or fine, it shall include the partners or members of any partnership or corporation, and, as to corporation, the officers, agents or members thereof who are responsible for the violation.

**Subd. 8 Property.** "Property" shall mean tangible or intangible, real, personal or mixed property.

**Subd. 9 Sidewalk.** "Sidewalk" shall mean that portion of the right-of-way between the curb line and the adjacent property line, intended for the use of pedestrians.

**Subd. 10 State.** "State" shall mean the State of Minnesota.

**Subd. 11 Street.** "Street" shall mean any public way, highway, street, avenue, boulevard, alley or other public thoroughfare. Each of said words shall include the others, and, if the context permits, shall also include "sidewalks, and the public right-of-way."

**Subd. 12 Alley.**

Alley shad

City and which is (1) less than the width of the average City street, (2) is not designed for general vehicular traffic, (3) intersects with or opens onto a street, and (4) is primarily used for the ingress and egress or other convenience of the owner or owners of abutting real properties.

**120.02 Other Definitions.** Certain chapters of this Code contain other definitions applicable particularly to the Chapter. In case of any conflict between the definitions in this Section and other definitions, the other definitions shall prevail in the Chapters where applicable.

**120.03 Minnesota Definitions to Apply.** Unless clearly in conflict with definitions or other provisions of this Code, or otherwise clearly inapplicable, definitions established for the State of Minnesota by statutes or case law shall apply to this Code.

**Section 130 - Violations and Penalties**

**130.01 Petty Misdemeanor.** Whenever an act or omission is declared by this Code to be a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine not to exceed the maximum allowed under State law.

**130.02 Misdemeanors.** Unless another penalty is expressly provided in this Code, any person violating any provision of this Code, or any rule or regulation adopted in the pursuance thereof, or any other provision of any code adopted in this Code by reference, including any provision declaring an act or omission to be a misdemeanor, shall be charged with a misdemeanor, upon conviction, be subject to a fine and/or imprisonment in an amount or for a term not to exceed the maximums allowed by State law plus, in either case, the costs of prosecution.

**130.03 Separate Violations.** Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

**130.04 City Personnel Liability.** The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

**Section 140 – Administrative Citations  
(Ord. 2015-08, 06/23/15)**

**140.01 Purpose.** It is the intent of the City of Big Lake to establish a procedure to provide an informal, cost-effective and expeditious alternative to traditional criminal citations for city code violations. The procedures herein established are intended to be voluntary on the part of the offending party. It shall be the discretion of the City of Big Lake to file a criminal citation in the Sherburne County District Court in lieu of following the administrative procedures established in this ordinance.

**140.02 Definition of Administrative Offense.** An “administrative offense” is (1) a violation of or failure to comply with any provision of the city code; or (2) the assistance, authorization, or permission of a violation of any provision of the city code. Each day a violation exists constitutes a separate and distinct administrative offense.

**140.03 Issuance of an Administrative Citation.** Any sworn member of the Police Department or any other person authorized to enforce provisions of the city code may issue an administrative citation upon belief that an administrative offense has occurred. The citation must be in writing and must be issued in person or by mail to the person responsible for the violation. If the citation is based on a parking violation and the owner or operator of the offending vehicle is not present, the individual issuing the citation shall affix the written notice of the violation to the windshield wiper or door handle of the vehicle. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, the date the fine must be paid, the place where payment must be made, and the manner for withdrawing from the administrative citation process.

**140.04 Payment of Fine.** All persons receiving an administrative citation in accordance with this ordinance shall make payment of the fine set out by ordinance within seven (7) days of the date of issuance of the notice of violation. Payment shall be made by mail or in person to the City Clerk or to the Big Lake Police Department.

**140.05 Withdrawal from Administrative Citation Process.** Within seven (7) days of the date of issuance of the notice of violation, an offender may withdraw from participation in the administrative citation process established in this ordinance by delivering written notice of withdrawal by mail or in person to the City Clerk or to the Big Lake Police Department. The written notice shall state the name of the individual, indicate whether they are contesting the alleged violation, the amount of the penalty, and the reason and facts upon which the individual is contesting the citation. If an individual withdraws from the process, the City may thereafter file criminal charges in accordance with state law and established court procedures. Failure to withdraw from the process within the time specified in this subsection will be construed as an offender’s election to participate in the City’s administrative citation process.

**140.06 Failure of Offending Party to Pay Fine.** If an offending party elects to participate in the administrative procedures established in this ordinance but fails to pay the applicable fine within the

time specified by ordinance, that fine will immediately constitute (1) a special charge against the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or (2) a personal obligation of the violator in all other situations. A special charge may be assessed against the property and collected in the same manner as taxes. A personal obligation may be collected by appropriate legal means. A late payment fee of 10 percent of the fine may be assessed for each 30-day period that the fine remains unpaid after the due date, to cover administrative costs. Alternatively, the City may elect to file a criminal citation in the Sherburne County District Court and to pursue collection of all costs associated with the administrative procedure herein established.

**140.07 Fines.** The City Council shall establish the fine structure for administrative citations on an annual basis. The administrative citation fine structure shall be indicated on the annual City of Big Lake fee schedule as adopted by the City Council.