

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

DAYTON - GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the municipality of Dayton, shall be designated as the Code of Dayton, and may be so cited.

§ 10.02 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.

§ 10.03 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.

§ 10.04 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.

§ 10.05 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) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"ANIMAL." Includes every warm-blooded living creature except a human being. (KRS 446.010(2))

"AVIS." The automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards. (KRS 446.010(55))

"CITY," "MUNICIPAL CORPORATION," or "MUNICIPALITY." When used in this code shall denote the City of Dayton irrespective of its population or legal classification.

"COUNCIL." The city legislative body. (KRS 83A.010(5))

"COUNTY." Campbell County, Kentucky.

"DOMESTIC." When applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state. (KRS 446.010(15))

"EXECUTIVE AUTHORITY." The Mayor. (KRS 83A.010(6))

"EXECUTIVE ORDER." An order issued by the mayor which is binding upon the officers and employees of the city and any governmental agency over which the city has jurisdiction.

"FEDERAL." Refers to the United States. (KRS 446.010(18))

"FOREIGN." When applied to a corporation, partnership, business trust, or limited liability company, includes all those incorporated or formed by authority of any other state. (KRS 446.010(19))

"KEEPER" or "PROPRIETOR." Includes all persons, whether acting by themselves or as a servant, agent, or employee.

"KRS." Kentucky Revised Statutes.

"LAND" or "REAL ESTATE." Includes lands, tenements, and hereditaments and all rights hereto and interest therein, other than a chattel interest. (KRS 446.010(24))

"LEGISLATIVE BODY." The City Council. (KRS 91A.010(8))

"LEGISLATIVE BODY MEMBER." A City Councilmember. (KRS 83A.010(8))

"MAY." The act referred to is permissive. (KRS 446.010(26))

"MISDEMEANOR." An offense for which the criminal fine can not exceed the amount set forth in KRS 534.040(2)(a), or a term of imprisonment not to exceed the periods set forth in KRS 532.090(1) or both. (KRS 83A.065)

"MONTH." Calendar month. (KRS 446.010(27))

"MUNICIPALITY." The City of Dayton, Kentucky.

"MUNICIPAL ORDER." An official act of the City Council which is binding upon the officers and employees of the city and any governmental agency over which the City has jurisdiction. (KRS 83A.010(9))

"OATH." Includes "AFFIRMATION" in all cases in which an affirmation may be substituted for an oath. (KRS 446.010(28))

"OFFICER." Any person elected to a position by the voters or any person appointed to a position which:

(a) Is created by the Constitution, the General Assembly, or a city;

(b) Possesses a delegation of a portion of the sovereign power of government;

(c) Has powers and duties to be discharged which are conferred directly or by implication by the city;

(d) Has duties performed independently and without control of a superior power other than the law;

(e) Has some permanency;

(f) Requires an official oath;

(g) Is assigned by a commission or other written authority;
and

(h) Provides for an official bond if required by proper authority.
(KRS 83A.010(10))

"ORDINANCE." An official act of the City Council which is a regulation of a general and permanent nature and enforceable as a local law or is an appropriation of money.

"PARTNERSHIP." Includes both general and limited partnerships.
(KRS 446.010(30))

"PEACE OFFICER." Includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests. (KRS 446.010(31))

"PERSON." May extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies.
(KRS 446.010(33))

"PERSONAL PROPERTY." Includes all property except real.

"PRECEDING" OR "FOLLOWING." Next before or next after, respectively.

"PREMISES." As applied to property, includes land and buildings.

"PROPERTY." Includes real, personal, mixed estates and interests.

"PUBLIC AUTHORITY." Includes boards of education; the municipal, county, state, or federal government, its officers or an agency thereof; or any duly authorized public official.

"PUBLIC PLACE." Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.

"REAL PROPERTY." Includes land, tenements, and hereditaments.

"REGULAR ELECTION." The election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected. (KRS 446.010(37))

"RESOLUTION." A resolution is a less formal mechanism for dealing with matters of a special or temporary character. While an ordinance, and to a large extent a municipal order, involves a distinctly legislative act, a resolution is simply an expression of the opinion, will or policy of the legislative body on some matter of ministerial business which has come before the body.

"SHALL." The act referred to is mandatory. (KRS 446.010(39))

"SIDEWALK." That portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

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

"STATE." The Commonwealth of Kentucky.

"STREET." Includes alleys, avenues, boulevards, lanes, roads, highways, viaducts, and all other public thoroughfares within the city.

"SUBCHAPTER." A division of a chapter, designated in this code by an underlined 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.

"SWORN." Includes "AFFIRMED" in all cases in which an affirmation may be substituted for an oath. (KRS 446.010(43))

"TENANT" or "OCCUPANT." As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

"VACANCY IN OFFICE." Such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county, or district, or otherwise. (KRS 446.010(46))

"VIOLATE." Includes failure to comply with. (KRS 446.010(47))

"VIOLATION." An offense for which the criminal fine can not exceed the amount set forth in KRS 534.040(2)(c). (KRS 83A.065)

"YEAR." Calendar year. (KRS 446.010(49))

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality 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.

§ 10.07 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.

§ 10.08 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.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality 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.

§ 10.10 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.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal law, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.12 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.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 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.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 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 anywise 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.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 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. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, 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: (83A.090) (Ord. 10, passed 1-17-80).

(2) If a KRS 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:

§ 31.10 MAYOR.

The Mayor shall preside at all Council meetings.
(Ord. 10, passed 1-1-80)

Statutory reference:

For powers and duties of the Mayor, see KRS 83A.130

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a violation and shall be subject to a fine not exceeding \$250. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Statutory reference:

Fine amount for ordinance violation authorized by state law, see
KRS 83A.065 and 534.020(2)(1)