

## CHAPTER 1-1. IN GENERAL

### Sec. 1-1-1. - General provisions conforming code to 2010 Charter.

- (a) The ordinances embraced in the following titles, chapters, articles, divisions and sections shall constitute and be designated "The ~~the~~ "Code of the City of Pensacola, Florida," and may be so cited.
- (b) All references to the duties of mayor or other designated officer shall also be inclusive of the mayor's or officer's authority to execute the function described through a designee of his or her choice, unless the context of the provision clearly indicates the contrary.
- (c) ~~Pursuant to Section 4.01(1), (7) and (15) of the 2010 Charter, commencing with the appointment of the mayor at noon on January 10, 2011, the mayor shall have exclusive authority to designate departments and to determine the scope of authority and responsibility of city employees and department heads.~~
- (d) Pursuant to the provisions of Section 4.02(a)(1) and (2) of the 2010 Charter, it shall be the responsibility and authority of the city council to determine all **fees**, rates and charges of the city.
- (e)(d) All references to the positions of, actions and authority of the city manager and all interlocal agreements, contracts, resolutions and other documents reflecting city policy are hereby amended to refer to the position of mayor under the 2010 Charter unless otherwise expressly stated to the contrary.

(Code 1968, § 2-1; Ord. No. 16-10, § 1, 9-9-10)

**Editor's note**— Ord. No. 16-10, § 1, adopted Sept. 9, 2010, changed the title of § 1-1-1 from "how Code designated and cited" to "general provisions conforming code to 2010 Charter." See also the Code Comparative Table.

### Sec. 1-1-2. - Seal.

The seal of the city shall have on its face, "The City of Pensacola, Florida," with a circle around a shield with a Latin-type cross in the upper central part of the shield, at the base of which shall be a helmet with plumes, and above the shield a hand with a pen in the act of signing, and on the left side of the shield the figures "1698," the year of the first settlement of Pensacola by the Spaniards, "1821," the year of the first city government under General Andrew Jackson, United States Army, and "1895," the date of the formation of the aldermanic government, and on the right side of the shield the figures "1913," the date of the formation of the commission form of government, "1931," the date of the institution of the council-manager form of government, and "2010," the date of the institution of the mayor-council form of government.

(Code 1968, § 2-8; Ord. No. 16-10, § 2, 9-9-10)

### Sec. 1-1-3. - Section catchlines.

- (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 shall not be deemed or taken to be titles of the sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or re-enacted.
- (b) No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any title, chapter, article or division.

### Sec. 1-1-4. - History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

Sec. 1-1-5. - Effect of repeal of ordinances.

- (a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
- (b) 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 under the ordinance repealed.

(Code 1968, § 2-5)

Sec. 1-1-6. - Provisions considered as continuation of existing ordinances.

The provisions appearing in this and the following titles, chapters, articles, divisions and sections, so far as they are the same as those of the "Code of the City of Pensacola, Florida," adopted **January 30, 1986** by Pensacola Ordinance No. 2-86 ~~18-70~~ or of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-1-7. - Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance or resolution 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, or any contract or obligation assumed by the city;
- (3) Any administrative ordinances;
- (4) Any right of franchise granted by any ordinance of the council to any person, firm or corporation;
- (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, repairing, or establishing and describing street grades or traffic and parking regulations of any street or public way in the city;
- (6) Any appropriation ordinance;
- (7) Any ordinance levying or imposing taxes, assessments or other fees or charges not included herein;
- (8) Any land use or zoning ordinance or map or any amendment thereto;
- (9) Any ordinance or resolution relating to salaries of city officers or employees or other personnel matters;
- (10) Any ordinance pertaining to water and sanitary sewer or other utilities;
- (11) Any ordinance providing for local improvements and assessing taxes therefor;
- (12) Any ordinance dedicating or accepting any plat or subdivision in the city;
- (13) Any ordinance annexing territory or excluding territory or extending or otherwise redefining the boundaries of the city;
- (14) Any temporary or special ordinances;

~~(15) Any ordinance giving the city the authority to regulate taxicabs or other for-hire vehicles;~~

(15) Any ordinance authorizing the purchase of real property;

And all such ordinances are hereby recognized as continuing in full force and effect as if set out at length herein.

(Ord. No. 1968, § 1-3)

Sec. 1-1-8. - Penalty for violations.

Whenever in this Code or in any ordinances of the city any act is prohibited or is made or declared to be unlawful or an offense or whenever in such Code or any ordinances the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any provision of this Code or any ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days, or by both the fine and imprisonment. Each day any violation of any provision of this Code shall continue shall constitute a separate offense.

(Code 1968, §§ 1-7, 2-4)

**Cross reference**— Assessment by courts for criminal justice education and law enforcement training, § 8-1-1.

**State Law reference**— Fines and forfeitures in county court payable to municipality, F.S. § 34.191.

Sec. 1-1-9. - Severability.

It is hereby declared to be the intention of the council that if any of the sections, paragraphs, sentences, clauses and phrases of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1968, §§ 1-8, 2-6)

Sec. 1-1-10. - Altering or tampering with Code; penalties for violation.

It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of the Code, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

(Code 1968, § 1-10)

**State Law reference**— Falsely making, altering or counterfeiting a public record with intent to injure or defraud any person, F.S. §§ 831.01 and 839.13.

Sec. 1-2-1. - Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall apply, unless the context clearly indicates otherwise, or unless the construction would be inconsistent with the manifest intent of the council:

*Charter.* The word "Charter" shall mean the Charter of the City of Pensacola, ~~approved by the electorate in a referendum on November 24, 2009, which became effective on January 1, 2010,~~ as printed in Part 1 of this volume.

*City* shall mean the City of Pensacola, Florida, and shall extend to and include its several officers, agents and employees.

*Code.* Reference to "this Code" or "the Code" shall mean the Code of the City of Pensacola, Florida, as designated in section 1-1-1.

*Computation of time.* Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which the notice is given or the act is done shall be counted in computing the time, but the day on which the proceeding is to be had shall not be counted. **If the last day of the period is a Saturday, Sunday or legal holiday, as defined by the city, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.**

*Council* shall mean the city council of the City of Pensacola.

*County* shall mean the County of Escambia.

**State Law reference—** Boundaries of Escambia County, F.S. § 7.17.

*Delegation of authority.* Whenever a provision appears requiring the head of a department or officer of the city to do some act or make certain inspections, it is to be construed as authorizing the head of the department or officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

*F.S.* The abbreviation "F.S." shall mean the latest edition or supplement of the Florida Statutes.

*Gender.* A word importing the masculine gender only shall be regarded as gender neutral and shall extend and be applied to all persons.

*Mayor* shall mean the independently elected position of mayor created in section 4.01 of the 2010 Charter.

*Month* shall mean a calendar month.

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

*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.* Whenever any officer is referred to by title only, the reference shall be construed as if followed by the words "of the City of Pensacola, Florida." Whenever, by the provisions of this Code, any officer of the city is assigned any duty or empowered to perform any act or duty, reference to the officer shall mean and include the officer or his deputy or authorized subordinate.

*Or, and.* "Or" may be read "and," and "and" may be read "or," if the sense requires it.

*Owner.* As 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 a part of the building or land.

*Person* shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

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

*Preceding, following* means next before and next after, respectively.

*Property* shall include real and personal property.

*Public place* shall mean any park, cemetery, school yard or open space adjacent thereto and any lake or stream.

*Real property* shall include lands, tenements and hereditaments.

*Shall, may.* The word "shall" is mandatory; the word "may" is discretionary.

*Sidewalk* shall mean any portion of a street between the curblineline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

*State* shall be construed to mean the State of Florida.

*Street* shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other highways in the city.

*Tenant, occupant* as applied to a building or land, shall include any person holding a written or oral lease of or who occupies the whole or a part of the building or land, either alone or with others.

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

*Written, in writing* shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

*Year* shall mean a calendar year.

(Code 1968, § 2-2; Ord. No. 16-10, § 3, 9-9-10)

#### CHAPTER 1-3. AMENDMENTS TO CODE

##### Sec. 1-3-1. - Effect of new ordinances, amendatory language.

- (a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code of Ordinances, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any title, chapter, section or subsection or any portion thereof, such repealed portions may be excluded from said Code by omission from reprinted pages.
- (b) Amendments to any of the provisions of this Code may be made by amending the provisions by specific reference to the section, subsection or paragraph number of this Code in substantially the following language: "Section \_\_\_\_\_ of the Code of the City of Pensacola, Florida, is hereby amended to read as follows: ...." The new provisions shall then be set out in full as desired.
- (c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "Section \_\_\_\_\_ of the Code of the City of Pensacola, Florida, is created to read as follows: ...." The new section may then be set out in full as desired.
- (d) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

##### Sec. 1-3-2. - Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the mayor. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially

obsolete, and 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 which 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 codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Ord. No. 16-10, § 4, 9-9-10)