

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**



## **CHAPTER 10: GENERAL PROVISIONS**

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### **§ 10.01 TITLE OF CODE.**

This codification of ordinances by and for the City of Garrett shall be designated as the Code of Garrett 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.

**CITY, MUNICIPAL CORPORATION or MUNICIPALITY.** The City of Garrett, Indiana.

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

**COMMON COUNCIL or COUNCIL.** The legislative body of the city.

**COUNTY.** DeKalb County, Indiana.

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

**MONTH.** A calendar month.

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

**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.

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

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

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

**STATE.** The State of Indiana.

***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.

***WRITTEN.*** Any representation of words, letters or figures, whether by printing or otherwise.

***YEAR.*** A calendar year, unless otherwise expressed; equivalent to the words ***YEAR OF OUR LORD.***

**§ 10.06 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 Common Council 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 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.

**§ 10.10 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/federal laws, shall be the official time within this city for the transaction of all city 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 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the Common Council 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.

**§ 10.15 CERTAIN ORDINANCES NOT AFFECTED BY CODE.**

(A) Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity 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, or any contract or obligation assumed by the city.

(2) The administrative ordinances of the city, not in conflict or inconsistent with the provisions of this code.

(3) Any ordinance fixing salaries of officers or employees of the city.

(4) Any appropriation ordinance.

(5) Any right or franchise granted by the Common Council to any person, firm or corporation.

(6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating and the like any street or public way in the city.

(7) Any ordinance establishing and prescribing the street grades of any street in the city.

(8) Any ordinance providing for local improvements or assessing taxes therefor.

(9) Any ordinance dedicating or accepting any plat or subdivision in the city, or providing regulations for the same.

(10) Any ordinance annexing property to the city.

(11) Any zoning ordinance of the city.

(12) Any temporary or special ordinance.

(B) All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.  
(79 Code, § 1-5)

**§ 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 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 by 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) All ordinances passed subsequent to this code that 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 code and subsequent ordinances numbered or omitted are readopted as a new city code by the Common Council. ('79 Code, § 1-6)

(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 UNAUTHORIZED ALTERATIONS 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 that will cause the law of the city to be misrepresented thereby.  
(79 Code, § 1-8)

#### **§ 10.19 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: (IC 36-4-5-3) (Ord. 10, passed 1-17-80; Am. Ord. 20, 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:

**§ 31.10 MAYOR.**

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

**Statutory reference:**

*For the powers and duties of the Mayor, see IC 36-4-5-3*

**§ 10.99 GENERAL PENALTY.**

Wherever in this code or in any ordinance of the city, or rule or regulation promulgated by an officer or agency thereof, under authority invested by law or ordinance, any act is prohibited or is made or declared to be unlawful or an offense, or 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 such provision of this code, ordinance, rule or regulation shall be punished by a fine not exceeding \$2,500. Every day any violation of this code or any such ordinance, rule or regulation shall continue shall constitute a separate offense. In any prosecution based upon this section it shall be necessary to allege only the first day with respect to which any forfeiture is assessable, and upon conviction, the offender shall be assessed for that day and each day subsequent thereto with respect to which it is proven and found that the person did commit such violation. In addition, if the city is required to bring legal action in any court of law to enforce compliance with the laws, ordinances, rules or regulations contained therein, the city shall be entitled to recover all costs and expenses, including reasonable attorney fees, whether or not the right to recover said costs and attorney fees is specifically stated in the specific penalty provisions for such section.

('79 Code, § 1-11) (Am. Ord. 2003-06, passed 4-15-03)

**Editor's note:** *A list of specific violations and penalties are set forth in the Civil Penalties Schedule in § 35.03.*

