PELICAN RAPIDS CITY CODE

CHAPTER ONE. GENERAL PROVISIONS

100.01 CITY CODE

Subdivision 1. How Cited. This code of ordinances shall be known as the Pelican Rapids City Code and may be so cited.

Subdivision 2. 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 ordinance, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the code, the Clerk, 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 viceversa; 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.

Subdivision 3. Numbering. Each section number of this code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter number and the digits after the period refer to the position of the section within the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number.

Subdivision 4. Title Headings; Cross References. Chapter, part, section, subdivision and other titles shall not be considered part of the subject matter of this code but are intended for convenience only and not necessarily as comprehensive titles.

Subdivision 5. Copies. Copies of this code shall be kept in the office of the Clerk for public inspection or sale for a reasonable charge.

100.02 DEFINITIONS

Subdivision 1. General. Unless the context clearly indicates otherwise, the following words and phrases have the meaning given them in this section.

Subdivision 2. City. "City" means City of Pelican Rapids.

Subdivision 3. State. "State" means State of Minnesota.

Subdivision 4. Council. "Council" means the City Council.

Subdivision 5. Clerk. "Clerk" means the City Clerk.

Subdivision 6. Deputy Clerk. "Deputy Clerk" means the Deputy City Clerk.

Subdivision 7. Treasurer. "Treasurer" means the City Treasurer.

Subdivision 8. Person. "Person" means any natural individual, firm, partnership, association or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations the term includes the officers, agents or employees.

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 thereof 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 HEARINGS

Subdivision 1. General. Unless otherwise provided in this code or by law, every public hearing required by law, ordinance or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

Subdivision 2. Notice. Every hearing shall be preceded by 10 days' mailed notice to all persons entitled thereto by law, ordinance or regulation unless only published notice is required. The notice shall state the time, place and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subdivision.

Subdivision 3. Conduct of Hearing. At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The Council may adopt rules governing the conduct of hearings, records to be made and such other matters as it deems necessary.

Subdivision 4. Record. Upon the disposition of any matter after hearing, the Council shall have prepared a written summary of its findings and decisions and enter the summary in the official Council minutes.

100.06 PENALTIES

<u>Subdivision 1. Administrative Penalty</u>. The administrative penalty procedures under this subdivision are intended to provide the public and the City with a cost effective and expeditious alternative to traditional criminal charges for violations of certain ordinance provisions. These administrative penalty procedures are intended to be voluntary on the part of those who have been charged with an administrative penalty as provided in this subdivision, and the individual may withdraw from participation in administrative penalty procedures at any time, in which case the City may bring criminal charges for the violation in accordance with the provisions of this City Code and other laws that may apply. The City is not required to use administrative penalties, and may bring criminal charges in the first instance. In the event a party does not pay the administrative penalty which is requested, the City may bring criminal charges in accordance with the law. Administrative penalties shall be administered as follows:

A. The City Council may from time-to-time establish by resolution a schedule of offenses and administrative penalties for the violation of various provisions of the City Code. Said schedule of offenses and any changes that may be made thereto shall become effective upon publication.

B. In the event of a violation of the provisions of the City Code for which an administrative penalty has been established, the issuing officer, in his or her discretion, may impose an administrative penalty under this subdivision. The administrative penalty shall be imposed by personally serving or serving by certified mail, return receipt requested, a Notice of Administrative Penalty specifying the following information about the violation and the following administrative rules:

- The City Code violation.
- The applicable administrative penalty.
- The place of payment and due date for payment of the administrative penalty, which due date shall be at least seven days after the date of mailing or personal service.
- That the violator may request an administrative hearing in front of the City Council, provided that said request is made in writing to the City Clerk prior to the deadline for payment of the administrative penalty.
- That, instead of an administrative hearing, the violator shall have the right to opt out of the administrative penalty system set forth in this subdivision, and request a formal court appearance, in which case the City may charge the violator with any applicable petty misdemeanor or misdemeanor charges.
- That a late charge of one percent shall be imposed for each day that the requested penalty remains unpaid after the due date, except that said late charge shall be suspended in the event an administrative hearing is requested on or before the due date.
- For as long as the administrative penalty (and any late charges) remain unpaid, the City reserves the right to charge and prosecute the violator for a petty misdemeanor or misdemeanor consistent with applicable statutes and ordinances, in which case the administrative penalty will be dropped.

C. If an administrative hearing is held by the City Council, the City Council shall give the violator a chance to be heard, and consider any evidence that the violator may wish to present. The violator may be represented by an attorney at the administrative hearing and the City Council may, in its discretion, continue the administrative hearing to a later date. At the conclusion of the hearing, the City Council may either make a decision as to the administrative penalty or take the matter under advisement, making a decision at a later date. Once the City Council makes a decision on the administrative penalty, it will notify the violator of its decision, which notification may be given verbally at the hearing or, if the decision is not made at the conclusion of the hearing, notification must be made in writing and served personally or by certified mail on the violator. Any penalty imposed by the City Council after hearing shall become payable within seven days after notice is mailed or personally served, and a late charge of one percent shall be imposed for each day that the requested penalty remains unpaid after the due date.

D. All administrative penalty payments shall be paid directly to the City at City Hall in accordance with the schedule of offenses and administrative penalties in effect at the time notice was given to the offender. Separate acts by the same person in violation of the same administrative penalty may be charged separately as separate offenses. Continuing offenses such as nuisance violations shall be charged as only one offense as long as the condition is brought into compliance with the applicable ordinance provisions on or before the due date, but such offenses that continue after the due date of the administrative penalty in question may be charged again as a separate offense. If, within a 12-month period after payment of an administrative penalty, an offender is charged with a subsequent administrative penalty of any kind, the administrative penalty for the subsequent offense shall be 50 percent more than the scheduled administrative penalty for that offense.

Subdivision 2. Petty Misdemeanor. Whenever an act or omission is declared by this code to be a petty offense or a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of not more than $200.

Subdivision 3. Misdemeanors. In any other case, unless another penalty is expressly provided in this code, any person violating any provision of this code, or any rule or regulation adopted in 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, upon conviction, be subject to a fine of not more than $700.00 or imprisonment for a term not to exceed 90 days or both, plus, in either case, the costs of prosecution.

Subdivision 4. Separate Violations. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

Subdivision 5. Application to City Personnel. 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.

100.07 SEPARABILITY

If any ordinance or part thereof in the Pelican Rapids City Code or hereafter enacted is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the code or any other ordinance unless it is specifically provided otherwise.