

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. RULES OF CONSTRUCTION; GENERAL PENALTY**



## CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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### ' 10.01 TITLE OF CODE.

The ordinances embraced in the following chapters and sections shall constitute and be designated AThe Code of the Town of Thatcher, Arizona,@ and may be so cited. The code may also be cited as AThe Thatcher Town Code@ or Athis code.@

### ' 10.02 INTERPRETATION .

(A) The rules and the definitions set forth in this chapter shall be observed in the construction of this code and the ordinances of the town unless the construction would be inconsistent with either the manifest intent of the Council or the context of this code or the ordinances of the town.

(B) 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. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to the peculiar and appropriate meaning.

(B) Definitions. For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOND.** When a **BOND** is required, an undertaking in writing shall be sufficient.

**CITY, MUNICIPAL CORPORATION, MUNICIPALITY or TOWN.** The Town of Thatcher, Graham County, Arizona, except as otherwise provided. The words **IN THE TOWN** or **WITHIN THE TOWN** shall mean and include all territory over which the town has jurisdiction for the exercise of its police powers or other regulatory powers as authorized by statute.

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

**COUNCIL.** The Council of the Town of Thatcher, Arizona.

**COUNTY.** Graham County, Arizona.

**DAY.** The period of time between any 12:00 midnight and the midnight following.

**DAYTIME.** The period of time between sunrise and sunset.

**DEPARTMENT, BOARD, COMMISSION, OFFICE, OFFICER or EMPLOYEE.** Whenever any department, board, commission, office, officer or employee is referred to, it shall mean a **DEPARTMENT, BOARD, COMMISSION, OFFICE, OFFICER or EMPLOYEE** of the town unless the context clearly indicates otherwise.

**EMERGENCY VEHICLE.** Vehicles of the Fire, Police and Public Service Departments and legally authorized ambulances and emergency vehicles of the state, county or any political subdivisions thereof, and vehicles of public service corporations.

**EMERGENCY WORK.** Any work performed to prevent or alleviate physical trauma or property damage threatened or caused by an emergency, which has or may result in a disruption of service, and which is necessary to protect the health, safety and welfare of persons or property.

**IN THE TOWN or WITHIN THE TOWN.** All territory over which the town now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

**JOINT AUTHORITY.** All words purporting to give a **JOINT AUTHORITY** to three or more town officers or other persons shall be construed as giving the authority to a majority of the officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.

**KEEPER, PROPRIETOR.** Includes persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through an agent, servant or employee.

**LAW.** Applicable federal law, the Constitution and statutes of the state, the ordinances of the town and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

**MAJORITY.** When used in reference to the Town Council, means 51% of those members in attendance; provided that a quorum of the Council is also present.

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

**MONTH.** A calendar month.

**MOTOR VEHICLE.** Every self-propelled device in, upon or by which any person or property is or may be transported upon a public highway, excepting aircraft and devices used exclusively upon stationary rails or tracks.

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

**NIGHTTIME.** The period of time between sunset and sunrise.

**OATH.** Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath and in these cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

**OWNER.** Applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety of the whole or a part of the building or land.

**PERSON.** Shall extend and be applied to firms, corporations or voluntary associations, as well as to individuals, unless plainly inapplicable.

**PERSONAL PROPERTY.** Includes every species of property, except real property as defined in this section.

**PRECEDING** or **FOLLOWING.** The words **PRECEDING** and **FOLLOWING** mean next before and next after, respectively.

**PROPERTY.** Real and personal property.

**PUBLIC PLACE.** Any thoroughfare, park, open space or building not privately owned or controlled.

**REAL PROPERTY.** Lands, tenements and hereditaments.

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

**SHALL HAVE BEEN.** Includes past and future cases.

**SIDEWALK.** The portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

**SIGNATURE** or **SUBSCRIPTION.** Includes a mark when the signer cannot write, the signer=s or subscriber=s name being written near the mark by a witness who writes his or her own name near the signer=s or subscriber=s name; but a signature or subscription by mark can be acknowledged or can serve as a **SIGNATURE** or **SUBSCRIPTION** to a sworn statement only when two witnesses so sign their own names thereto.

**STATE.** The State of Arizona.

**STREET.** Includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in the town which have been or may hereafter be dedicated and open to public use or other public property so designated in any law of the state.

**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** .

**TENANT** or **OCCUPANT.** When applied to a building or land, shall include any person holding a written or an oral lease or who occupies the whole or part of the building or land, either alone or with others.

**WEEK.** A **WEEK** consists of seven consecutive days.

**WRITING.** Any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language unless expressly provided otherwise.

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

**YEAR.** A calendar year, except where otherwise provided.

(1991 Code, ' 1-3-2)

**Statutory reference:**

Definitions and construction of statutes generally, see A.R.S. " 1-211 through 1-215

**' 10.06 RULES OF INTERPRETATION.**

The construction of all ordinances of the town shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(A) And/or. AOr@ may be read Aand,@ and Aand@ may be read Aor,@ if the context requires it.

(B) Acts by agents. When this code or an ordinance requires an act to be done which may by law as well be done by an agent as by the principal, the requirement shall be construed to include all acts when done by an authorized agent.

(C) Gender; singular and plural; tenses.

(1) Words of the masculine gender include the feminine; words in the singular number include the plural, and words in the plural number include the singular.

(2) The present tense includes the past and future tenses, and the future includes the present.

(D) General terms. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

**' 10.07 SEVERABILITY .**

It is hereby declared to be the intention of the Council that the titles, chapters, subchapters, sections, sentences, clauses and phrases of this code shall be severable and, if any provision of this code is held unconstitutional for any reason by a court of competent jurisdiction, the unconstitutionality shall not affect any of the remaining provisions of the code.

**' 10.08 REFERENCE TO CHAPTERS AND SECTIONS.**

(A) All references to chapters or sections are to the chapters and sections of this code unless otherwise specified.

(B) Whenever in one section reference is made to another section hereof, the 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 the town 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 the intent, the spelling shall be corrected and the 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 the error.

**' 10.11 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within the town for the transaction of all municipal business.

**' 10.12 REASONABLE TIME; CALCULATION OF 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 the act or the giving of the notice.

(B) The time within which an act is to be done as provided in this code or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last; except that if the last day is a Saturday, Sunday or holiday, it shall be excluded; and when the time is expressed in hours, the whole of Saturday, Sunday or a holiday, from 12:00 midnight to midnight, 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, except as otherwise provided in ' 10.14. However, all rights, duties and obligations created or imposed by the repealed ordinances shall continue and exist in all respects as if this code had not been adopted and enacted.

**' 10.14 ORDINANCES UNAFFECTED.**

The adoption and enactment of this code shall not be construed to repeal or, in any way, to modify or affect:

(A) Any special ordinance or ordinances regarding franchises, annexations, dedications or zoning;

(B) Any ordinance making an appropriation;

(C) Any ordinance affecting any bond issue or by which any bond issue may have been authorized;

(D) The running of the statute of limitations in force at the time this code becomes effective;

(E) The continued existence and operation of any department, agency, commission or office heretofore legally established or held;

(F) Any bond of any public officer;

(G) Any taxes, fees, assessments or other charges incurred or imposed; and/or

(H) Any ordinances authorizing, ratifying, confirming, approving or accepting any compact or contract with any other municipality, the state or any county or subdivision thereof, or with the United States or any agency or instrumentality thereof.

**' 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 ORDINANCES.**

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 shall be expressly so provided. 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 any offense committed under the ordinance repealed.

**' 10.17 CONFLICTING PROVISIONS.**

(A) Conflicting provisionsCdifferent chapters. If the provisions of different chapters of this code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of the chapter.  
(1991 Code, ' 1-4-3)

(B) Conflicting provisionsCsame chapter. If conflicting provisions are found in different sections of the same chapter, the provisions of the section which is last in numerical order shall prevail unless the construction is inconsistent with the meaning of the chapter.  
(1991 Code, ' 1-4-4)

**' 10.18 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 the chapter or section. In addition to the 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.

**' 10.19 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance and amending ordinances, if any, are listed following the text of the code section. Example:  
(Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(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:  
(A.R.S. ' 9-240)

(2) If a statutory cite is set forth as a Astatutory reference@ following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

**' 39.01 PUBLIC RECORDS AVAILABLE .**

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

**Statutory reference:**

Inspection of public records, see A.R.S. ' 39-121

(C) If a section of this code is derived from the prior code of ordinances of the city, the prior code section number shall be indicated in the history by A(1991 Code, ' \_\_\_\_ )@ or A(1991 Code, Art. \_\_\_\_\_ )@.

**' 10.99 GENERAL PENALTY.**

(A) Any person found responsible for violating any provisions of this code, except as otherwise provided in this code, shall be responsible for a civil code infraction, and upon the finding of responsibility therefor may be punished by a civil sanction not to exceed \$500. Each day that a violation continues shall be a separate offense punishable as herein provided.

(1) In addition to any monetary civil sanction, the Civil Hearing Officer shall order the defendant to abate the civil code infraction, unless it has been abated by the date of a finding of responsibility therefor.

(2) The Civil Hearing Officer shall have the authority, within his or her discretion, to suspend the payment of any civil sanction imposed.

(3) In any case involving a civil code infraction relating to the occupancy or use of land, any monetary civil sanction imposed pursuant to this section upon a defendant who holds an ownership interest in the land shall be recordable as a lien upon the land and shall run with the land. The town, at its sole option, may record a notice of civil sanction and abatement order with the County Recorder and thereby cause compliance by any person(s) or entity thereafter acquiring the property. When the property is brought into compliance by the owner or responsible party, a satisfaction of notice of civil sanction and abatement order shall be filed at the request and expense of the owner or responsible party. It shall be the property owner=s responsibility to secure the satisfaction of notice of civil sanction and abatement order from the town.

(B) Any person found guilty of violating any provision of this code which is classified as a Class 1 misdemeanor, upon conviction thereof, may be punished by a fine not to exceed \$2,500, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three years, or by any combination of the fine, imprisonment and probation.

(C) Notwithstanding any other provision of this code, any person found to have violated any provision of this code or amendments thereto, which pursuant to this section is classified as a civil code

infraction, and who has been twice previously found to have violated the provision within the preceding 24 months, shall, in addition to any penalty prescribed for the civil code infraction, be guilty of a Class 1 misdemeanor and shall be punished by a fine not to exceed \$2,500, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three years or by any combination of the fine, imprisonment and probation.

(1991 Code, Art. 1-8B.)

**Statutory reference:**

Maximum penalty for civil traffic violations, see A.R.S. ' 28-1598

Misdemeanor penalty authorized, see A.R.S. ' 9-240(B)(28)(b)