

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

- 10.01 Short titles
- 10.02 Definitions
- 10.03 Rules of construction
- 10.04 Revivor; effect of amendment or repeal
- 10.05 Construction of section references
- 10.06 Conflicting provisions
- 10.07 Severability
- 10.08 Reference to offices
- 10.09 Errors and omissions
- 10.10 Ordinances repealed
- 10.11 Ordinances unaffected
- 10.12 Ordinances saved

- 10.99 General penalty

§ 10.01 SHORT TITLES.

(A) All ordinances of a permanent and general nature of the municipality, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “Madeira municipal code,” for which designation “code of ordinances,” “codified ordinances” or “code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

(R.C. § 1.01)

(B) All references to codes, titles, chapters and sections are to such components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “Traffic Code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.” 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.

(1985 Code, § 10.01)

§ 10.02 DEFINITIONS.

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

AND/OR. The word “and” may be read as “or,” and the word “or” may be read as “and,” if the sense requires it.
(R.C. § 1.02(F))

ANOTHER. When used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.
(R.C. § 1.02(B))

CITY, TOWN, VILLAGE, MUNICIPAL CORPORATION or MUNICIPALITY. When used in this code shall denote the municipality of Madeira irrespective of its population or legal classification.

COUNCIL. The legislative authority of the municipality.

COUNTY. Hamilton County, Ohio.

IMPRISONED. Imprisoned in another residential facility under R.C. § 2929.16.
(R.C. § 1.05(D)) (Ord. 88-39, passed 10-3-1988)

INTERNET. The international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

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

LAND or REAL ESTATE. Includes rights and easements of incorporeal nature.
(R.C. § 701.01(F))

MAY. Is permissive.

MUNICIPALITY or CITY. The City of Madeira, Ohio.

O.A.C. Refers to the Ohio Administrative Code.

OATH. Includes affirmation and **SWEAR** includes affirm.
(R.C. §§ 1.59, 701.01)

OWNER. When applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

PERSON. Includes an individual, corporation, business trust, estate, trust, partnership and association.
(R.C. §§ 1.59(C), 701.01)

PERSONAL PROPERTY. Includes all property except real.

PLAN OF SEWERAGE, SYSTEM OF SEWERAGE, SEWER and SEWERS. Includes sewers, sewage disposal works and treatment plants, and sewage pumping stations, together with facilities and appurtenances necessary and proper therefor.
(R.C. § 701.01)

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

PROPERTY. Includes real, personal, mixed estates and interests.
(R.C. § 701.01(E))

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.

R.C. or REVISED CODE. Refers to the Revised Code of Ohio.

REAL PROPERTY. Includes lands, tenements and hereditaments.

REGISTERED MAIL. Includes certified mail and **CERTIFIED MAIL** includes registered mail.
(R.C. § 1.02(G))

SHALL. Is mandatory.

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

STATE. The State of Ohio.

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

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.

WEEK. Seven consecutive days.
(R.C. § 1.44)

WHOEVER. Includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.

(R.C. § 1.02(A))

WRITTEN or IN WRITING. Includes printing and any representation of words, letters, symbols or figures; this provision does not affect any law relating to signatures.

(R.C. §§ 1.59, 701.01 (J))

YEAR. Twelve consecutive months.

(R.C. § 1.44)

(1985 Code, § 10.02)

§ 10.03 RULES OF CONSTRUCTION.

(A) *Common and technical usage.* Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(R.C. § 1.42)

(B) *Singular and plural; gender; tenses.* As used in the code, unless the context otherwise requires:

(1) The singular includes the plural, and the plural includes the singular;

(2) Words of one gender include the other genders; and

(3) Words in the present tense include the future tense.

(R.C. § 1.43)

(C) *Calendar; computation of time.*

(1) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day that is not a Sunday or a legal holiday.

(2) When a public office, in which an act required by law is to be performed, is closed to the public for the entire day that constitutes the last day for doing the act or before its usual closing time on that day, the act may be performed on the next succeeding day that is not Saturday, Sunday or other days the city is closed.

(4) When an act is to take effect or become operative from and after a day named, no part of that day shall be included. If priority of legal rights depends upon the order of events on the same day, the priority shall be determined by the times in the day at which they respectively occurred.

(R.C. § 1.15)

(5) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

(R.C. § 1.45)

(6) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, reasonable time or notice shall mean such time only as may be necessary for the prompt performance of the duty or compliance with the notice.

(D) *Numbers.* If there is a conflict between figures and words in expressing a number, the words govern.

(R.C. § 1.46)

(E) *Authority.* When the law 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 such acts when done by an authorized agent.

(F) *Joint authority.* All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving that authority to a majority of the officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority, or it is inconsistent with state law or municipal Charter provisions.

(G) *Exceptions.* The rules of construction shall not apply to any law which contains any express provision excluding the construction, or when the subject matter or context of the law is repugnant thereto.

(1985 Code, § 10.03)

§ 10.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(A) The repeal of a repealing statute does not revive the ordinance originally repealed nor impair the effect of any saving clause therein.

(R.C. § 1.57)

(B) The re-enactment, amendment or repeal of an ordinance does not, except as provided in division (C) of this section:

(1) Affect the prior operation of the ordinance or any prior action taken thereunder;

(2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;

(3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal; or

(4) Affect any investigation, proceeding or remedy in respect of any privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.

(C) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of an ordinance, the penalty, forfeiture or punishment, if not already imposed, shall be imposed according to the ordinance as amended.

(R.C. § 1.58)

(D) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.

(R.C. § 1.54)

(1985 Code, § 10.04)

§ 10.05 CONSTRUCTION OF SECTION REFERENCES.

(A) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, or of divisions or subdivisions of a section, the reference shall be construed to mean a violation of any provision of the section, sections or divisions included in the reference.

(B) References in the code to action taken or authorized under designated sections of the code include, in every case, action taken or authorized under the applicable legislative provision which is superseded by this code.

(R.C. § 1.23)

(C) A reference to any portion of a provision of this code applies to all re-enactments or amendments thereof.

(R.C. § 1.55)

(D) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.

(R.C. § 1.56)

(E) 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 has been changed or materially altered by the amendment or revision.

(1985 Code, § 10.05)

§ 10.06 CONFLICTING PROVISIONS.

(A) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special

or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

(R.C. § 1.51)

(B) If amendments to the same ordinance are enacted at different meetings of the legislative authority, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.

(R.C. § 1.52)

(C) In the event of a conflict between any of the provisions of this code, or between any of the provisions of this code and any standard code adopted by the municipality pursuant to R.C. § 731.231, the provision that establishes the higher or stricter standard shall control.

(1985 Code, § 10.06)

§ 10.07 SEVERABILITY.

If any provisions of a section of this code or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

(R.C. § 1.50) (1985 Code, § 10.07)

§ 10.08 REFERENCE TO OFFICES.

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

(1985 Code, § 10.08)

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered consisting of the misspelling of any words, the omission of any words necessary to express the intention of the provisions affected, the use of words to which no meaning can be attached, or the use of a word when another word was clearly intended to express the intention, the spelling shall be corrected, and the words supplied, omitted or substituted shall conform with the manifest intention, and the provision 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.

(1985 Code, § 10.09)

§ 10.10 ORDINANCES REPEALED.

With the exception of any ordinances specifically saved by the city, 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 of ordinances.

(1985 Code, § 10.10)

§ 10.11 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature, all other ordinances pertaining to subjects not enumerated and embraced in this code of ordinances, and all ordinances specifically saved by the city shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(1985 Code, § 10.11)

§ 10.12 ORDINANCES SAVED.

Whenever an ordinance by its nature either authorizes or enables the legislative body, or a certain municipal officer or employee, to make additional ordinances or regulations for the purpose of carrying out the intention of the ordinance, all ordinances and regulations of a similar nature serving the purpose, effected prior to the codification and not inconsistent thereto, shall remain in effect and are saved.

(1985 Code, § 10.12)

§ 10.99 GENERAL PENALTY.

(A) Whenever, in this municipal code or in any ordinance of the municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding \$150. A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

(B) The failure of any officer or employee of the municipality to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation unless a penalty is specifically provided for the failure.

(1985 Code, § 10.99)