

Claremont City Code - Chapter One Table of Contents

Chapter 1: General provisions and definitions Applicable to the entire city code Including penalty for violation

<u>Section</u>	<u>Title</u>
1.01	Application.
1.02	Definitions.
1.03	Violation a misdemeanor or a petty misdemeanor.
1.04	Otherwise unlawful.
1.05	Severability.
1.06	Payment into city treasury of fines and penalties.
1.07	Meanings.
1.08	Citation.
1.09	Penalties for each offense.
1.10	Titles.
1.11	Reference to a public official.
1.12 – 1.19	Reserved for future use
1.20	Establishment of administrative procedure and administrative fines.

CHAPTER 1

GENERAL PROVISIONS AND DEFINITIONS APPLICABLE TO THE ENTIRE CITY CODE INCLUDING PENALTY FOR VIOLATION

SEC. 1.01. APPLICATION.

The provisions of this Chapter shall be applicable to all the chapters, sections, subdivisions, paragraphs and provisions in the City Code and the City Code shall apply to all persons and property with the City of Claremont, Minnesota, and within such adjacent area as may be stated in specific provisions.

SEC. 1.02. DEFINITIONS.

Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of every chapter, section, subdivision, paragraph and provision of this city Code, shall have the following meanings and inclusions:

Subd. 1. "City" means the City of Claremont, Minnesota, acting by or through its duly authorized representative.

Subd. 2. "Council" and "City Council" mean the City Council of the City of Claremont, Minnesota.

Subd. 3. "Clerk Administrator" and "City Clerk" mean the person duly appointed by the city Council and acting in such capacity.

Subd. 4. "Person" includes all firms, partnerships, associations, corporations and natural persons.

Subd. 5. "Written" and "In Writing" mean any mode of representing words and letters in the English language.

Subd. 6. "Street" means the entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

Subd. 7. "Public Property" and "Public Place" mean any place, property or premises dedicated to public use, owned by the City, occupied by the City as a lessee, or occupied by the City as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.

Subd. 8. "Private Property" means all property not included within the definition of public property or public place.

Subd. 9. "Intersection" means the area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

Subd. 10. "Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Subd. 11. "Police Officer" and "Peace Officer" mean every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed, employed, or contracted for, for the purpose of law enforcement.

Subd. 12. "Misdemeanor" means the crime for which a sentence of not more than ninety (90) days or a fine of not more than \$700.00, or both, may be imposed.

Subd. 13. "Petty Misdemeanor" means an offense, which does not constitute a crime, and for which a sentence of a fine of not more than \$200.00 may be imposed.

Subd. 14. "Conviction" means either of the following accepted and recorded by the Court:

- A. A plea of guilty; or,
- B. A verdict of guilty by a jury or a finding of guilty by the Court.

Subd. 15. "Crime" means conduct which is prohibited by ordinance and for which the actor may be sentenced to imprisonment or fine.

Subd. 16. "Ordinance" means an ordinance duly adopted by the City Council of Claremont, Minnesota.

Subd. 17. "Ex Officio Member" means a person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within his discretion) to speak to any question coming before the board, commission or other deliberative body of which he is such member.

Subd. 18. "May" is permissive.

Subd. 19. "Shall" is mandatory.

Subd. 20. "Violate" includes failure to comply with.

Subd. 21. "Premises" means any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.

SEC. 1.03. VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR.

Every person violates a chapter, section, subdivision, paragraph or provision of this City Code when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor, or as for a petty misdemeanor, except as otherwise stated in specific provisions herein, as set forth in the specific chapter in which the section, subdivision, paragraph or provision violated appears. Upon conviction for a crime, the actor may be convicted of either the crime charged if it is a misdemeanor, or a petty misdemeanor as an included offense necessarily proved if the misdemeanor charge were proved.

SEC. 1.04. OTHERWISE UNLAWFUL.

The City Code does not authorize an act or omission otherwise prohibited by law.

SEC. 1.05. SEVERABILITY.

Every chapter, section, subdivision, paragraph or provision of the city Code shall be, and is hereby declared, severable from every other such chapter, section, subdivision, paragraph or provision and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other chapter, section, subdivision, paragraph or provision.

SEC. 1.06. PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES.

All fines, forfeitures and penalties recovered for the violation of any ordinance, charter, rule or regulation of the City shall be paid into the City Treasury by the Court or officer thereof receiving such monies. Payment shall be made in the manner, at the time, and in the proportion provided by law.

SEC. 1.07. MEANINGS.

As used in this City Code, words of the male gender shall include the female and neuter, and the singular shall include the plural and the plural shall include the singular.

SEC. 1.08. CITATION.

This codification of the ordinances of the City of Claremont shall henceforth be known as the City Code and cited thus: "CITY CODE, SEC. _____."

SEC. 1.09. PENALTIES FOR EACH OFFENSE.

When a penalty or forfeiture is provided for the violation of a chapter, section, subdivision, paragraph or provision of this City Code, such penalty or forfeiture shall be construed to be for each such violation.

SEC. 1.10. TITLES.

A title or caption to or in any chapter, section, subdivision, subparagraph or other provision of the City Code is for convenience only and shall not limit, expand, or otherwise alter or control the content, wording or interpretation thereof.

SEC. 1.11. REFERENCE TO A PUBLIC OFFICIAL.

Wherever an appointed public official is referred to in the City Code, the reference shall include such public official or his designee.

(Sections 1.12 through 1.19, inclusive, reserved for future expansion)

SEC. 1.20. ESTABLISHMENT OF REMEDIES TO ENFORCE THE CLAREMONT CITY CODE.

Subd. 1. Purpose. The purpose of this Section is to provide the public and the City of Claremont with a comprehensive set of remedies for enforcing the provisions of the Claremont City Code. The city finds that the availability of such alternatives will have the effect of reducing nuisance and zoning violations within the city, will facilitate compliance with the provisions of this Code, will avoid unnecessary delay in the enforcement of the Code, and will provide the city's officials with an effective enforcement tool.

Subd. 2. Misdemeanor. Any person who violates any of the provisions of the Claremont City Code shall be guilty of a misdemeanor and upon conviction thereof shall be punishable in accordance with Minnesota law.

Subd. 3. Injunction. The City may seek and shall have available to it the remedy of obtaining a temporary restraining order or a temporary or permanent injunction to enjoin a violation of any provision of the Claremont City Code. In the event that the City successfully obtains a temporary restraining order or a temporary or permanent injunction, the person so restrained or enjoined shall be responsible for all costs and expenses incurred by the City, including court costs and reasonable attorney's fees to seek the restraining order or injunction, and include any costs and expenses incurred by the City to enforce a court order.

Subd. 4. Administrative Fine. An administrative fine may be imposed by the City upon a violation of any provision of the Claremont City Code. The imposition of an administrative fine is not a crime. Imposition of an administrative fine by the City may be in addition to any other legal or equitable remedy available to the City for City Code violations.

Subd. 5. Procedure for Imposition of Administrative Fine.

- A. **City Administrator Defined.** For purposes of this subdivision, "City Administrator" shall be defined as the duly appointed city administrator for the City, or in the absence of a city administrator, a person duly appointed by the Claremont City Council to issue administrative fines.

- B. **Demand for Corrective Action.** Depending upon the severity of the violation and necessity for immediate action, the City Administrator may serve on the violator a demand for corrective action. The demand may be presented in person or by U.S. mail to the person's last known address. The demand shall state the date, time, and nature of the violation, the name of the official issuing the demand, the corrective action required, and the amount of an administrative fine if the violation is not corrected within the time specified in the demand. Nothing herein shall be interpreted to require that a demand be sent prior to issuing an administrative fine or utilizing any other remedy available to the City under this Section.

- C. **Imposition of Administrative Fine.** Upon the reasonable belief that a violation of the Claremont City Code has occurred, the City Administrator may impose an administrative fine upon the person responsible for the violation by issuance of an administrative citation.

- D. **Issuance of Administrative Citation.** An administrative fine shall be imposed through service of an administrative citation. The administrative citation shall state the date, time, and nature of the violation, the name of the official issuing that the citation, the amount of the administrative fine, the manner and requirements for paying the fine, and the procedure for appealing the fine. The administrative citation shall be served upon the violator in person, by US mail at the person's last known address, or in the case of a vehicular violation, by attaching the administrative citation to the vehicle.

- E. **Procedure to Appeal Administrative Citation.** A person upon whom an administrative citation has been served shall have the right to appeal the administrative citation to the Claremont City Council according to the following procedure:
1. **Request for Appeal.** In order to invoke the appeal process, the person upon whom an administrative citation has been served shall request an appeal of the administrative citation no later than 10 days following the date of the administrative citation by delivering a written request for appeal to Claremont City Hall. Said request for an appeal shall be timely if delivered in person to Claremont City Hall or, if delivered by US mail, the notice is postmarked no later than 10 days following the date of the administrative citation.
 2. **Hearing on Appeal.** Upon timely receipt of a request for appeal, the city shall set a time and date of a hearing before the Claremont City Council and shall provide notice of said hearing to the person upon who the administrative citation was served. At said hearing, the person upon whom the administrative citation was served shall have the right to be heard relating to the alleged violation. Upon consideration of all the information presented, the Claremont City Council shall have full authority to affirm the administrative citation, remove the administrative citation, or condition the administrative citation upon such compliance or corrective action as the City Council deems just and reasonable.
- F. **Repeat Violations.** Repeat violations, or a failure to cure a violation after an administrative citation has been administered, may result in an additional enhanced fine. A failure to cure a violation shall be defined as a failure to take appropriate corrective action within 30 days of issuance of an administrative citation. A repeat violation shall be defined as two or more similar violations within a 12 month period. The amount of an enhanced fine shall be determined by the City Administrator and shall not exceed five times the amount of the original fine.
- G. **Collection of Administrative Fines.** The city administrator and city clerk are hereby authorized to utilize all methods available under Minnesota law to collect administrative fines. The violator shall be responsible for all costs of collection, including but not limited to the cost of utilizing a collection agency and reasonable attorney's fees incurred in the collection of the administrative fines.

H. **Assessment of Administrative Fines.** Administrative fines may be assessed according to the following criteria and procedures.

1. **Properties Subject to Assessment.** To the extent that an administrative fine has been issued (1) due to the existence of a zoning violation, (2) due to the existence of a nuisance, (3) for the purpose of accomplishing the removal of snow, ice, or rubbish from a sidewalk, (4) for the purpose of eliminating weeds from private property, (5) to remove or eliminate a public health or safety hazard from private property, or (6) due to the reinspection of private property which finds a noncompliance after the due date for compliance with an order to correct a municipal housing code violation, an unpaid administrative fine may be assessed against:
 - a. Property which was the subject matter or related to the subject matter of the administrative fine; or
 - b. Property which was the location of an activity, proposed use, delivery of city services or other circumstance which resulted in the administrative fine.
2. **Prior Voluntary Payment.** Prior to any assessment for unpaid fines, the City shall seek voluntary payment of the fine by notifying the owner of the property in writing of the fine imposed and the intent of the City to assess the property. The property owner shall be given written notice of the proposed assessment and shall be provided an opportunity to be heard before the City Council.
3. **Assessment Charge for Assessment.** An assessment charge of \$100 shall be due upon certification of the assessment.
4. **Assessment Procedure.** The City shall follow the procedures set forth in Minnesota Statutes Chapter 429 in assessing the property in the manner of a special assessment. The amount assessed shall include the amount of the unpaid administrative fine and assessment charge. The amounts shall be certified to the Dodge County auditor against said lot or parcel of land and shall be collected in the same manner as taxes and/or special assessments against the premises. The charge shall be a perpetual lien on the premises until paid. The entire amount of the fine shall be collected in the year following certification of the assessment.

- I. **Disposition of Fines.** All administrative fines collected pursuant to this Section shall be paid to the City of Claremont and deposited into the general fund.

- J. **Administrative Fines Designated.** Administrative fines shall be designated in the City's Fee Schedule, as updated from time to time by resolution of the City Council.

Subd. 6. Remedies Cumulative. The remedies to the City set forth herein shall be cumulative. The City, in its sole discretion, may apply one or more remedies. Nothing herein shall prevent the City from taking any other lawful action as it deems necessary to prevent or remedy any violation, including appropriate actions in district court.”