

## TITLE I: GENERAL PROVISIONS

Chapter

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

**11. CITY STANDARDS**

### **CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY**

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#### **§ 10.01 TITLE OF CODE.**

This codification of ordinances by and for the City of Ivanhoe, Texas, shall be designated as the Code of Ivanhoe and may be so cited.

**Statutory reference:**

*Authority of municipality to codify ordinances, see Tex. Local Government Code, Ch. 53*

**§ 10.02 INTERPRETATION.**

In interpreting and applying the provisions of this code of ordinances, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this code to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; provided, however, that where this code imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this code shall govern.

(Ord. 2011-27(f), passed 11-12-2015)

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

**CITY, VILLAGE, or MUNICIPALITY.** The City of Ivanhoe, Texas.

**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 City Council of Ivanhoe, Texas.

**COUNTY.** Tyler County, Texas.

**DAY.** Calendar day.

**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 municipality unless the context clearly requires otherwise.

**PERSON.**

(a) Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver.

(b) 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 Texas.

**SUBCHAPTER.**

(a) 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.

(b) 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.

**Cross-reference:**

*Definitions, see § 154.008*

**§ 10.06 RULES OF INTERPRETATION.**

The construction of all ordinances of this municipality shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body 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, the requisition shall be satisfied by the performance of the 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 chapter, subchapter, section, clause, phrase, or provision of this code shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this code as a whole or any part, or provision thereof, other than the part so decided to be invalid or unconstitutional.  
(Ord. 2011-27(f), passed 11-12-2015)

**§ 10.08 REFERENCE TO OTHER SECTIONS.**

Whenever in a 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 this municipality 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.**

- (A) 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.
- (B) 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 and federal laws, shall be the official time within this municipality for the transaction of all municipal 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 that act or the giving of that 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 ORDINANCES UNAFFECTED.**

- (A) All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication, including, but not limited to, the following types of ordinances:
  - (1) Any ordinance guaranteeing or promising the payment of money for the municipality or authorizing the issuance of any bonds of the municipality or any evidence of the municipality's indebtedness;
  - (2) Any appropriation ordinance or ordinance providing for an annual budget or prescribing salaries for municipal officers and employees;
  - (3) Any ordinance annexing territory to the municipality or discontinuing territory as a part of the municipality;
  - (4) Any ordinance designating or otherwise relating to municipal depositories;
  - (5) Any ordinance granting any franchise, permit, or other right;
  - (6) Any ordinance approving, prescribing, or otherwise relating to rates to be charged by private utility companies;
  - (7) Any ordinance approving, authorizing, or otherwise relating to any contract or agreement;
  - (8) Any ordinance accepting, dedicating, vacating, or otherwise relating to any easement; and
  - (9) Any ordinance establishing or amending the zoning designation of land.
- (B) All such ordinances mentioned in division (A) above are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

**§ 10.15 EFFECTIVE DATE OF CODE.**

This code shall be effective as of the date of the adoption of this code.  
(Ord. 2011-27(f), passed 11-12-2015)

**§ 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 be 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) 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 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 SECTION HISTORIES; STATUTORY REFERENCES.**

- (A) As histories for the code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 1-1-1960; 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: (Tex. Local Government Code, § 54.001)  
(Ord. 10, passed 1-1-1960; Ord. 20, passed 1-1-1980)
- (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:  
**§ 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 Tex. Local Government Code, §§ 552.001 et seq.*

**§ 10.19 ALTERING OR TAMPERING WITH CODE.**

It shall be an offense for any unauthorized person to change or amend, by addition or deletion, any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or to tamper with this code in any manner whatsoever which will cause a law of the town to be misrepresented thereby.

Penalty, see § 10.99

**§ 10.20 PRESERVING RIGHTS IN PENDING LITIGATION.**

By the passage of this code, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be.

(Ord. 2011-27(f), passed 11-12-2015)

**§ 10.21 STOP WORK ORDERS.**

Whenever any work is being done contrary to the provisions of this code, the city may order the work stopped by notice in writing (referred to as a “stop work order”) served on any persons engaged in the doing or causing such work to be done. The stop work order shall be posted on the property adjacent to the activity in question, and any such person shall stop work immediately and contact the City within fourteen calendar days to remedy the violation. Work shall be stopped until authorized by the city to proceed.

(Ord. 2011-27(f), passed 11-12-2015)

**§ 10.22 PERMIT REVOCATION.**

A violation of this code shall authorize the Mayor/City Secretary or his or her designee to cancel any permit depending in whole or in part on any approval under this code. If a permit is canceled, no further work shall be done on the project made the subject of the permit until the violation has been cured and new submittals under this code, as required by the Mayor/City Secretary or his or her designee, have been made and approved in accordance with the provisions of this code and a new permit has been issued.

(Ord. 2011-27(f), passed 11-12-2015)

**§ 10.23 DENIAL OF APPROVALS AND PERMITS.**

A violation of this code shall authorize the Mayor/City Secretary or his or her designee to deny any approvals or permits sought by the person violating this code.

(Ord. 2011-27(f), passed 11-12-2015)

**§ 10.99 PENALTY.**

- (A) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by:
- (1) A fine not to exceed \$2,000 in all cases arising under municipal ordinances that govern fire safety, zoning, building code, and public health and sanitation other than vegetation and litter violations;
  - (2) A fine not to exceed \$2,000, if a motor vehicle is used in illegal dumping or an offense under the law or city ordinance violated by the illegal dumping; and
  - (3) A fine not to exceed \$1,000 in all other cases; provided, however, that, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.
- (B) Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the City Council or the City Marshal or their assigns.

(Ord. 2011-27(f), passed 11-12-2015)

***Statutory reference:***

*Civil penalties for ordinance violations, see Tex. Local Government Code, § 54.017*

*Municipal penalties, see Tex. Local Government Code, § 54.001*

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## **CHAPTER 11: CITY STANDARDS**

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Section

11.01 Establishment of the city

**§ 11.01 ESTABLISHMENT OF THE CITY.**

The consolidated cities of Ivanhoe and Ivanhoe North shall be known as the City of Ivanhoe as of November 2, 2010.

(Ord. 2011-15, passed 4-9-2011)