

CHAPTER I

GENERAL PROVISIONS

Section 100 - Title; Citation; Statutory Reference

100.01. Title. This codification of the ordinances of the City of Robbinsdale may be referred to and cited as "The Robbinsdale City Code of 1990" or "this code."

100.03. Citation; reference; numbering system. For the purposes of internal references in this code and citation by its users the following terms are used:

Code	The Robbinsdale City Code of 1990
Chapter	Roman numerals (e.g. Chapter XI)
Section	Arabic numerals (e.g. Section 100)
Subsection	Arabic numerals for section and subsection separated by decimal (e.g. subsection 1100.01)
Clause	Arabic letters, lower case, in parentheses (e.g. a))

Reference or citations made in a form other than the foregoing will not defeat the intent of the Council in enacting an ordinance or the intent of a user in citing this code when that intent is otherwise clear. This code is to be construed liberally to carry out its purposes.

100.05. Adoption by reference. Statutes or administrative rules or regulations of the state of Minnesota and codes and ordinances adopted by reference in this code are adopted pursuant to authority granted by Minnesota Statutes, section 471.62. At least one copy of any item so adopted, but not less than the number of copies required by law, must be kept in the office of the City Clerk for use by the public.

100.07. Official statutes; codes; regulations; ordinances. References in this code to Minnesota Statutes are to the current edition of Minnesota Statutes, as amended by Laws of Minnesota, unless otherwise provided in this code. References in this code to rules and regulations of state agencies, codes, and ordinances of other municipalities are to those documents currently in effect, unless otherwise provided in this code. (Amended, Ord. Nos. 03-27; 08-07; 09-02; 10-11, 11-10, 12-08, 13-09, 14-12, 15-04).

100.09. Relation to state law. It is the intent of the Robbinsdale City Council that the provisions of this code are the fullest exercise of the regulatory and other powers granted to it by state law. When this code imposes a more stringent rule or standard of conduct than contained in similar provisions of state law, rule or regulation, it is the intent of the council that the provisions of this code prevail over such state law, rule or regulation to the extent permitted by law.

Section 105 - Definition of Terms;
Interpretation; Conflicts

105.01. Definitions: common terms. Subdivision 1. For purposes of this code, the terms defined in this subsection have the meanings given them.

Subd. 2. "City" means the city of Robbinsdale and the territory lying within its boundaries over which it has jurisdiction.

Subd. 3. "Code", "this code", or "code of ordinances" means the Robbinsdale City Code of 1990, as organized, compiled and codified herein.

Subd. 4. "Council" means the city council of the city.

Subd. 5. "Charter" means the home rule charter of the city.

Subd. 6. "Clerk" means the city clerk.

Subd. 7. "Minor", unless otherwise specified in this code, means an individual under the age of 18.

Subd. 8. "Owner" means, in the case of personal property, a person, other than a lien holder, having the property in or title to personal property. In the case of real property, the term means the fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership: the term includes, but is not limited to, vendees under contracts for deed and mortgagors.

Subd. 9. "Person" means an individual, firm, partnership, association or corporation; the term may extend and be applied to bodies corporate and politic, and to partnerships and other unincorporated associations.

Subd. 10. A reference to an elected or appointed city officer includes that officer's duly authorized representative.

105.03. Definitions: statutory. For purposes of this code, the terms defined in Minnesota Statutes, sections 645.44 through 645.451 have the meanings given them by those sections; and terms defined by statutes, rules or regulations, codes and ordinances adopted by reference have the meanings given them therein.

105.05. Definitions: internal. Terms defined in other sections of this code have the meanings given them by those sections.

105.07. Interpretation: conflicts. Subdivision 1. Common usage. Words and phrases used in this code are to be interpreted and understood in accordance with common and accepted usage, but any technical words or phrases or such other terms as have acquired a specific or peculiar meaning are to be interpreted and understood in accordance with that meaning.

Subd. 2. Statutory rules. It is the intent of the city council that the rules and canons of construction, presumptions and miscellaneous provisions relating to statutory construction contained in Minnesota Statutes, chapter 645, apply to this code and govern its interpretation, and that all questions of

meaning, construction and interpretation of this code be resolved by application of the rules contained in chapter 645. The provisions of Minnesota Statutes, chapter 645, are adopted by reference and are as much a part of this code as if fully set forth herein.

105.09. Gender neutral: terminology. Amendments to this code and other ordinances of the city must be prepared in a manner to eliminate gender specific references in the manner prescribed by Laws of Minnesota, 1984 chapter 480, section 21.

Section 110 - Legislative Procedure

110.01. Ordinances enactment. Ordinances are enacted in accordance with the procedure set forth in state law and the charter. Ordinances must be integrated into this code in accordance with this section.

110.03. Form of amendments and new ordinances. An ordinance amending this code must specify the subsection and subdivision to be amended. Language to be added is underlined; language to be repealed is lined through. An ordinance repealing an entire chapter, section, subsection, subdivision or clause need refer only to that chapter, section, subsection, subdivision or clause and the text need not be reproduced. An ordinance adding only new provisions to the code need not be underlined.

110.05. Headnotes, etc. Chapter, section, subsection, subdivision, clause, headnotes, titles and cross references are not substantive parts of this code, but merely matters to expedite and simplify its use.

110.07. Integration of ordinances into code. Subdivision 1. Duties of clerk and attorney. The clerk and city attorney must recommend to the council a system for integrating ordinances into this code in the most expeditious manner possible. They must recommend to the council rules consistent with this section for the preparation, editing and format of ordinances to be presented to the council.

Subd. 2. Matters omitted. When an ordinance is integrated into this code, the following matters may be omitted:

- (a) title;
- (b) enacting clause;
- (c) section numbers;
- (d) definition of terms identical to those contained in this code;
- (e) validation and repealing clauses;
- (f) validating signatures and dates;
- (g) punctuation and other matters not an integral part of the text of the ordinance;
- (h) penalty provisions.

Subd. 3. Errors. When integrating ordinances into this code, the clerk and attorney may: (i) correct manifest grammatical, punctuation, spelling, and typographical errors; (ii) change reference numbers to conform with sections, subsections, chapters and ordinances; (iii) substitute figures for written words and vice versa; (iv) substitute dates for the words "the effective date of this ordinance"; and (v) perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

Subd. 4. Source notes. When an ordinance is integrated into this code, a source note will be added at the end of each new chapter, section, subsection, subdivision or clause indicating the ordinance number and section from which it was derived.

110.09. Ordinance records: special ordinances. The city clerk is responsible for the safe and orderly keeping of ordinances in a manner directed by the council. An ordinance not included in this code by council direction is a special ordinance. The clerk must maintain an up-to-date, indexed record of all special ordinances. The council may direct that special ordinances and other material be included in appendices to this code.

110.11. Effective date of ordinance. Ordinances are effective in accordance with section 3.09 of the charter.

Section 115 - Penalties

115.01. General rule. Except as provided in subsection 115.03, a person who violates a provision of this code is guilty of a misdemeanor. Every day on which a violation occurs or continues is a separate violation. The maximum penalty that may be imposed upon conviction for a violation of a provision of this code is the same as the maximum penalty that may be imposed upon conviction for the same class of offense under state law. (Amended, . 94-08)

115.03. Exceptions. Where a provision of this code or a statute adopted by reference therein sets a lesser penalty or a different period constituting a violation than set in subsection 115.01, such code or statutory provision prevails.

115.05. Applicability. It is the intention of the council that the penalty provided by this section or any other section of this code applies to an amendment of any section of this code whether or not such penalty is re-enacted in the amendatory ordinance, unless otherwise provided in the amendatory ordinance.

115.07. Failure of officers to perform duties. The penalty imposed by this section does not apply to the failure of an officer or employee of the city to perform a duty imposed by this code unless a penalty is specifically provided for such failure.

115.09. Misdemeanor defined. For purposes of this code, the term "misdemeanor" means a penal offense or crime which the council is empowered to punish with fine or imprisonment and a petty misdemeanor as defined by state law.

Section 117 – Administrative Penalties
(Added, . 11-02)

117.01. Purpose. Subdivision 1. The City Council finds that there is a need for alternative methods of enforcing the City code. The criminal process is not always the most effective or efficient option for addressing City code violations. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate alternative method of enforcement for certain types of City code violations. This method of enforcement is in addition to any other legal remedy that may be pursued for City code violations.

Subd. 2. Administrative citations and civil penalties. This section governs administrative citations and civil penalties for violations of the City code.

Subd. 3. Definitions.

- (a) "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.
- (b) "Property owner" means those shown to be the owner or owners on the records of the Hennepin County Department of Property Taxation; those identified as the owner or owners on a vacant building registration form, a holder of an unrecorded deed, contract for deed, a mortgagee or vendee in possession, a mortgagor or vendor in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee, other person, firm or corporation in control of the freehold of the premises or lesser estate therein. An owner also means any person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in the property or building. This includes any partner, officer, or director of any partnership, corporation, association or other legally-constituted business entity.
- (c) "Responsible person" means in the cases of offenses related to real property, an owner, occupant, entity or person acting as an agent for the owner who has direct or indirect control or authority over the building or real property upon which the building is located. Any party having a legal or equitable interest in the property. Responsible party may include, but is not limited to, a realtor, service provider, mortgager, leasing agent, management company, or similar person or entity.
- (d) "City Manager" means the City Manager or designated agent.

Subd. 4. Administrative offenses, schedule of fines and fees.

- (a) A violation of any provision of the City Code may be designated by resolution as an administrative offense, which may be subject to an administrative citation and civil penalties pursuant to this subdivision. Each day a violation exists constitutes a separate offense.
- (b) An administrative offense may be subject to a civil penalty not exceeding \$2,000.
- (c) The City Council must adopt by resolution a schedule of recommended fines and fees for offenses subject to an administrative citation.
- (d) The City Council may adopt a schedule of fees to be paid to administrative hearing officers.
- (e) The City Manager must adopt written procedures for administering the administrative citation program.

Subd. 5. Administrative penalties. (Amended, . 13-01)

- (a) A person authorized to enforce provisions of the City code may issue an administrative citation upon the belief that a code violation has occurred. The citation must be issued in person or by first class mail to the person who violated the code or a responsible person or posted at the property or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time and nature of the offense, the identity of the person issuing the citation, the amount of the scheduled fine and the manner for paying the fine or appealing the citation.
- (b) The persons receiving the citation must either pay the scheduled fine or request a hearing within ten calendar days after the issuance of the citation. Payment of the fine constitutes admission of the violation. A late payment fee per the scheduled amount will be imposed in accordance with subdivision 10. (Amended . 13-01)

Subd. 6. Requests for a hearing/appeal.

- (a) A person served with an administrative citation may file a notice of appeal in person or postmarked within ten calendar days from the date of the administrative citation. Failure to comply with such time limit shall be deemed to waive the right to a hearing.
- (b) The notice of appeal shall be made in writing, filed with the City Clerk, and contain the following information:
 - (1) The reasons the appellant believes the administrative citation is objectionable or that a violation did not exist or occur.
 - (2) The name, address and telephone number of the appellant.
 - (3) The name, address and telephone number of any person in addition to the appellant who will be attending the hearing.
 - (4) The signature of the appellant.
- (c) A hearing request filing fee shall be paid simultaneously with the filing of the notice of appeal. The hearing request fee will be in the amount adopted by resolution by the City Council. The fee is refundable as provided in the hearing officer's decision. In cases where a violation was found to have occurred, the hearing officer may apply the refund towards the citation payment as provided in the hearing officer's decision.

Subd. 7. Administrative hearing.

- (a) The City Manager must periodically approve a list of persons, from which the City Manager or designated agent will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. A person who has been issued a citation has the right to request, no later than five calendar days before the date of the hearing, that the assigned hearing officer be removed from the case. One such request for each case will be granted automatically by the City Manager or designated agent. A subsequent request must be directed to the City Manager who will decide whether the alternate hearing officer can fairly and objectively review the case. If such a finding is made, the Manager must remove that officer from the case, and the City Manager or designated agent must assign another hearing officer. The hearing officer is not a judicial officer but is a public officer as defined by Minnesota Statutes, section 609.415. The hearing officer must not be an employee of the City. The City Manager or designated agent must establish a procedure for evaluating the competency and neutrality of the hearing officers, including comments from citizens and City staff. (Amended, . 13-01)
- (b) Upon the hearing officer's own initiative or upon written request of an interested party demonstrating the need, the officer may arrange for issuance of a subpoena for the attendance of a witness or the production of books, papers, records or other documents that are material to the matter being heard. The party requesting the subpoena is responsible for serving the subpoena in the manner provided for civil actions and for paying the fees and expenses of any witness. A person served with a subpoena may file an objection with the hearing officer promptly but no later than the time specified in the subpoena for compliance. The officer may cancel or modify the subpoena if it is unreasonable or oppressive. A person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena is subject to penalties provided by law. Alternatively, the party requesting the subpoena may seek an order from district court directing compliance.
- (c) Notice of the hearing must be served in person or by mail on the person responsible for the violation and/or appellant at least ten calendar days in advance, unless a shorter time is accepted by all parties. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence do not apply. The hearing officer must record the hearing and receive testimony and exhibits. The officer must receive and give weight to evidence, including reliable hearsay evidence that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. (Amended, . 13-01)
- (d) The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, or stay all or part of the scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer may consider any or all of the following factors:
- (1) The duration of the violation;
 - (2) The frequency or recurrence of the violation;
 - (3) The seriousness of the violation;
 - (4) The history of the violation;
 - (5) The violator's conduct after issuance of the notice of hearing;

- (6) The good faith effort by the violator to comply;
 - (7) The economic impact of the penalty on the violator;
 - (8) The impact of the violation upon the community; and
 - (9) Any other factors appropriate to a just result.
- (e) The hearing officer may exercise discretion to impose a fine for more than one day of a continuing violation, but only upon a finding that the violation caused a serious threat of harm to the public health, safety, or welfare or that the accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons must be in writing.
- (f) The failure to pay the fine or request a hearing within ten calendar days after the issuance date of the citation, or the failure to attend the hearing, constitutes a waiver of the violator's rights to an administrative hearing and is an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of good cause include: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include forgetfulness and intentional delay. If the accused violator fails to attend a hearing without good cause the fee for the hearing will not be returned to the accused. (Amended, . 13-01)
- (g) The decision of the hearing officer is final without any further right of administrative appeal, except for matters subject to administrative review under subdivision 8. In a matter subject to administrative review under subdivision 8, the hearing officer's decision may be appealed to the City Council by submitting a request in writing to the City Manager or designated agent within ten calendar days after the hearing officer's decision. (Amended, . 13-01)

Subd. 8. Administrative review.

- (a) The hearing officer's decision in any of the following matters may be appealed by the person responsible to the City Council for administrative review:
- (1) An alleged failure to obtain a permit, license, or other approval from the City Council as required by an ordinance;
 - (2) An alleged violation of a permit, license, other approval, or the conditions attached to the permit, license, or approval, that was granted by the City Council; and
 - (3) An alleged violation of regulations governing a person or entity who has received a license granted by the City Council.
- (b) The appeal must be heard by the City Council after a notice has been served in person or by registered mail at least ten calendar days in advance. The parties to the hearing must have an opportunity to present oral and/or written arguments regarding the hearing officer's decision. (Amended, . 13-01)
- (c) The City Council must consider the record, the hearing officer's decision, and any additional arguments before making a determination. The Council is not bound by the hearing officer's decision, but it may adopt all or part of the officer's decision. The Council's decision must be in writing.

- (d) If the Council makes a finding of a violation, it may impose a civil penalty not exceeding \$2,000 per day per violation, and it may consider any or all of the factors contained in subdivision 7(d). The Council may also reduce, stay or waive a fine unconditionally or based on reasonable and appropriate conditions.
- (e) In addition to imposing a civil penalty, the Council may suspend or revoke any City issued license, permit, or other approval associated with the violation, if the procedures on the City code have been followed.

Subd. 9. Judicial review. An aggrieved party may obtain judicial review of the decision of the hearing officer or the City Council in accordance with state law.

Subd. 10. Recovery of civil penalties.

- (a) If a civil penalty is not paid within the time specified, it constitutes:
 - (1) A personal obligation of the violator in all situations, and
 - (2) A lien upon the real property upon which the violation occurred if the property or improvements on the property were the subject of the violation and the property owner was found responsible for that violation.
- (b) A lien may be assessed against the property and collected in the same manner as taxes.
- (c) A personal obligation may be collected by any appropriate legal means.
- (d) A late payment fee per unpaid or portion thereof will be assessed per the schedule of fees.
- (e) During the time that a civil penalty remains unpaid, no City approval will be granted for a license, permit, or other City approval sought by the violator or for property under the violator's ownership or control.
- (f) Failure to pay a fine is grounds for suspending, revoking, denying, or not renewing a license or permit associated with the violation.

Subd. 11. Criminal penalties. The following are misdemeanors, punishable in accordance with State Law.

- (a) Failure, without good cause, to pay a fine or request a hearing within ten calendar days after issuance of an administrative citation. (Amended, . 13-01)
- (b) Failure to pay a fine imposed by a hearing officer within ten calendar days after it was imposed, or such other time as may be established by the hearing officer, unless the matter is appealed under section 8. (Amended, . 13-01)
- (c) Failure to pay a fine imposed by the City Council within ten calendar days after it was imposed, or such other time as may be established by the City Council. (Amended, . 13-01)

Subd. 12. Applicable laws. Where differences occur between provisions of this section and other applicable code sections, this section applies.

Section 120 - Enforcement

120.01. Enforcement. Subdivision 1. Peace officers. Peace officers appointed by the city may enforce the provisions of this code, the violation of which constitutes a misdemeanor, petty misdemeanor, or gross misdemeanor. In connection with such authority, peace officers may make arrests and issue citations in lieu of arrest in the manner provided by law.

Subd. 2. Community service officers and police reserve officers. Community service officers and police reserve officers appointed by the city may, in the performance of their duties, and under the direction of the chief of police, issue notices of violation and citations in lieu of arrest, but may not take persons into custody for refusal to sign such citations.

Subd. 3. Employees of fire department. Employees of the fire department may issue notices of violations which the fire department and its employees are, by this code, designated to administer and enforce.

Subd. 4. Employees and agents: citations. Employees and agents of the code enforcement division of the engineering department, the community development department and police department parking monitors may issue notices of violations and citations in lieu of arrest for alleged violations of code provisions which those employees are, by this code, designated to administer and enforce. Employees and agents so authorized may not take persons into custody for refusal to sign such citations.

Subd. 5. Twin and South Twin Lakes: citations: additional authority. Non-sworn personnel from the police departments of Brooklyn Center and Crystal are authorized to issue citations on any part of the city lying on Twin Lakes, on islands in Twin Lakes, or on South Twin Lake, or on public lands adjacent to Twin Lakes or South Twin Lake, for violation of any applicable laws, ordinances or regulations, under the authorization and direction of the chief of police. Such personnel may not take persons into custody for refusal to sign citations. (Added, . 91-02)