

PART II
CODE OF ORDINANCES
Chapter 1
GENERAL PROVISIONS

Sec. 1-1. Designation, citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of Ordinances of the Town of Brattleboro, Vermont," and may be so cited.

Sec. 1-2. Rules of construction and definitions.

In the construction of this Code and of all ordinances, the following rules shall be observed, unless the context clearly indicates otherwise:

Selectboard. Whenever the term "board" or "board of selectmen" is used, the same shall be held to mean the "Selectboard of Brattleboro."

Computation of time. Unless otherwise specifically provided, the time within which an act is required by law to be done shall be computed by excluding the first day and including the last, except that the last shall be excluded if it is Sunday.

Code. The words "Code" or "this Code" shall mean "The Code of Ordinances of the Town of Brattleboro, Vermont."

Corporate limits, corporation limits. Whenever the words "corporate limits," "corporation limits" or "town limits" are used they shall mean the legal boundary of the Town of Brattleboro.

County. The words "the county" or "this county" shall mean Windham County, Vermont.

Delegation of authority. Whenever a provision appears requiring the head of a department or other officer of the town to do some act or to make certain inspections, it is to be construed to authorize the head of the department or other officer of the town, as the case may be, to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designates otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

In the town. The words "in the town" or "within the town" shall mean and include 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 giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. The word "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and co-partnerships, whether acting by themselves or through a servant, agent or employee.

Land. The terms "land" and "real estate" include rights and easements of incorporeal nature.

May. The word "may" shall be deemed to be permissive.

Month. The word "month" shall mean a calendar month.

Non-technical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person or thing.

Oath. The word "oath" shall be construed to include 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."

Or, and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, societies, clubs, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. "Personal property" includes every species of property except real property, as herein defined.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Property. "Property" includes real, personal and mixed estates and interests.

Public place. The term "public place" shall include, without limiting the generality thereof, any park, cemetery, school yard or open space adjacent thereto, any lake or stream and any highway or

street.

Real property. "Real property" shall include lands, tenements and hereditaments.

Selectman. The word "selectman" shall mean any person elected to that office.

Shall. The work "shall" shall be deemed to be mandatory.

Sidewalk. "Sidewalk" shall mean that part of the street exclusively reserved for pedestrians and constructed for such purpose.

Signature or subscription. "Signature" or "subscription" includes a mark when the person cannot write.

State. The words "the state" or "this state" shall be construed to mean the State of Vermont.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts, public parking lots and all other public highways in the town.

Tenant or occupant. The word "tenant" or "occupant", applied to a building or land, shall include any person holding a written or oral lease of, or who occupies, the whole or a part of such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The words "town" or "this town" shall be construed as if the words "of Brattleboro, Vermont" followed them.

Written, in writing. "Written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. Civil Violation; general penalty; continuing violations.

- a) Any violation of this Code or any other ordinance, bylaw, rule or regulation of the town shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than five hundred dollars (\$500.00) shall be imposed for a violation of a civil ordinance. A waiver fee of half the amount of the fine shall be imposed

for the first offense and any subsequent offense(s). Any reference to incarceration, criminal penalty or misdemeanor shall be struck. Except as otherwise provided in this Code, each day any violation of any provision of this Code or of any ordinance shall constitute a separate offense.

- b) Except as otherwise provided for in this Code, whenever in this Code or in any other ordinance, bylaw, rule or regulation of the town any act is prohibited or is made or declared unlawful, 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, where no specific penalty is provided therefore, the violation of any such provisions of the Code or any ordinance shall be punished by a fine of one hundred dollars (\$100.00) and the waiver fee shall be fifty dollars (\$50.00) for the first offense and any subsequent offense(s).
- c) The violation of any provision of this Code or Ordinances is hereby declared to be a public nuisance, and may be abated in the manner provided by law. Nothing herein contained shall prevent the town from exercising any legal remedy available to it, including, but without limitation thereto, injunctive relief.

Sec. 1-5. Designated Officials.

- a) The Chief of Police or his designated agent shall be the custodial official who shall be responsible for issuing complaint books to authorized issuing officials and to maintain the complaint books. The custodial official shall also be responsible for correspondence to and from the Judicial Bureau.
- b) The issuing officials shall include police officers, Fire Chief, deputy fire chief, parking enforcement officers, health officers, humane and animal control officers, sheriffs, deputy sheriffs, state police, state game wardens and motor vehicle inspectors who shall be responsible for issuing complaints for civil violations. The Board of Selectmen shall approve a list with the names of the issuing officials who are authorized to issue civil complaints on behalf of the town. The Board of Selectmen shall then forward the list of issuing officials to the Judicial Bureau.
- c) The appearing officials shall include police officers, Fire Chief, deputy fire chief, parking enforcement officers, health officers, humane and animal control officers, sheriffs, deputy sheriffs, state police, state game wardens and motor vehicle inspectors as well as the town attorneys who shall appear on behalf of the town when complaints are contested.

Sec. 1-6. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-7. Effect of repeal of bylaws, rules, regulations and ordinances.

The repeal of an ordinance, bylaw, rule or regulation shall not revive any ordinances, bylaws, rules or regulations in force before or at the time the ordinance, bylaw, rule or regulation repealed took effect.

The repeal of an ordinance, bylaw, rule or regulation 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 an offense committed under the ordinance, bylaw, rule or regulation repealed.