



ARTICLE I. PURPOSE

The purpose of this chapter is to establish the rules of construction of the Winooski City Code and the procedure for enforcing same.

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Charter Cross-references: § 19-401; § 19-402.

Statutory Cross-Reference: 24 V.S.A. § 1971 et seq.

ARTICLE III. GENERAL PROVISIONS

SECTION 1.01. HOW CODE DESIGNATED AND CITED

The ordinances embraced in the following chapters and sections shall constitute and be designated the

"Winooski City Code," and shall be so cited.

SECTION 1.02. RULES OF CONSTRUCTION AND DEFINITIONS

- A. In the construction of this Code and all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

COMPUTATION OF TIME. When time is to be determined from a date or day an act is done, such date or day when such act is done shall not be included in the computation unless otherwise provided. When the last day so computed falls on a Saturday, Sunday or legal holiday, the act may be done on the next day which is not a Saturday, Sunday, or legal holiday.

DELEGATION OF AUTHORITY. Whenever a provision appears requiring the head of a department, Division Director, or Chief of the city to do some act or make certain inspections, it is to be construed to authorize such person to designate, delegate and authorize subordinates to perform the required act or make the required inspections unless the terms of the provision or section specifically designate otherwise.

INTERPRETATION. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the general provisions imposed by this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

NONTECHNICAL 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 each meaning.

- B. In the construction of this Code and all ordinances, unless specified otherwise, the following definitions shall apply:

CITY. Whenever the word "city" is used within this Code, it shall mean the City of Winooski, Vermont. Unless otherwise stated, the authority of the "city" rests with the city manager who may designate or appoint any authorized municipal official or designee as needed.

CORPORATE LIMITS, CORPORATION LIMITS, CITY LIMITS. Whenever the term "corporate limits," "corporation limits" or "city limits" is used, it shall mean the legal boundary of the City of Winooski.

COUNCIL. The word "council" shall mean the city council of the City of Winooski.

COUNTY. The term "the county" or "this county" shall mean the County of Chittenden in the State of Vermont.

MANAGER or CITY MANAGER. The term "manager" or "city manager" shall mean the city

manager of the City of Winooski.

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

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

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

PREMISES. Whenever the word "premises" is used, it shall mean place or places, to include a building or facility, including the fenced or walled (or demarcated or segregated) space surrounding it.

PUBLIC PLACE - Public place shall mean any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall also include but not be limited to any store, shop, bowling alley, cafe, theater, drug store, pool room, shopping center and any other place devoted to amusement or entertainment of the general public.

SEAL. Whenever the word "seal" is used, it shall mean the city seal.

SIDEWALK. Shall mean that improved portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

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

STREET. The word "street" shall include the entire width between property lines of every way used for vehicular and pedestrian travel which has become public by authority of the law, and such ways in public places other than highways as the public is permitted to use for vehicular and pedestrian traffic.

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

V.S.A.(VSA). The abbreviation "VSA" shall mean the most current edition of the Vermont Statutes Annotated, as amended.

WEEK. The word "week" shall mean seven (7) days.

YEAR. The word "year" shall mean a calendar year unless otherwise stated.

SECTION 1.03. SCOPE AND PURPOSE OF PROVISIONS

The ordinances contained in this Code of Ordinances are intended to encompass and promote the general health, welfare, peace and good order of the community at large. Said ordinances have been codified herein for the purpose of facilitating the enforcement thereof.

SECTION 1.04. ORDINANCES REPEALED

Subject to the limitations of section 1.05, all ordinances of the city heretofore in force are hereby repealed.

SECTION 1.05. EFFECT OF REPEAL OF ORDINANCES

- A. The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.
- B. The repeal of an ordinance 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 or cause of action arising under the ordinance repealed, nor any right accrued or acquired.

SECTION 1.06. 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 a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 1.07. CATCHLINES OF SECTIONS

The catchlines of the several sections of this Code printed in boldface 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.

SECTION 1.08. COPY OF CODE TO BE SIGNED AND KEPT IN CLERK'S OFFICE; ORDINANCES TO BE FURNISHED UPON REQUEST

- A. A copy of the Code of Ordinances shall be signed by the Mayor, city council and the city clerk, kept up-to-date by the city clerk and kept in the office of the city clerk subject to inspection by citizens.
- B. All ordinances hereafter enacted shall be published by the city clerk in a convenient form and in different numbers to supply all persons who may reasonably desire them.

SECTION 1.09. ALTERING CODE

- A. It shall be unlawful for any person in the city to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Winooski to be misrepresented thereby.
- B. A violation of this section shall be a civil violation and subject to civil penalties and enforcement as provided for in Chapter 1, Section 1.11 of Winooski City Code.

SECTION 1.10. SUPPLEMENTATION OF CODE

- A. By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- B. In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- C. When preparing a supplement of this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - 1. Organize the ordinance material into appropriate subdivisions;
 - 2. Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - 3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code, and where necessary to accommodate new material, change existing section or other subdivision numbers;
 - 4. Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections....to...." (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 - 5. Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier made any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

SECTION 1.11. GENERAL PENALTY; CONTINUING VIOLATIONS

- A. Criminal violation. The violation of a criminal ordinance or rule adopted by the city as provided for in 24 V.S.A § 1974 shall be a misdemeanor. Except as otherwise expressly provided, the penalty for a violation of any criminal ordinance or rule adopted by the city shall be a fine not less than one hundred fifty dollars (\$150.00) for a first offense, a fine of not less than two hundred and fifty dollars (\$250.00) for a second offense and the maximum penalty provided for by State Statutes for a third or subsequent offense. Each day any violation of any provision of

this Code or any ordinance continues shall constitute a separate violation.

- B. Civil Offenses. All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is no greater than provided for in 24 V.S.A. § 1974 (a), shall be brought before the judicial bureau pursuant to Chapter 29 of Title 4 and Chapter 59 of Title 24. If the penalty for all continuing civil ordinance violations is greater than provided for in 24 V.S.A § 1974 (a), or injunctive relief, other than as provided in subsection (c) of 24 V.S.A. § 1974 (a), is sought, the action shall be brought in superior court, unless the matter relates to enforcement under Chapter 117 of Title 24, in which instance the action shall be brought in environmental division. Civil ordinance violation citations can be issued by any authorized municipal official. Each day the violation continues shall constitute a separate violation.
- C. Except as otherwise expressly provided, the penalty for a violation of any civil ordinance or rule adopted by the city shall be a fine not less than one hundred fifty dollars (\$150.00) for a first offense, a fine of not less than two hundred and fifty dollars (\$250.00) for a second offense and the maximum penalty provided for by State Statutes for a third or subsequent offense.
- D. Issuance of City Ordinance Violation. Any law enforcement officer who cites an accused for violation of any city ordinance which is punishable as a criminal offense shall issue a "Notice of Ordinance Violation" unless instructed by the city attorney, an assistant city attorney or city grand juror to issue a standard superior court citation.
 - 1. The ticket shall be a citation to appear in Superior Court, Criminal Division as contemplated by Vermont Rules of Criminal Procedure, Rule 3 (V.R.Cr.P. 3) and shall contain the name of the accused, the ordinance(s) violated, the date and time to appear in court, and any other information required by law for a valid citation.
 - 2. The ticket shall also contain a "Notice of Ordinance Violation" section which shall allow and inform the accused of the following:
 - a. The option for the accused to waive process and prosecution by paying a waiver fee of between one hundred fifty dollars (\$150.00) and two hundred fifty dollars (\$250.00) for each count to the city within ten (10) days of issuance.
 - b. That upon full and timely payment of the waiver fee the accused shall not be required to appear in court and the citation portion of the ticket shall be null and void.
 - c. That if the accused elects not to make full and timely payment of the waiver fee, he or she shall appear in court on the date and time indicated on the ticket for prosecution.
 - 3. Should the waiver not be exercised and prosecution be had, this subsection in no way alters or pre-empts any fine, penalty or other remedy as provided by this ordinance.

Statutory Cross-References: 24 V.S.A. § 1974 and 1974a; 24 V.S.A. § 2291(15)

SECTION 1.12. PROSECUTION WHERE DIFFERENT PENALTIES EXIST FOR SAME OFFENSE

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the city, the city grand juror may elect under which to proceed; but not more than one (1) recovery shall be had against the same person for the same offense.

Statutory Cross-References: 24 V.S.A. § 1974 and 13 V.S.A. § 5504

Charter Cross-Reference: § 19-506.

SECTION 1.13. DISPOSITION OF FINES AND PENALTIES

All fines and penalties for the violation of any ordinance or the order of any board lawfully established thereunder, or the order of any person who has been given lawful authority to issue such order, or the order of the city council, shall, when recovered, inure to the city, and be paid into the city treasury, unless otherwise directed by the laws of the state or the ordinances of the city.

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