

CHAPTER 1

GENERAL PROVISIONS

Sec. 1-1. DESIGNATION, CITATION OF CODE, SHORT TITLE.

The ordinances embraced in this and in the following chapters shall be designated and cited as the "Code of Ordinances of the City of Montpelier", herein referred to as the "Code".

Sec. 1-2. RULES OF CONSTRUCTION.

In the construction of this Code and of all ordinances hereafter enacted, the following interpretations shall be placed on the words and phrases hereinafter mentioned, unless such construction or interpretation shall be manifestly inconsistent with the evident intent of the city council or the qualified voters, or repugnant to the context or to the evident purport of an ordinance:

The present tense includes the past and future tenses and the future, the present.

The masculine gender includes the feminine and neuter.

The singular number includes the plural and the plural, the singular.

"Shall" is mandatory and "may" is permissive.

The time within which an act is to be done shall be computed by excluding the first and including the last day and if the last day be a Sunday or a legal holiday, that day shall be excluded.

"Writing" and "written" shall include printing, typewriting and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.

Delegation of authority. Whenever a provision appears requiring the head of a department or other officer of the city 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 city, 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.

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 specific provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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.

Name of officer. Whenever the name of an officer is given, it 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.

Week. The word "week" shall be construed to mean seven (7) days.

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

Other words. The rules of construction given in T. 1, Chapter 3, of V.S.A., shall govern, so far as applicable, to the construction of all other words not defined in this section.

Sec. 1-3. DEFINITIONS.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council:

City. The words "the city" shall mean the City of Montpelier, County of Washington, State of Vermont.

City limits. Whenever the words "corporate limits" or "city limits" are used, they shall mean the legal boundary of the City of Montpelier.

Council. Wherever the word "council" is used, it shall be construed to mean the Council of the City of Montpelier.

Councilman. The word "councilman" shall mean any person elected to that office.

County. The words "the county" or "this county" shall mean the County of Washington in the State of Vermont.

Keeper, proprietor.

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

Mayor. Whenever the word "mayor" is used, it shall mean the mayor of the City of Montpelier.

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

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, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

Person. The word "person" shall include a corporation, firm, partnership, association, organization, club, society, body corporate or politic, or any other group acting as a unit, as well as a natural person.

Personal property.

The term "personal property" shall include every species of property except real property, as herein described.

Preceding, following

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

Premises. Whenever the word "premises" is used, it shall mean place or places.

Property. The word "property" shall include real and personal property.

Public place. A place to which the general public has a right to resort; not necessarily a place devoted solely to the uses of the public but a place which is in point of fact public rather than private. A place visited by many persons and usually accessible to the neighborhood public. Also a place or any place in which the public has an interest as affecting the safety, health, morals and welfare of the community.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Residence. The term "residence" shall be construed to mean the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

Seal. Whenever the word "seal" is used, it shall mean the city or corporate seal.

Selectman. See Councilman, this section.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curblin and

the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature, subscription.

The "signature" or subscription" of a person shall include a mark when the person cannot write.

State.

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

Streets, highways, ways.

The words "streets", "highways" and "ways", when used in an ordinance, shall be construed as including boulevards, avenues, courts, lanes, alleys, squares, places and sidewalks, and each of these words shall include every other of them.

Tenant.

The words "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.

Sec. 1-4. 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 section, and unless otherwise expressly so provided, shall not be deemed or taken to be titles of such sections, or as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

Sec. 1-5. EFFECT OF REPEAL OF ORDINANCE.

(a) The repeal of an ordinance shall not revive any ordinances 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 or the tenure of a person holding office thereunder.

Charter reference -- existing ordinances, etc., to continue in effect.

Sec. 1-6. SEVERABILITY OF PARTS OF CODE.

The provisions of this Code as presently enacted and as may be subsequently amended are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision of section or portion of this Code, or the invalidation of the application thereof to any person or

circumstance shall not affect the validity of the remainder of this Code or the validity of its application to other persons or circumstances.

Sec. 1-7. AMENDMENTS TO CODE.

(a) All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any affect this Code of Ordinances, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission thereof from reprinted pages affected thereby, and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the City Council.

(b) Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of the Code in substantially the following language: "That section _____ of the Code of Ordinances of the City of Montpelier, Vermont, is hereby amended to read as follows: ... (Set our new provision in full)"

(c) In the event a new section not heretofore existing in the Code is to be added, the following enacting style shall be used: "It is hereby ordained by the City Council of the City of Montpelier that the Code of Ordinances of the City of Montpelier, Vermont, is hereby amended by adding a section (or article, chapter or other designation, as the case may be), to be numbered _____, which reads as follows: ... (Set out new provision in full) ..."

(d) All sections, articles, chapters or other provisions of this Code desired to be repealed should be specifically repealed by section number, article number, chapter or other number, as the case may be.

(e) In each case of the proposed adoption, alteration, amendment, or repeal of an ordinance, the proposal shall be offered in writing at a regular meeting of the City Council by a member thereof, and shall be endorsed by the signature of such member.

(f) In all proceedings to alter or amend an ordinance, or section thereof, the proposal therefor shall contain the entire ordinance or section to be altered or amended, with the words and figures thereby omitted set forth within parentheses and with the words and figures thereby added set forth italicized or underlined.

(g) All ordinances enacted by the City Council shall, before the time when they take effect, be engrossed by the City Clerk, without interlineation, and in the order of their enactment, in a book to be kept for that purpose, to be lettered, "Records of Ordinances of the City of Montpelier", which book shall be preserved in the office of the City Clerk and shall be open to inspection. Each ordinance enacted shall bear the date of its enactment, and the original manuscript and the engrossed record thereof shall be signed by the Mayor and by the City Clerk.

(h) Unless otherwise provided therein, an ordinance shall take effect thirty days from and after the date of its enactment.

Sec. 1-8. ALTERING CODE.

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 Montpelier to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1-9 thereof.

Sec. 1-9. GENERAL PENALTY; CONTINUING VIOLATIONS.

(a) Whenever in this Code or in any ordinance or resolution of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code, ordinance or resolution the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefore, the violation of any such provision of this Code or any such ordinance or resolution shall be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), or by imprisonment of not less than one (1) day nor more than thirty (30) days. Each day any violation of this Code or of any such ordinance or resolution shall continue shall constitute a separate offense.

(b) In addition to the penalty hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance or resolution shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(c) The prohibitions, restrictions, requirements and provisions of any ordinance shall be in force and apply to each and all persons affected thereby, whether as principals, officers, agents, servants, or otherwise.

(d) A violation of Sections 11-704, 11-710, 11-712 or 11-713 shall be a civil offense and shall be punishable by a penalty of not less than \$50 and not more than \$500. The amount of a waiver penalty for a first violation of any Section enumerated herein shall be \$50 or, at the election of the violator, six hours of community service. The City Attorney, the Chief of Police, and any police officer holding the permanent rank of sergeant or higher, and each of them, are designated enforcement officers under this subsection. Each police officer shall be deemed an issuing municipal official for the purpose of issuing original process for violations of all enactment's designated civil ordinances.

(e) The City Clerk is hereby designated the custodial officer with respect to all papers, records, reports and forms incident to violations of the city ordinances.

STATE LAW REFERENCE: Council's power to abate nuisances, V.S.A., T. 24, Sec. 2121.

Sec. 1-10. 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 prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

Sec. 1-11. STATUTE OF LIMITATIONS.

All prosecutions for violation of any of the ordinances of the city shall be commenced within one year from the commission of the offense, and not after.

Enacted July 8, 1970.

Amendment enacted May 8, 1996.1 [Sec. 1-6, rewritten; and Sec. 1-9, subsection (d) and (e) added]. Date of Publication: 8/19/96. Effective Date: 8/25/96.