

TOWN OF HASTINGS, FLORIDA

TOWN CODE

Chapter 1

General Provisions

Sec. 1-1. How Code designated and cited. The ordinances embraced in the following chapters and sections shall constitute and be designated "Code of the Town of Hastings" and may be so cited.

Sec. 1-2. Rules of construction. 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 town council.

Code. The word "Code" shall mean the Code of the Town of Hastings as designated in section 1-1.

Computation of time. In computing any period of time prescribed or allowed by ordinance the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

State law references: Similar provisions, Fla. Rules of Civ. Procedure, § 1.090(a).

County. The word "county" shall mean St. Johns County Florida.

Familial Status is defined to mean one or more individuals who have not attained the age of 18 years being domiciled with a parent or other persons having legal custody of such individual or individuals or the designee of such parent or other persons having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. The term "Familial Status" shall hereafter be included in all phrases which state: race, color, religion, ancestry, sex, place of birth, handicap, or national origin.

History: Ordinance 91-01

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.

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

May. The word "may" shall be construed as being permissive and not mandatory.

Must. The word "must" shall be construed as being mandatory and not permissive.

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 and thing.

Oath. The word "oath" shall 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."

Officer, agent, etc. Whenever the term "town manager" or the title or designation of any other officer of the town is used, it shall include the authorized representative of the officer or department.

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

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

Personal property. The term "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. The word "property" shall include real and personal property.

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

Shall The word "shall" is to be construed as being mandatory and not permissive.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature, subscription. The words "signature" and "subscription" may include a mark when the person cannot write, his name being written near it, and being witnessed by a person who writes his own name as a witness.

State. The terms "the state" or "this state" shall mean the State of Florida.

Street. The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, land, viaduct, bridge and the approaches thereto within the town.

Technical and nontechnical words. All words and phrases shall be construed and understood 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 the law shall be construed and understood according to such peculiar and appropriate meaning.

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

Town. The term "town," "the town" or "this town" shall be construed as if the words "of Hastings" followed it.

Town clerk. The term "town clerk" shall mean until October 1, 2005, the town clerk of the Town of Hastings. Thereafter it shall mean the town commission of the Town of Hastings.

Town commission. The term "town commission" shall mean until October 1, 2005, the town council of the Town of Hastings. Thereafter it shall mean the town manager of the Town of Hastings.

Town council. The term "town council" shall mean until October 1, 2005, the town council of the Town of Hastings. Thereafter it shall mean the town commission of the Town of Hastings.

Town manager. The term "town manager" shall mean until October 1, 2005, the town clerk of the Town of Hastings. Thereafter it shall mean the town manager of the Town of Hastings.

Written, in writing. The words "written" and "in writing" may include typewriting, printing on paper and any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year unless a fiscal year is indicated.

Sec. 1-3. Catchlines of sections, effect of history notes, and references in Code.

A. The catchlines of the several sections of this Code, underlined, 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 such sections, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

B. The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

C. All references to chapters, articles, or sections are to the chapters, articles, and sections of this Code unless otherwise specified.

Sec. 1-4. 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 under the ordinance repealed.

Sec. 1-5. Ordinances not affected by Code. Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- 1) Promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract or obligations assumed by the town;
 - 2) Establishing positions, classifying employees and setting salaries, not inconsistent with this Code or providing employee benefits;
 - 3) Any right of franchise granted by any ordinance to any person;
 - 4) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the town;
 - 5) Dealing with appropriations;
 - 6) Levying or imposing taxes not inconsistent herewith;
 - 7) Relating to zoning or printed in appendix A of this Code;
 - 8) Published in the charter compilation accompanying this Code;
 - 9) Establishing and prescribing the street grades of any street in the town;
 - 10) Providing for local improvements and assessing taxes therefor;
 - 11) Dedicating or accepting any plat or subdivision in the town;
 - 12) Extending or contracting or otherwise relating to the boundaries of the town;
 - 13) Adopted for purposes which have been consummated;
 - 14) Which is temporary, although general in effect;
 - 15) Which is special, although permanent in effect;
- and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-6. Provisions considered as continuation of existing ordinances. The provisions appearing in this and the following chapter and sections, so far as they are the same as those of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-7. Code does not affect prior offenses, rights, etc.

A. Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

B. The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the town in effect on the date of adoption of this Code.

Sec. 1-8. Severability. It is hereby declared to be the intention of the town council that 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 judgement or decree of any court of competent jurisdiction, such unconstitutionally shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the town commission without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 1-9. General penalty.

A. Definitions:

1) *Violation of an ordinance* means:

a. Performing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance of the Town of Hastings, Florida or by rule or regulation authorized by ordinance.

b. Failure to perform an act that is required to be performed by ordinance by the Town of Hastings, Florida or by rule or regulation authorized by ordinance.

c. Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by the Town of Hastings, Florida or by rule or regulation authorized by ordinance.

2) In this section "violation of this ordinance" does not include the failure of the TOWN employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

3) With respect to violations of an ordinance that are continuous with respect to time, each day the violation continues with respect to time, each day the violation continues is a separate offense.

4) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

5) Violations of an ordinance that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent seeking or awarding equitable relief.

6) The imposition of a penalty does not prevent a code enforcement board proceeding or the imposition of a civil fine or civil penalty.

B. Whenever in this Code or in any ordinance of the town any act is prohibited or is made or declared to be unlawful or an offense 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 therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days or by both such fine and imprisonment. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

C. The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchises for the violation of any provisions of this Code nor prevent code enforcement board proceedings or the imposition of civil fines or penalties by such board, it being the intent of this section that the municipal code enforcement board is authorized to hear all violations of this Code of a continuous or repeat nature to the full extent authorized by general law.

D. Proration of Fine and Imprisonment: Any person serving a jail sentence in lieu of paying a fine may at any time obtain his release by paying an amount equal to the prorated amount of his fine, plus court costs. The prorated fine is determined by multiplying the number of days remaining unserved by the daily rate of the fine. The daily rate of fine is determined by dividing the amount of the original fine by the number of days of the original sentence. It is intended that this section shall apply only to such cases where it is optional with the convicted person to pay either the fine or to serve the jail sentence. State law references: Status of ordinance violations, F.S. § 775.08.

Sec. 1-10. Assessment of court costs for law enforcement education.

A. There shall be levied the sum of two dollars (\$2.00) as court costs against every person convicted for violation of a state penal or criminal statute or convicted of a municipal or county ordinance, where said offense occurred within the town limits. In addition, two dollars (\$2.00) shall be deducted from every bond estreature or forfeited bail bond related to such penal statutes or ordinances. However, no such assessment shall be made against any person convicted for violation of any state statute, municipal or county ordinance relating to the parking of vehicles.

B. The amount of fine or bond in each instance shall be increased in order that the additional sum of two dollars (\$2.00) herein required shall be paid over and above the amount or amounts otherwise required.

C. All such assessments shall be collected by the appropriate court and shall be remitted to the town, and accrue in the general fund and shall be designated as funds available for law enforcement education and training for members of the police department. The use and expenditure of such funds shall be in accordance with education and training programs for law enforcement personnel as determined by the chief of police and in accordance with law. State law references: Authority to assess such costs, F.S. § 943.25(8)(a).

Sec. 1-11. Amendments to Code; effect of new ordinances; amendatory language.

A. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages. The subsequent ordinances as

numbered and printed, or omitted in the case of repeal shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are re-adopted as a new Code.

B. Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of the Town of Hastings is amended to read as follows: _____." The new provisions may then be set out in full as desired.

C. In the event a new section not heretofore existing in the Code, is to be added, the following language may be used: "That the Code of the Town of Hastings is amended by adding a section to be numbered _____, which said section reads as follows: _____." The new section may be set out in full as desired.

D. All sections, articles, chapters or provisions desired to be repealed may be specifically repealed by section, article or chapter number, as the case may be.

Sec. 1-12. Same-Exclusion of special or temporary ordinances. Ordinances adopted after adoption of this Code that are not of a general or permanent nature shall not be prepared for insertion in this Code.