

PART II
CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances of Havana, Florida," and may be so cited.
(Code 1980, § 1-1)

Sec. 1-2. Definitions and rules of construction.

In the interpretation and construction of this Code and of all ordinances of the town, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the town council or the context clearly requires otherwise:

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day, but if the last day is a Sunday or a legal holiday that day shall be excluded. When the period of time prescribed or allowed shall be less than seven days, intermediate Sundays and legal holidays shall be excluded in the computation. A half holiday shall be considered as any other day and not as a holiday.

County. The word "county" shall mean Gadsden County, Florida.

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" shall mean within the legal boundaries of the town.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

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

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

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 such meaning.

Number. A word importing the singular number only may extend and be applied to several persons or things as well as to one 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."

Occupant. The word "occupant," applied to a building or land, shall mean any person who holds a written or oral lease of or who actually occupies the whole or part of such building or land, either alone or with others.

Officer, official. Wherever reference is made to any officer or official, such as “mayor” or “town clerk,” the reference will be taken to be to such officer or official of the Town of Havana, Florida.

Official time. Wherever certain hours are named in this Code, they shall mean Eastern Standard or Daylight Saving Time as may be in current use in the city.

Or, and. The word “or” may be read “and,” and the word “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 extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. Personal property includes every species of property except real property.

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

Property. The word “property” shall include real and personal property.

Public place. The term “public place” shall mean any park, cemetery, school yard or open space adjacent thereto.

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.

Shall, may. The word “shall” is mandatory, and the word “may” is permissive.

Sidewalk. The word “sidewalk” shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature, subscription. The words “signature” and “subscription” include a mark when the person cannot write.

State. The words “the state” and “this state” shall be construed to mean the State of Florida.

Street. The word “street” shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the municipality.

Tenant. The words "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease of or who occupies the whole or part of such buildings 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 "the town" and "this town" shall be construed as if the words "of Havana, Florida" followed them. The word "town" shall also be construed to mean and include the various officers and employees of Havana charged with the duty of enforcing the laws and regulations of Havana, whether in this Code the officers and employees are referred to by position or not. Whenever the word "municipal" is used in this Code it shall be used in the same sense as "town" when used as an adjective, and shall refer to the Town of Havana.

Town council. Whenever the words "town council" and "council" are used in this Code, they shall be construed to mean the Town Council of Havana, Florida.

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

Written. The words "written" and "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.
(Code 1980, § 1-2)

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 section and shall not be deemed or taken to be titles of such sections, nor 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.
(Code 1980, § 1-3)

Sec. 1-4. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. 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 of Ordinances and subsequent ordinances numbered or omitted are re-adopted as a new Code of Ordinances by the town council.

(b) Amendments to any of the provisions of this Code shall 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 Ordinances of Havana, Florida, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances of Havana, Florida, is hereby amended by adding a section to be numbered _____, which section reads as follows:" The new section shall then be set out in full as desired.

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

(Code 1980, § 1-6)

Sec. 1-5. Effect of repeal of ordinances.

(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 under the ordinance repealed.

(Code 1980, § 1-4)

Sec. 1-6. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the town 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 to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive 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 _____ through _____," 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 nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.
- (Code 1980, § 1-7)

Sec. 1-7. Severability of parts of Code.

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 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.

(Code 1980, § 1-5)

Sec. 1-8. Altering Code.

It shall be an offense against the town for any person 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 town to be misrepresented thereby.

(Code 1980, § 1-8)

State law reference—Similar provisions, F.S. § 831.01.

Sec. 1-9. Violations of Code—General penalty.

(a) Whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code 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 shall be punished by a fine not exceeding \$500.00 or imprisonment for a term not exceeding two months, or by both such fine and imprisonment at the discretion of the court. Each day any violation of any provision of this Code shall continue shall constitute a separate offense. Any person convicted of violating the state traffic laws or misdemeanor code of the state will be punished as provided by general law.

(b) In addition to the penalties provided for in this section, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public

nuisance and may be abated by the town as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(Code 1980, § 1-9)

Cross reference—Offenses and miscellaneous provisions, ch. 13.

Sec. 1-10. Same—Assessment of additional court cost for certain convictions.

Pursuant to F.S. § 943.25(13), the county court shall assess an additional sum of \$2.00 as a court cost against every person charged by the town with and convicted in such court for violation of a state penal or criminal statute or municipal ordinance, with the exception of those convicted for violation of a state statute or municipal ordinance relating to the parking of vehicles, and the sum of \$2.00 from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances together with all such above-mentioned costs collected as a result of such assessment shall be deposited in the general revenue fund of the town, as are fines and forfeitures, to be expended only for law enforcement education expenditures for officers of the town police department.

(Code 1980, § 1-12)

Sec. 1-11. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) 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;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money by the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligation by the town;
- (3) Administrative ordinances or resolutions of the town commission not in conflict or inconsistent with the provisions of this Code;
- (4) Any right or franchise granted to any person, firm or corporation by any ordinance or resolution;
- (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening or vacating any street or public way in the town;
- (6) Any annual budget or appropriation ordinance or resolution;
- (7) Any ordinance establishing and prescribing the street grades of any street in the town;
- (8) Any ordinance levying taxes, including, but not limited to, utility taxes;
- (9) Any ordinance providing for local improvements and assessing taxes therefor;
- (10) Any ordinance dedicating or accepting any street, sewer or other right or any plat or subdivision in the town or adopting subdivision regulations;

- (11) Any ordinance providing for the dedication of lands by the town to any purpose or vacating of such lands;
- (12) Any ordinance regulating the salaries or compensation of town officers and employees;
- (13) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the city;
- (14) Any ordinance prescribing the number, classification or benefits of any town officers or employees, not inconsistent herewith;
- (15) Any ordinance adopting land use zoning regulations, rezonings, zoning maps, regulations or zoning districts, master street plans and amendments thereto;
- (16) Any ordinance adopting or amending by reference and including the comprehensive plan and concurrency management system;
- (17) Any ordinance or code or parts thereof adopted by reference by any section of this Code and not included herein;
- (18) Any ordinance prescribing traffic regulations for specific locations not inconsistent with this Code;
- (19) Any ordinance setting an election;
- (20) Any ordinance establishing bonds, fees, rates, charges or deposits;
- (21) Any ordinance which is temporary although general in effect;
- (22) Any ordinance which is special although permanent in effect.

All such ordinances shall remain in effect and are on file in the town clerk's office.

(Ord. No. 184, § 3, 7-28-80)

