

PART II

CODE OF ORDINANCES

CHAPTER 1

GENERAL PROVISIONS

ARTICLE I. IN GENERAL

SECTION 1-1. CODE, HOW DESIGNATED AND CITED. The ordinances embraced in the following chapters and sections shall constitute and be designated the Melbourne Village Code and may be so cited.

SECTION 1-2. RULES OF CONSTRUCTION. In the construction of this Code the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the provisions:

(1) *GENERAL RULE.* 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.

(2) *ACTS BY AGENTS.* When any provision of this Code requires an act to be done which may be law as well be done by an agent as by the principal such requisition shall be construed to include all such acts when done by an authorized agent.

(3) *COUNTY.* The words "the county" or "this county" shall mean Brevard County, Florida.

(4) *GENDER.* Any word importing the masculine gender shall extend and be applied to females as well as to males.

(5) *INTERPRETATION.* In the interpretation and application of any provision, 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 imposes greater restrictions upon the subject matter than the general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be controlling.

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(6) *JOINT AUTHORITY*. All words purporting to give a joint authority to three or more town officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the provisions giving the authority.

(7) *MAY*. "May" is always directory and not mandatory.

(8) *NUMBER*. Every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing, and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.

(9) *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".

(10) *OR, AND*. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

(11) *OTHER TOWN OFFICIALS OR OFFICERS*. Whenever reference is made to officials, boards, commissions, departments, etc., by title only, they shall be deemed to refer to the officials, boards, commissions and departments of the Town of Melbourne Village.

(12) *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 part of such building or land.

(13) *PERSON*. The word "person" shall extend and be applied to firms, corporations, or voluntary associations, as well as to individuals, unless plainly inapplicable.

(14) *PERSONAL PROPERTY*. Personal property shall extend and be applied to every species of property except real property.

(15) *REASONABLE TIME*. In all cases where any provision shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice.

(16) *SHALL*. "Shall" is always mandatory and not directory.

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(17) *SHALL HAVE BEEN*. The words "shall have been" include past and future cases.

(18) *STATE*. The words "the state" or "this state" shall mean the State of Florida.

(19) *TENSES*. The use of any verb in the present tense shall include the future when applicable.

(20) *TIME: HOW COMPUTED*. The time within which any act is to be done, as provided in any provision of this Code or in any order issued pursuant to any provision of this Code, when expressed in days, shall be computed by excluding the first day and including the last except that if the last day be Sunday it shall be excluded; and when any such time is expressed in hours the whole of Sunday, from midnight to midnight, shall be excluded.

(21) *TOWN*. The words "the town" or "this town" shall be construed as if the words "of Melbourne Village" followed the word "town," and shall extend to and include its several officers, agents and employees.

(22) *TOWN COMMISSION*. The words "Town Commission" shall be construed to mean the Town Commission of the Town of Melbourne Village.

(23) *WEEK*. The word "week" shall be construed to mean seven days; but publication in a newspaper or any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week.

SECTION 1-3. WHEN RULES OF CONSTRUCTION SHALL NOT APPLY. The rules of construction set forth in Section 1-2 shall not be applied to any chapter or article of this Code which shall contain any express provision excluding such construction, or when the subject matter or context of such chapter or article may be repugnant thereto.

SECTION 1-4. CATCHLINES: REFERENCES TO CHAPTERS OR SECTIONS. In addition to the rules of construction set out in section 1-2, the following rules shall be observed in the construction of this Code.

(1) *CATCHLINES*. The catchlines of the several sections of this Code 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, not 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 reenacted.

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(2) REFERENCE TO CHAPTERS OR SECTIONS. All reference to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

SECTION 1-5. EFFECT OF REPEAL OF ORDINANCES.

(1) When any ordinance repealing a former ordinance, clause or provision of this Code, shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision of this Code, unless it shall be expressly so provided.

(2) The repeal of an ordinance, clause or section of this Code 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, clause or section of this Code repealed.

SECTION 1-6. SEVERABILITY OF PARTS. If any phrase, clause, sentence, paragraph, section or subsection of this Code shall be declared unconstitutional by a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, sections or subsections of this Code.

SECTION 1-7. AMENDMENTS TO CODE.

(1) All ordinances passed subsequently to this Code which amend, repeal or in any way effect any section or subsection of this Code, shall be numbered consecutively, but shall refer specifically to the section or subsection affected, and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions shall be excluded from said 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 as this Code and subsequent ordinances numbered or omitted are re-adopted as a new Code by the town commission.

(2) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific references to the section number of this Code in the following language: "That section _____ of the Melbourne Village Code is hereby amended to read as follows:". The new provisions shall then be set out in full.

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(3) In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Melbourne Village Code is hereby amended by adding a new section to be numbered Section _____, which said Section shall read as follows:" The new section shall then be set out in full.

(4) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number in the following language: "That Section (Chapter or Article) _____ of the Melbourne Village Code is hereby repealed."

SECTION 1-8. ALTERING CODE. No person in the town shall change or amend by additions or deletions, any part or portion of this Code, or insert or delete pages, or portions thereof, or alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Melbourne village to be misrepresented thereby.

SECTION 1-9. GENERAL PENALTY: CONTINUING VIOLATIONS.

(1) Whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever 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 five hundred dollars or by imprisonment for a term not exceeding sixty days, or by both fine and imprisonment.

(2) Each day a violation of any provision of this Code shall continue, shall constitute a separate offense, and each act in violation of the provisions of this Code shall be considered a separate and distinct offense.

(3) In addition to the penalties herein provided, 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, by the town, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

Charter reference: Maximum penalty authorized, S26.

State law reference: Penalties for violations of ordinances, S165.19, Florida Statutes.