Chapter 1

GENERAL PROVISIONS

Section 1-1 How code designated and cited

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Town of Killingly, Connecticut," and may be so cited

Section 1-2 Rules of construction and definitions[1]

In the construction of this Code and of all ordinances, the following rules shall be observed, unless the content clearly indicates otherwise:

County. The words "the county" or "this county" shall mean the County of Windham, in the State of Connecticut.

Delegation of authority. Whenever a provision appears requiring the head of a department or officer of the town to do some act or make certain inspections it is to be construed to authorize the head of the department or officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designated otherwise.

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 co-partnerships, whether acting by themselves or through a servant, agent or employee.

Motor vehicle means a motor vehicle as defined in the Connecticut General Statutes.

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

Officers, employees. The title of any officer or employee used herein shall be construed as if the words "of the town" followed it, and shall include his duly authorized representative.

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

Park means any property owned by the town and managed or controlled by the town council and designated as a park by the town council.

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

Personal property shall include every species of property except real property, as herein defined.

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

Public place. The term "public place" shall include any and all streets, highways, and boulevards, alleys or other publicly owned or controlled ways and any and all publicly owned or controlled parks, squares, spaces, grounds and buildings.

Real property shall include lands, tenements and hereditaments.

Regulations mean regulations approved by the town council for the use of a public place.

Shall, May. "Shall" is mandatory; "may" is permissive.

State. The words "the state" or "this state" shall be construed to mean the State of Connecticut.

State law, general law or ***general statutes*** shall refer to the General Statutes of Connecticut, Revision of 1958, as amended.

Street. The word "street" shall be construed to embrace all accepted streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public ways.

Tenant, occupant. The word "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.

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

Town council or ***council.*** The words "town council" or "council" shall mean the town council of the Town of Killingly, Connecticut.

Time. All times prescribed in this Code shall be Eastern Standard Time, except that when daylight saving time is being observed in the State of Connecticut, such times shall be Eastern Daylight Time.

---

[1] State law reference -- Rules of construction for terms used in the General Statutes, G.S. § 1-1.

Town. The words "the town" shall mean the Town of Killingly in the County of Windham and the State of Connecticut.

Town manager means the town manager of the town, appointed in accordance with the provisions of the Town Charter.

Vehicle means any conveyance or vehicle, whether wheeled or not, that is propelled by a person, a motor, an animal, force of nature or another vehicle, excluding emergency vehicles and vehicles in the service of the town. (Ord. of 3-10-87, § 2)

Section 1-3 Catch lines of sections

The catch lines 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 catch lines are amended or reenacted.

Section 1-4 Amendments to Code; effect of new ordinances

All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances, may be numbered sequentially and shall make reference to the portion of this Code intended to be affected and shall be printed for inclusion herein. In the case of repealed chapters articles, divisions, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.

Section 1-5 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 council during the period covered by the supplement and all changes made thereby in the Code. 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, 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 the unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catch lines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catch lines, 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 make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Section 1-6 Effect of repeal of ordinance

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect, unless expressly stated.

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.

Section 1-7 Severability of parts of Code

If any phrase, clause, sentence, paragraph or section of this Code shall be declared invalid or unconstitutional by the valid judgment or decree of any court, such invalidity or unconstitutionality shall not affect any of the remaining provisions of this Code.

Section 1-8 Altering Code

It shall be unlawful for any person to change or amend, by additions or deletions, any part of this Code of Ordinances or any ordinance of the city, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever with intent that any provision of this Code or other ordinance of the town shall be misrepresented, or with intent to commit a fraud thereby.

Section 1-9 General penalty[2] [3]

It shall be unlawful for any person to violate or fail to comply with any provision of this Code, and where no specific penalty is provided therein, the violation of any provision of this Code shall be punishable by a fine of not less than one dollar ($1.00) nor exceeding one hundred dollars ($100.00). Each day any such violation shall continue shall constitute a separate offense and shall be punishable as such.

Section 1-10 Citations for Violations of Ordinances

Pursuant to the provisions of Section 7-152c of the Connecticut General Statutes, as amended, the Town of Killingly hereby adopts the provisions authorized by the aforementioned Section 7 -152c and hereby establishes a Citation Hearing procedure as follows:

(a) ***Hearing Officers***. The Town Manager shall appoint one (1) or more Citation Hearing Officers for a term of office which shall commence on the date of appointment and shall terminate on December 31st of each even numbered year, such that the term of the initial Citation Hearing Officer shall terminate December 31, 2004. No person who serves as a police officer or employee or person who issues citations shall serve as a Citation Hearing Officer.

(b) ***Notice of Citation***. The municipality, acting by the Town Manager or the Town Manager's designee, shall at any time within twelve (12) months from the expiration of the final period for uncontested payment of a fine, penalty, cost or fee for any citation issued under any ordinance adopted pursuant to the provisions of Section 7-148 or Section 22a-226d or other relevant statute or ordinance for an alleged violation thereof, shall send notice to the person therein cited. Such notice shall contain at a minimum the following information:

(1) The allegations against the person so cited, together with the amount of the fines, penalties, costs, or fees due.
(2) The fact that the person may contest his or her liability before a Citation Hearing Officer by delivery in person or by mail of a written notice within ten (10) days from the date of the herein specified notice.
(3) That if a hearing is not demanded, an assessment and judgment shall be entered as of course.
(4) Any such judgment may issue without further notice to the individual.
(5) Payment of such fine, penalties and costs shall be made to the Office of the Town Manager, or the Town Manager's designee, in person or by mail. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten (10) days of the date of the initial notice as provided herein, shall be deemed to have admitted liability and the designated municipal official shall certify such person's failure to respond to the Citation Hearing Officer. The Citation Hearing Officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth herein and in Section 7-152c of the Connecticut General Statutes.
(6) Any person who requests hearing within the time specified in this ordinance will be given written notice of the date, time and place for the hearing, which shall be held not less than fifteen (15) nor more than thirty (30) days from the date of the mailing of the notice, subject to reasonable requests for good cause shown for continuance or postponement by any interested party. The original or a certified copy of the initial notice of violation shall be filed and retained by the municipality and shall be deemed to be a business

[2] Cross references -- Motor vehicles and traffic, Chapter 10; offenses and miscellaneous provisions, Chapter 11.
[3] State law reference -- Penalties limited, Rev. Statutes, § 7-148(d).

record within the scope of Section 52-180 of the Connecticut General Statutes, and evidence of the facts contained therein. The accused shall have the right to request the issuing official or police officer be present at the hearing and such individual shall in fact be present at the hearing if so requested. At such hearing the accused may appear and present evidence on his or her own behalf and a designated municipal official other than the Citation Hearing Officer may present evidence on behalf of the issuing official or the municipality. Any person who fails to appear may be defaulted and an assessment by default entered against him or her upon a finding of proper notice and liability under applicable statutes or ordinances. The hearing shall be conducted as set forth in Section 7-152c of the Connecticut General Statutes and the Citation Hearing Officer shall announce his or her decision at the termination of the hearing.

(c) ***Notice of Assessment***. If the assessment is not paid as of the date of its entry, the Citation Hearing Officer shall send by first class mail a notice assessment to the person found liable and shall file not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice assessment with the Clerk of the Superior Court facility designated by the Chief Court Administrator within the boundaries of the Judicial District in which the municipality is located, together with an entry fee of $8.00. A certified copy of the notice of assessment shall constitute a record of assessment and the Clerk of the Superior Court shall enter judgment in the amount of such record of assessment and Court costs of $8.00 against such person in favor of the municipality. Notwithstanding any other provision of the Connecticut General Statutes, the Citation Hearing Officer's assessment, when so entered as a judgment shall have the affect of a civil money judgment and a levy of execution on such judgment may be made without further notice to such person.

(d) ***Appeal***. There shall exist a right of appeal in favor of any person against whom an assessment has been entered pursuant to the provisions of this ordinance. An appeal shall be instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to Section 52-259 of the Connecticut General Statutes in the Superior Court for the Geographical Area in which such municipality is located, which shall entitle such person to a hearing in accordance with the rules of the Judges of the Superior Court.

(e) ***Violations; Penalties***. The following ordinances shall be enforceable by citation pursuant to the provisions of Section 7-148 of the Connecticut General Statutes, in addition to any other penalties contained in the respective ordinances and in the respective amounts specified as fine or penalty. The ordinances to which these procedures shall apply are as follows:

(1) Section 1-9 of the Killingly Code of Ordinances -General Penalty;
(2) Section 13-2 through 13-4 regarding maintenance of sidewalks;
(3) Article III, Section 10-51, et seq., re: Abandoned, Inoperative, etc., Motor Vehicles;
(4) Chapter 8 of the Killingly Code of Ordinances Regulating Garbage, Trash, and Refuse, Section 8-31, et seq.
(5) Chapter 2, Sections 2-82 through 2-85, Rapid Entry System
(6) Chapter 10, Article II, Section 10-21, Fire Lanes
(7) Chapter 11, Article IV, Sections 11-70 through 11-82, Ordinance Requiring Registration of Burglar Alarms
(8) Chapter 4, Article III, Section 4-168, Rental Housing Standards Code
(9) Chapter 4, Article IV, Sections 4-161 through 4-169, Demolition Standards Ordinance
(10) Chapter 13, Sections 13-16 through Sections 13-25, Street Construction and Alterations Standards Ordinance
(11) Chapter 4, Sections 4-180 through 4-192, Property Maintenance Code concerning Blighted Properties

Where required by State statute or written ordinance, a written notice shall be given prior to the issuance of a citation for a violation of any of the aforementioned ordinances.
(Amending Ord. of 6-14-05; Amending Ord. of 6-12-07; Amending Ord. of 9-14-10; Amending Ord. of 3-8-11)

Section 1-11 Penalties for Violation of Zoning Ordinances

Pursuant to the provisions of Section 8-12a of the Connecticut General Statues, the Town of Killingly hereby adopts the provisions authorized by said Section 8-12a and establishes the following specific penalties for zoning violations. The following fines and penalties shall apply:

1. Construction activity without obtaining a zoning permit: $75.00 per day.

2. Occupancy of any premises where occupancy would require a certificate of zoning compliance without obtaining the same: $75.00 per day.
3. Any use of land or building requiring a zoning permit that takes place without obtaining a permit or in violation of the requirements of the permit: $75.00 per day.
4. Any violation that continues after the effective date of a cease and desist order: $100.00 per day.

The provision regarding hearings for violations of this ordinance shall follow the rules and procedures as set forth in Section 1-10 of the Killingly Code of Ordinances, subsection "b" through "e" regarding hearing procedures for violations of ordinances, except that pursuant to the provisions of Section 8-12a of the Connecticut General Statutes, no zoning enforcement officer, building official, or employee of a municipal body exercising zoning authority may be appointed as a hearing officer. Any fine due under this section shall be paid to the municipality upon receipt, but in no event later than ten (10) days from date of receipt of service of notice of the fine by the zoning enforcement officer unless an appeal is taken within that time period; the right of appeal shall be as set forth in said Section 1-10. (Ord. of 6-14-05)

Section 1-12 Penalties for Violation of Inland Wetlands and Watercourses Regulations

Pursuant to Section 22a-42g of the Connecticut General Statutes, as amended, the Commission and/or its duly Authorized Agent is authorized to issue citations for violations of the Inland Wetlands and Watercourses Regulations of the Town of Killingly to the extent and in the manner provided by this ordinance. Any such citation must be served by hand delivery by an officer of the court to the person named in the citation.

The fine for each violation shall be up to $1,000 dependent upon severity as judged by the Inland Wetlands and Watercourses Commission, payable to the Town of Killingly, within 30 days of the date the Commission determined that the action was indeed unauthorized and in violation of the Inland Wetlands and Watercourses Regulations. The individual is also required to do any mitigative measures as required by the Inland Wetlands and Watercourses Commission within 30 days to avoid having to pay the fine. Furthermore no such fine may be levied against the state or any employee of the state acting within the scope of his employment.

The provision regarding hearings for violations of this ordinance shall follow the rules and procedures as set forth in Section 1-10 of the Killingly Code of Ordinances, subsection "b" through "e" regarding hearing procedures for violations of ordinances, no Wetlands Enforcement Agent/Authorized Agent or wetlands commission staff, Zoning Enforcement Officer, Building Official, nor any employee, agent, or member of the Inland Wetland and Watercourses Commission may be appointed as a hearing officer. Any fine due under this section shall be paid to the municipality upon receipt, but in no event later than ten (10) days from date of receipt of service of notice of the fine by the Commission and/or its duly Authorized Agent unless an appeal is taken within that time period; the right of appeal shall be as set forth in said Section 1-10. (Ord. of 11-18-14; C14-11)