

# CODE OF ORDINANCES

## 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 the "Code of Ordinances, City of New Britain, Connecticut," and may be so cited.

#### Sec. 1-2. Rules of construction and definitions.

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

*Business.* "Business" includes businesses, professions, trades and occupations, and all and every kind of calling.

*City.* "City" shall mean the City of New Britain or the area within the territorial city limits of the city and such territory outside of this city over which the city has jurisdiction or control by virtue of any constitutional or charter provisions, or any law.

*Common council.* The term "common council" or "the council" shall mean the common council of the City of New Britain.

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

*Engage in.* "Engage in" includes commence, engage in, carry on, conduct, maintain, manage and operate.

*Gender.* The use of any gender shall include the other genders.

*Goods.* "Goods" includes wares or merchandise.

*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.

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

*License fee.* "License fee" shall include any charge imposed for a license, whether the object be regulation or revenue, or both regulation and revenue, but when applied to any business, profession, occupation, trade or calling regulated by the state as a matter of statewide concern the object shall be revenue only.

*Number.* The use of the singular shall include the plural and the use of the plural shall include the singular.

*Oath.* "Oath" includes an affirmation.

*Office.* "Office" shall mean the use of the title of any officer, employee or office of the city, unless otherwise specifically designated.

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

*Operate.* "Operate" includes carry on, keep, conduct, maintain or manage.

*Owner.* "Owner," when applied to a building or land, shall include any part owner, joint owner, or owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or a part of such building or land.

*Person.* "Person" shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them, and shall include all political subdivisions and gov-

\*State law references—Municipal powers generally, G.S. § 7-148; powers of municipalities, G.S. § 7-194; municipal charters and special acts, G.S. §§ 7-187—7-201; municipal ordinances and regulations generally, G.S. §§ 7-148—7-186; scope of municipal ordinances, G.S. § 7-148.

ernmental agencies (except the United States of America and the state), and every department of such political subdivisions, together with every officer and employee thereof while working in the course of his employment.

*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.

*Sale.* "Sale" includes any sale, exchange, barter or offer for sale.

*Shall, may, must.* "Shall" and "must" are mandatory; "may" is permissive.

*Sidewalk.* The word "sidewalk" shall mean the paved portion of a street between the street right-of-way and the adjacent property line, intended for the use of pedestrians.

*State.* The words "the state" or "this state" shall 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.* "Street" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular or pedestrian travel, including, but not limited to, alleys, lanes, courts, greens, public squares and places, and sidewalks.

*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.

*Vote, approval or consent.* Except as may be otherwise provided in connection therewith, the phrase "vote, approval or consent" of the council or other body shall mean the affirmative vote of a majority of those members present at a meeting having a quorum in attendance. Whenever such phrase refers to the members of the council or other body rather than to the council or body as such, the vote required shall be in relation to the total membership rather than to those present at the meeting.

*Writing.* "Writing" includes any form of recorded message capable of comprehension by ordinary visual means.

In the construction of this Code of Ordinances, except as otherwise provided in this Code of Ordinances, words and phrases shall be construed according to the common usage of the language and according to the general statutes; technical words and phrases, and such as have acquired a peculiar and appropriate meaning in the law, shall be construed and understood accordingly.

*State law reference*—Rules of construction of terms used in the General Statutes 1-1.

### **Sec. 1-3. Effect of Code on prior actions and obligations.**

Neither the adoption of this Code nor the repeal hereby of any ordinance of this city shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty at such effective date due and unpaid under such ordinance, nor be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect.

(Code 1970, § 1-2)

### **Sec. 1-4. Interpretation of section numbers.**

In reading a section number from left to right, the digit or digits to the left of the dash shall

designate the chapter number of this Code. The digits to the right of the dash shall indicate the section number in such chapter. Figures to the right of a decimal point shall indicate new sections or chapters inserted between existing sections or chapters, as the case may be. The decimal system shall be used in maintaining the numerical order of such sections and chapters. (Code 1970, § 1-28)

**Sec. 1-5. Headings of sections.**

The headings of the several sections of this Code printed in boldface type are intended 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 the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the headings, are amended or reenacted.

The headings of chapters, articles, divisions and sections contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any chapter, article, division or section hereof. (Code 1970, § 1-15)

**Sec. 1-6. Effect of repeal of ordinances.**

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

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. 1-7. Validity and severability.**

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The council hereby declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases

had been declared invalid or unconstitutional, and if for any reason this Code or any part thereof should be declared invalid or unconstitutional, then the original ordinance or ordinances which such Code or part thereof supersedes shall be in full force and effect. (Code 1970, § 1-4)

**Sec. 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 city shall be misrepresented or with intent to commit a fraud thereby.

**Sec. 1-9. Referral of ordinances to corporation counsel for legal opinion.**

No ordinance shall be approved or amended by the common council except after having been referred to the corporation counsel for an opinion as to its legality. The opinion of the corporation counsel of the proposed ordinance or amendment shall be advisory only. (Code 1970, § 1-9)

*Charter reference*—Corporation counsel, § 1501 et seq.

**Sec. 1-10. Publication of ordinances.**

No ordinance shall be operative until it has been published. Publication shall be sufficient if made pursuant to section 4-8 of the Charter. (Code 1970, § 1-10; Ord. of 7-01)

**Sec. 1-11. Preservation of ordinances.**

Except as otherwise directed by the common council, the city clerk may publish ordinances in either of the methods set forth in section 1-10. One copy as published shall be deposited and thereafter kept in the office of the city clerk, who shall annex thereto a certificate under the city clerk's hand and seal of the city that the ordinances therein contained are the ordinances of the city, and such copy shall be preserved as an authentic record of such ordinances. (Code 1970, § 1-11; Ord. of 7-01)

**Sec. 1-12. Notices; service and proof.**

Whenever a notice is required to be given under this Code, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office, or any United States mailbox. Proof of giving any notice may be made by the certificate of any officer or employee of this city or by affidavit of any person over the age of eighteen (18) years, which shows service in conformity with this Code or other provisions of law applicable to the subject matter concerned.

(Code 1970, § 1-25)

**Sec. 1-13. Supplementation of Code.**

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the common council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the common 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, nonsubstantive 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 headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such 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 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 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.

(d) The city clerk shall cause copies of each and every such reprint to be distributed to each distributee and to every purchaser of the Code who has ordered and paid for maintenance service.

(Code 1970, § 1-14)

**Sec. 1-14. Reports, etc., required by Code to be in English.**

All notices, reports, statements, applications or records required or authorized by this Code shall be made in writing in the American-English language.

(Ord. of 9-74)

**Sec. 1-15. General penalty.**

Whenever in this Code or any other ordinance of the city, or rule or regulation promulgated by any officer thereof under authority vested in him by law or ordinance, any act is prohibited or is declared to be unlawful or an offense, or 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, the violation of such ordinance, rule or regulation shall be punished by a fine not exceeding ninety dollars (\$90.00). Each day any such violation shall continue shall constitute a separate offense.

The imposition of any punishment hereunder shall not prevent the enforced abatement of any unlawful condition by the city.

In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the corporation counsel may elect under which to proceed; but not more than one (1) recovery shall be had against the same person for the same offense.

Any condition caused or permitted to exist in violation of any of the provisions of this Code, officially designated as such and each day that such condition continues shall be regarded as a new and separate offense.

(Code 1970, §§ 1—7, 1-8; Ord. of 5-86; Ord. No. 28269-2, 11-18-04)

**Cross references**—Offenses and miscellaneous provisions, Ch. 16; police, Ch. 20.

**State law reference**—Penalty limitations, G.S. 7-148.

**Sec. 1-16. 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:

- (1) Any ordinance promising or guaranteeing the payment of money for the city, or any evidence of the city's indebtedness;
- (2) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;
- (3) Any ordinance annexing territory to the city or excluding territory as a part of the city;

- (4) Any ordinance granting any franchise, permit or other right;
- (5) Any zoning ordinance;
- (6) Any subdivision ordinance;
- (7) Any ordinance creating a special services district;
- (8) Any ordinance approving, authorizing or otherwise relating to any contract, agreement, lease, deed or other instrument;
- (9) Any ordinance adopting a preliminary plan or development plan;
- (10) Any temporary or special ordinance;
- (11) Any ordinance enacted after September 21, 1983;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

**Sec. 1-17. Procedure for enforcement of municipal ordinances.**

(a) *Appointment of hearing officers.* In accordance with section 7-152c of the Connecticut General Statutes, the following procedure is established for the enforcement of citations for violation of the ordinances of the City of New Britain. This section shall not apply to existing sections of the Code of Ordinances which already have an appeal or hearing procedure contained therein. The mayor as the chief executive officer of the city is hereby authorized to appoint a committee of no less than three (3) hearing officers to conduct hearings as authorized by this article. No such hearing officer shall be a police officer, or employees or persons who issue citations. No such hearing officer or person working under the direction of such hearing officer may otherwise directly or indirectly engage in the private business of collecting the fines, assessments or judgments imposed hereunder. All such citation hearing officers shall serve for a term of two (2) years.

(b) *Notice to persons issued citations.* Within twelve (12) months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees for any citation issued under any ordinance adopted pursuant to section 7-148 of the Connecticut General Statutes, the

director of the department of licenses, permits and inspections or his or her designee shall send notice to inform the person cited by first-class mail at his address according to the City of New Britain land records and/or tax records. Such notice shall inform the person cited:

- (1) Of the allegation against him and the amount of the fines, penalties, and costs of fees due;
- (2) That he/she may contest his/her liability before a citation hearing officer by delivering in person or by mail written notice within ten (10) days of the date thereof;
- (3) That if he/she does not demand such a hearing, an assessment and judgment shall enter against him/her; and
- (4) That such judgment may issue without further notice.

(c) *Admission of citation violation.* If the person receiving the notice required pursuant to subsection 1-17(b) hereof does not either (a) pay the full amount of the fines, penalties, costs or fees without requesting a hearing, or (b) request a hearing as provided herein, within ten (10) days after the date of such notice, such person shall be deemed to have admitted liability and the mayor and his or her designee shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinance and shall follow the procedures set forth herein. If the person who is sent notice pursuant to subsection 1-17(b) wishes to admit liability for any alleged violation, he/she may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to the director of the department of licenses, permits and inspections or his or her designee. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment.

(d) *Appeal process.* Any person receiving a notice pursuant to subsection 1-17(b) of this article may request a hearing by mailing or delivering such request in writing to the hearing officer at the place designated within ten (10) days after

the date of such notice. The chair of the hearing committee shall promptly schedule a hearing and give notice of the date, time and place of such hearing to the person requesting it. Such hearing shall be held not less than fifteen (15) nor more than thirty (30) days from the date of the mailing of notice, provided the chair of the hearing committee shall grant any reasonable request by any interested party for postponement or continuance upon good cause shown. An original certified copy of the initial notice of citation issued by the police officer or other issuing officer or employee shall be filed and retained by the city, and shall be deemed to be a business record within the scope of section 52-180 [of the Connecticut General Statutes] and evidence of the facts contained therein. The presence of the policeman or issuing officer or employee shall be required at the hearing if the person requesting the hearing so requests. A designated city official or employee, other than a hearing officer, may present evidence on behalf of the city. If such person fails to appear at a hearing, the presiding hearing officer may enter an assessment of default against him/her, in the amount of the fines, penalties, costs or fees provided for by the applicable ordinance. The hearing committee may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he/she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation.

(e) *Decision of hearing officer; failure to pay assessment.* The hearing committee presiding at any hearing convened in accordance with the provisions of this article shall announce his/her decision at the end of the hearing. If the hearing committee determines the person is not liable, they shall dismiss the matter and enter their determination in writing accordingly provided however, that any decision may not provide a waiver of compliance with any municipal ordinance. If the hearing committee determines the person is liable for the violation, they shall forth-

with enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinance. If such assessment is not paid on the date of its entry, the chair of the hearing committee shall send by first-class mail a notice of 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 or assessment with the clerk of a superior court facility designated by the chief court administrator, together with an entry fee of eight dollars (\$8.00), or such other amount as may from time to time be required by law, and request that said clerk enter judgment against such person in favor of the City of New Britain as provided in this article. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one (1) record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars (\$8.00), against such person in favor of the municipality. Notwithstanding any provision of the general statutes, the hearing committee assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

(f) *Right to judicial review.* The person against whom an assessment has been entered in accordance with this article is entitled to judicial review by way of appeal. 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 for a small claims case pursuant to section 52-259 [of the Connecticut General Statutes], at the superior court facility designated by the chief court administrator, which shall entitle such person to a hearing in accordance with the rules of the judge of the superior court.

(Res. No. 29317-4, 11-8-06; Res. No. 32750-2, 8-13-14)

