

ORDINANCE NO. 80-722

AN ORDINANCE TO AMEND CHAPTER 1 OF THE WARREN CODE OF ORDINANCES RELATING TO DEFINITIONS AND GENERAL PENALTY.

THE CITY OF WARREN ORDAINS:

SECTION 1. That Chapter 1, Division 1, Section 1-2 of the Code of Ordinances of the City of Warren, Michigan

WHICH PRESENTLY READS:

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

The following words and phrases, when used in this Code, shall have the meanings respectively ascribed to them:

Charter. The word "Charter" means the Charter of the City of Warren.

City. The word "city" means the City of Warren, Michigan.

City council. The word "council" or the words "city council" mean the legislative body of the City of Warren, Michigan.

Code. The words "Code" or "this Code" shall mean the Code of Ordinances of the City of Warren, Michigan, as designated in section 1-1.

Computation of time. The time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code, when expressed in days, shall be computed as prescribed by state statute.

State law reference— Computing period of days, MCL 8.6.

County. The word "county" means the County of Macomb.

Gender. Words importing masculine gender shall apply to firms, associations, partnerships and corporations, and may apply to females if the intent of the ordinance or Code provision so requires.

Health officer. The phrase "health officer" shall mean the director of the county health department or his or her authorized representative, or any person hereinafter appointed to such position by the city council, under the direction of the city director of public service.

Joint authority. All words purporting to give joint authority to three (3) or more public officers or other persons, shall be construed as giving such authority to a majority of such officers or other persons unless it is otherwise expressly declared in the provision granting the authority.

MCL. The abbreviation "MCL" shall mean the Michigan Compiled Laws, as amended.

Month. The word "month" shall be construed to mean a calendar month.

MSA. The abbreviation "MSA" shall mean the Michigan Statutes Annotated, as amended.

Number. Words in either the singular or plural numbers shall include either or both numbers and may apply in any instance to a particular person or persons.

Oath, affirmation, sworn, affirmed. The word "oath" shall be construed to include the word "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall be construed to include the word "affirmed".

Officers, departments, divisions, boards, commissions, employees or agencies. The several titles of any officer, department, division, board, commission, employee or agency shall mean such officer, department, division, board, commission, employee or agency of the city. The designation of any officer, department, division, board, commission, employee or agency, or any other agency means such officer, department, division, board, commission, employee or agency, or other agency of the city; or any authorized subordinate or designee.

Owner. The word "owner", applied to a building or land, shall include any part-owner, land contract vendee, 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" includes firms, joint adventures, partnerships, corporations, clubs, and all associations or organizations of natural persons, either incorporated or unincorporated, however operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

Preceding, following. The words "preceding" and "following", when used by way of reference to any title, chapter or section of any ordinance of the city, shall be construed to mean the title, chapter or section next preceding or next following that in which such reference is made, unless when some other title, chapter or section is expressly designated in such reference.

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

Public place. The words "public place" mean any street, alley, park, cemetery, public building, or any place of business or assembly, parking lot, parking area, or any other premises open to the public or frequented by the public.

References, history notes. The charter references, cross references, state law references, editor's notes and history notes are inserted for convenience and to facilitate the use of same, and such words shall not be construed to limit or affect the meaning of any of the provisions of this Code.

Seal. In all cases in which the seal of any court or public office shall be required to be affixed to any paper issuing from such court or office, the word "seal" shall be construed to mean the impression of such seal on such paper alone, as well as the impression of such seal affixed thereto by means of a wafer or wax.

Shall, may. The word "shall" means imperative or mandatory; the word "may" means permissive.

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

State. The word "state" means the State of Michigan.

Sundays, legal holidays. Whenever any act required to be done pursuant to the provisions of any ordinance or Code section falls on a Sunday or legal holiday, that act shall be performed on the next succeeding business day.

Tense. Words used in the present or past tense shall be construed as including the future as well as the present or past.

Time. Whenever time is referred to, it means eastern standard time or the time officially in force in the city.

Titles, headings and catchlines. The key words used in the Code as headings, titles or catchlines for chapters, sections and subsections are inserted for convenience and to facilitate the use of same, and such words shall not be construed to limit or affect the meaning of any of the provisions of this Code.

Week. The word "week" shall be construed to mean seven (7) days.

Written, in writing. The words "written" or "in writing" may include any form of reproduction or expression of language.

Year. The word "year" shall be construed to mean a calendar year; and the word "year", alone, shall be equivalent to the words "year of our Lord".

All ordinances of the city shall be interpreted and construed in accordance with the above provisions, unless such interpretation and construction would be inconsistent with the manifest intent of the city council.

Charter reference— Definitions and interpretations for Charter, § 2.2.

State law reference— Rules of construction, MCL 8.3 *et seq.*

IS HEREBY AMENDED TO READ AS FOLLOWS:

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

The following words and phrases, when used in this Code, shall have the meanings respectively ascribed to them:

Charter. The word "Charter" means the Charter of the City of Warren.

City. The word "city" means the City of Warren, Michigan.

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Code. The words "Code" or "this Code" shall mean the Code of Ordinances of the City of Warren, Michigan, as designated in section 1-1.

Computation of time. The time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code, when expressed in days, shall be computed as prescribed by state statute.

County. The word "county" means the County of Macomb.

Gender. Words importing masculine gender shall apply to firms, associations, partnerships and corporations, and may apply to females if the intent of the ordinance or Code provision so requires.

Health officer. The phrase "health officer" shall mean the director of the county health department or his or her authorized representative, or any person hereinafter appointed to such position by the city council, under the direction of the city director of public service.

Joint authority. All words purporting to give joint authority to three (3) or more public officers or other persons, shall be construed as giving such authority to a majority of such officers or other persons unless it is otherwise expressly declared in the provision granting the authority.

MCL. The abbreviation "MCL" shall mean the Michigan Compiled Laws, as amended.

Misdemeanor. Violation of an ordinance that constitutes a crime, as opposed to a civil infraction. An ordinance violation is a misdemeanor if it defines itself as a misdemeanor, specifies a punishment of jail time, or does not specify that it is a civil infraction or municipal civil infraction.

Month. The word "month" shall be construed to mean a calendar month.

MSA. The abbreviation "MSA" shall mean the Michigan Statutes Annotated, as amended.

Municipal civil infraction means an act or omission that is prohibited by an ordinance, is not a crime under that ordinance, and for which a court may order civil sanctions. A municipal civil infraction does not include violations excluded from municipal civil infractions by MCL 600.113(1)(c) as amended, including but not limited to violations of the Michigan Vehicle Code, MCL 257.1 *et seq.*, violations of the Uniform Traffic Code, MCL 257.951 *et seq.*, violations of the Michigan Liquor Control Act, MCL 436.1101 *et seq.*, and violations of any ordinance enacted pursuant to MCL 257.942 regulating traffic in parking areas.

Number. Words in either the singular or plural numbers shall include either or both numbers and may apply in any instance to a particular person or persons.

Oath, affirmation, sworn, affirmed. The word "oath" shall be construed to include the word "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall be construed to include the word "affirmed".

Officers, departments, divisions, boards, commissions, employees or agencies. The several titles of any officer, department, division, board, commission, employee or agency shall mean such officer, department, division, board, commission, employee or agency of the city. The designation of any officer, department, division, board, commission, employee or agency, or any other agency means such officer, department, division, board, commission, employee or agency, or other agency of the city; or any authorized subordinate or designee.

Owner. The word "owner", applied to a building or land, shall include any part-owner, land contract vendee, 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" includes firms, joint adventures, partnerships, corporations, clubs, and all associations or organizations of natural persons, either incorporated or unincorporated, however operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

Preceding, following. The words "preceding" and "following", when used by way of reference to any title, chapter or section of any ordinance of the city, shall be construed to mean the title, chapter or section next preceding or next following that in which such reference is made, unless when some other title, chapter or section is expressly designated in such reference.

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

Public place. The words "public place" mean any street, alley, park, cemetery, public building, or any place of business or assembly, parking lot, parking area, or any other premises open to the public or frequented by the public.

References, history notes. The charter references, cross references, state law references, editor's notes and history notes are inserted for convenience and to facilitate the use of same, and such words shall not be construed to limit or affect the meaning of any of the provisions of this Code.

Seal. In all cases in which the seal of any court or public office shall be required to be affixed to any paper issuing from such court or office, the word "seal" shall be construed to mean the impression of such seal on such paper alone, as well as the impression of such seal affixed thereto by means of a wafer or wax.

Shall, may. The word "shall" means imperative or mandatory; the word "may" means permissive.

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

State. The word "state" means the State of Michigan.

Sundays, legal holidays. Whenever any act required to be done pursuant to the provisions of any ordinance or Code section falls on a Sunday or legal holiday, that act shall be performed on the next succeeding business day.

Tense. Words used in the present or past tense shall be construed as including the future as well as the present or past.

Time. Whenever time is referred to, it means eastern standard time or the time officially in force in the city.

Titles, headings and catchlines. The key words used in the Code as headings, titles or catchlines for chapters, sections and subsections are inserted for convenience and to facilitate the use of same, and such words shall not be construed to limit or affect the meaning of any of the provisions of this Code.

Week. The word "week" shall be construed to mean seven (7) days.

Written, in writing. The words "written" or "in writing" may include any form of reproduction or expression of language.

Year. The word "year" shall be construed to mean a calendar year; and the word "year", alone, shall be equivalent to the words "year of our Lord".

All ordinances of the city shall be interpreted and construed in accordance with the above provisions, unless such interpretation and construction would be inconsistent with the manifest intent of the city council.

Charter reference— Definitions and interpretations for Charter, § 2.2.

State law references— Computing period of days, MCL 8.6; Rules of construction, MCL 8.3 *et seq.*

SECTION 2. That Chapter 1, Division 1, Section 1-8 of the Code of Ordinances of the City of Warren, Michigan

WHICH PRESENTLY READS:

Sec. 1-8. General penalty.

- (a) Whenever in this Code or any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or such ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision by any person shall, upon conviction, be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding ninety (90) days, or both, unless another specific penalty is otherwise provided, and except whenever the violation is declared a municipal civil infraction, upon a finding or an admission of responsibility, the person shall be assessed a fine of not less than one hundred dollars (\$100.00) or not more than one thousand dollars (\$1,000.00), per violation plus costs and other sanctions for each infraction.
- (b) Any person under the age of seventeen (17) years who violates any provision of this Code or any ordinance of the city shall be dealt with by the juvenile division of the probate court or as prescribed by the laws of the state, except those violations designated a municipal civil infraction as authorized by the Revised Judicature Act, MCL 600.113, shall be within the jurisdiction of the district court.
- (c) In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a new and separate offense for each day that such condition continues to exist.
- (d) In addition to any penalty under this section any condition which constitutes a violation of this Code may be abated by the city as a nuisance.

Charter reference— Penalties, § 6.5.

State law reference— Limitation on penalties, MCL 117.4i; juveniles and juvenile division, MCL 712A.1 *et seq.*

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 1-8. General penalty.

- (a) The district court shall punish a person found guilty of a misdemeanor ordinance violation, as follows:
 - (1) If the ordinance specifies a punishment:
 - i. the stated punishment; and/or
 - ii. reasonable court costs of not more than one thousand dollars (\$1,000.00), irrespective of any reference to court costs in the ordinance;
 - (2) If the ordinance does not specify a punishment:
 - i. by a fine not exceeding five hundred dollars (\$500.00);
 - ii. imprisonment for a term not exceeding ninety (90) days; and/or
 - iii. reasonable court costs of not more than one thousand dollars (\$1,000.00), irrespective of any reference to court costs in the ordinance.
- (b) The district court shall punish a person found responsible of a municipal civil infraction ordinance violation, as follows:
 - i. a fine of not less than one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) per violation; and/ or
 - ii. costs; assessments; and damages and expenses, as provided by MCL 600.8727(3).
- (c) Any person under the age of seventeen (17) years who is charged with:
 - (1) a misdemeanor shall be referred to the juvenile division of the probate court, or as otherwise prescribed by the laws of the state.
 - (2) a municipal civil infraction is within the jurisdiction of the district court.
- (d) In addition to the penalties provided in this Section, any condition a person causes or permits to exist in violation of an ordinance
 - (1) is a new and separate offense each day that the condition continues to exist; and
 - (2) may be abated by the City as a nuisance.

Charter reference— Penalties, § 6.5.

State law reference— Limitation on penalties, MCL 117.4i; juveniles and juvenile division, MCL 712A.1 *et seq.*; MCL 600.8727.

Cross Reference--- Civil infraction penalties, § 1-16.

SECTION 3. That Chapter 1, Division 3, Section 1-10 of the Code of Ordinances of the City of Warren, Michigan

WHICH PRESENTLY READS:

Sec. 1-10. Definitions.

As used in this chapter:

Act means the Municipal Civil Infractions Act, Public Act No. 12 of 1994, as amended, found in the Revised Judicature Act, MCL 600.101 et seq.

Authorized city official means a police officer or other personnel of the city authorized by this or any other ordinance to issue municipal civil infraction citations.

Civil infraction means an act or omission that is prohibited by ordinance of the city for which a civil sanction may be ordered and is not a crime.

Code enforcement officer shall include every inspection position of the city that has the duty of enforcing the various regulations of this Code of Ordinances.

Finding of responsible shall include the entry of judgment, entry of a default judgment, payment of a fine, or a plea of responsible on a citation.

Municipal civil infraction citation means a written complaint prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction by the person cited.

Respondent means the person whom a municipal civil infraction citation has been issued to and who is responsible for the alleged violation.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 1-10. Definitions.

As used in this Code:

Act means the Municipal Civil Infractions Act, Public Act No. 12 of 1994, as amended, found in the Revised Judicature Act, MCL 600.101 et seq.

Authorized city official means a police officer or other personnel of the city authorized by this or any other ordinance to issue municipal civil infraction citations.

Code enforcement officer shall include every inspection position of the city that has the duty of enforcing the various regulations of this Code of Ordinances.

Finding of responsible shall include the entry of judgment, entry of a default judgment, payment of a fine, or a plea of responsible on a citation.

Municipal civil infraction means an act or omission that is prohibited by an ordinance, is not a crime under that ordinance, and for which a court may order civil sanctions. A municipal civil infraction does not include violations excluded from municipal civil infractions by MCL 600.113(1)(c) as amended, including but not limited to violations of the Michigan Vehicle Code, MCL 257.1 *et seq.*, violations of the Uniform Traffic Code, MCL 257.951 *et seq.*, violations of the Michigan Liquor Control Act, MCL 436.1101 *et seq.*, and violations of any ordinance enacted pursuant to MCL 257.942 regulating traffic in parking areas.

Municipal civil infraction citation means a written complaint prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction by the person cited.

Respondent means the person whom a municipal civil infraction citation has been issued to and who is responsible for the alleged violation.

SECTION 4. This Ordinance shall take effect on July 31, 2014.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-722 was adopted by the Council of the City of Warren at its meeting held on July 22, 2014.

PAUL WOJNO
City Clerk

Published: July 31, 2014