

## CHAPTER 1: GENERAL PROVISIONS

### **§ 1.1 Title**

This codification, namely Chapters One through One Hundred\* of this code, is and is intended to be a complete compilation of all former ordinances and local laws of a general nature effective in the Town of Camillus in the County of Onondaga and State of New York and shall be known and cited as the "Town of Camillus Municipal Code".

### **§ 1.2 Definitions**

#### A. Specific terms

When used in this Code, unless otherwise expressly stated or unless the context or subject matter otherwise requires:

1. "Animal Control Officer" means any individual appointed by the Town to assist in the enforcement of Chapter 54 or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town to assist in the enforcement of Chapter 54.
2. "Assessor" means the Assessor of the Town of Camillus in the County of Onondaga and State of New York.
3. "Attorney" or "Town Attorney" means the Town Attorney of the Town of Camillus in the County of Onondaga and State of New York or an Attorney retained by the Town Board to render legal advice and assistance.
4. "Board" or "Town Board" means the Town Board of the Town of Camillus in the County of Onondaga and State of New York.
5. "Board of Appeals" or "Zoning Board of Appeals" means the Board of Appeals of the Town of Camillus in the County of Onondaga and State of New York.
6. "Chief of Police" or "Police Chief" means the Chief of Police of the Town of Camillus in the County of Onondaga and State of New York.
7. "Clerk" or "Town Clerk" means the Town Clerk of the Town of Camillus in the County of Onondaga and State of New York.
8. "Code" unless otherwise specifically qualified means the Town of Camillus Municipal Code.
9. "Code Enforcement Officer" means the officer of the Town of Camillus appointed by the Town Board to enforce the State Building Construction Code, the Zoning Law and other related laws of the Town of Camillus.

10. "Comptroller" or Town Comptroller" means the Town Comptroller of the Town of Camillus in the County of Onondaga and State of New York.
11. "Councilman" means a Councilman of the Town of Camillus in the County of Onondaga and State of New York.
12. "County" means the County of Onondaga in the State of New York.
13. "County Clerk" means the County Clerk of the County of Onondaga in the State of New York.
14. "Director of Parks and Recreation" means the Director of Parks and Recreation of the Town of Camillus in the County of Onondaga and State of New York.
15. "Director of Weights and Measures" means the Director of Weights and Measures of the County of Onondaga in the State of New York.
16. "Enforcement Officer" means the officer or employee designated by appropriate authority to be in charge of and responsible for the enforcement of the provisions of a specific Chapter of this Municipal Code, or rules or regulations or a part thereof for which he or she is so designated.
17. "Fire Chief" means any of the Fire Chiefs of any volunteer fire company which has contracted with the Town to render service in any fire district or area of the Town of Camillus in the County of Onondaga and State of New York.
18. "Fire Department" means any of the Volunteer Fire Companies under contract to render services in the Town of Camillus in the County of Onondaga and State of New York.
19. "Fire Marshall" means the officer of the Town of Camillus appointed by the Town Board to enforce the State Fire Prevention Code. Unless otherwise designated by the Town Board, the Code Enforcement Officer shall serve as Fire Marshall.
20. "Health Officer" means the duly appointed Health Officer who is authorized to exercise all the functions and duties of a Health Officer in the Town of Camillus in the County of Onondaga and State of New York.
21. "Municipal Code" means the Town of Camillus Municipal Code.
22. "Municipality" means the Town of Camillus in the County of Onondaga and State of New York.
23. "Owner" means a person who has the legal title, alone or with another, or exercises dominion or control over property both real and personal.

24. "Person" means one or more persons of either sex, natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities capable of being sued.
25. "Planning Board" means the Planning Board of the Town of Camillus in the County of Onondaga and State of New York.
26. "Receiver of Taxes and Assessments" means the Receiver of Taxes and Assessments of the Town of Camillus in the County of Onondaga in the State of New York.
27. "State" means the State of New York.
28. "Superintendent of Highways", "Highway Superintendent" or "Town Superintendent" means the Superintendent of Highways of the Town of Camillus in the County of Onondaga and State of New York.
29. "Supervisor" or "Town Supervisor" means the Supervisor of the Town of Camillus in the County of Onondaga and State of New York.
30. "Tenant" means a person occupying real property under an oral or written lease or who is in possession of real property under the actual or tacit consent of the owner. Whenever a person, not the owner, occupies real property, it shall be presumed that he or she occupies same as a tenant.
31. "Town" or "Town of Camillus" means the Town of Camillus in the County of Onondaga and State of New York.
32. "Town Board" or "Board" means the Town Board of the Town of Camillus in the County of Onondaga and State of New York.
33. "Town Clerk" or "Clerk" means the Town Clerk of the Town of Camillus in the County of Onondaga and State of New York.
34. "Town Engineer" means the Town Officer appointed by the Town Board to serve as Town Engineer of the Town of Camillus or an engineer employed by the Town Board to give it such professional service and advice as it may require.
35. "Town Justice" means a Town Justice of the Town of Camillus in the County of Onondaga and State of New York.

B. Other words

All other words used in this Code and not otherwise specifically defined shall be construed in the manner that they are normally used unless the context or subject matter requires otherwise; but words that have acquired a technical meaning in law and are so used shall be construed and understood in accordance with such meaning.

**§ 1.3 Rules of construction**

A. Words used in the present tense include the future tense.

B. The singular number includes the plural.

C. A word importing the masculine gender only shall also be construed to include females, corporations, partnerships, associations, joint stock companies, societies, and all other entities capable of being sued.

**§ 1.4 Repeal of prior ordinances and local laws**

All ordinances and local laws of a general nature which were heretofore in existence in the Town of Camillus, New York, before the adoption of this Code and not included in this codification are hereby repealed. The repeal of all prior ordinances and local laws shall not affect any punishment or penalty incurred, except Chapter 26 which pertains to zoning & signs, nor shall it have any effect on existing litigation and it shall not operate as an abatement of any action or proceeding now pending or which may be brought by virtue of the ordinance or local law or part thereof so repealed for any violation or act committed prior to the effective date of the repeal unless specifically abated.

**§ 1.5 Repeal of enactments contained in the Code**

A. Prior ordinances and local laws not revived.

The repeal of an enactment, in whole or in part, contained in this Code, shall not revive any prior ordinance or local law heretofore repealed.

B. No abatement.

The repeal of any enactment, in whole or in part, contained in this Code shall not affect any punishment or penalty incurred, nor shall it have any effect on existing litigation and it shall not operate as an abatement of any action or proceeding now pending or which may be brought by virtue of the enactment or part thereof so repealed for any violation or act committed prior to the effective date of the repeal unless specifically abated.

### **§ 1.6 Effect of invalidity**

If any provision of this Municipal Code or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section, article or chapter or the application of any part thereof to any other person or circumstances and to this end the provisions of this Municipal Code are hereby declared to be severable.

### **§ 1.7 Unlawful alteration of Code**

It shall be unlawful for any person to wilfully misrepresent the provisions of this Code by altering or changing any of the provisions herein, inserting or deleting pages, or by any other manner whatsoever.

### **§ 1.8 Annotations and material contained in brackets**

Any material contained in brackets shall not be deemed to be a part of this Code. Such material contained therein is intended to show the adoption date, effective date and comments on any changes.

Likewise, any commentaries, footnotes, cross-references, citations of authority or other annotations shall not be deemed a part of this Code but are inserted editorially solely to assist in the use and interpretation of this Code.

### **§ 1.9 Conflict with other provisions**

Wherever the requirements of any Chapter or portion thereof are at variance with the requirements of any other lawfully adopted rule, regulation, Chapter or other enactment, the most restrictive or that imposing the higher standards shall govern unless a contrary intent is expressly stated.

### **§ 1.10 Penalty when not otherwise prescribed**

- A. Unless otherwise specifically provided, the violation of any ordinance, rule or regulation or any specific provision or provisions thereof adopted by the Town board as a part of this Code shall be deemed an offense against such ordinance, rule, regulation, or provision thereof punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00) or imprisonment of not more than thirty (30) days, or both such fine and imprisonment.
- B. Each day any such violation shall continue, shall constitute a separate offense.

**§ 1.11 Failure of officers or employees to perform duties**

The failure of any officer or employee of the Town to perform an official act imposed by this Code shall not be an offense, and shall not subject such officer or employee to the penalty imposed for the violation of any provision of this Code, unless a penalty is specifically provided therefor.

**§ 1.12 Deputies, assistants and representatives**

Wherever any officer of the town is granted certain powers or duties or is designated as the enforcement officer of a specific Chapter or portion thereof, it shall also be construed to include the deputies, assistants and representatives of such officer as may be designated, delegated or authorized by such officer to exercise such powers or duties.

While acting within the scope of their employment, it shall be presumed that all acts performed by such deputies, assistants and representatives were duly delegated and authorized.

**§ 1.14 Supersession of Town Law**

In case any provision of the Town of Camillus Municipal Code is inconsistent with any provision of the Town Law, pursuant to the authority contained in Subdivision 1, Paragraph (D), Subparagraph [3] of Section 10 of the Municipal Home Rule Law, the Town Law is modified and superseded in its application to the Town of Camillus to the extent and only to the extent that the Town Law is inconsistent with any provision of the Town of Camillus Municipal Code.

**§ 1.15 Interpretation**

The provisions of this Code shall be liberally construed in order to effectuate the purposes for which this Code and the laws contained herein are enacted.

**§ 1.20 Violation of subdivision regulations**

A. Violation constitutes offense

A violation of the Subdivision Regulations of the Town of Camillus is hereby declared to be an offense, punishable by a fine not exceeding Two Hundred Fifty Dollars (\$250.00) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of the Subdivision Regulations of the Town of Camillus shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

B. Injunctive relief

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of the Subdivision Regulations of the Town of Camillus, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration,

conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises.

**\*Certain Chapter numbers are reserved for future additions to this Code.**

Cross-references:

Publication and Proof of Ordinances. Chapter 100.

References:

Application of Gen Const L to municipal enactments. Gen Const L § 110. Village of Bronxville v

Francis, 206 Misc 339. mod. on other grds, 1 AD2d 236, aff'd 1 NY2d .839

Authority to enact Code. Town L § § 130, 135; Stat Loc Govt § 10, Mun HRL § 10.

Conflict with State law. "Municipal corporations have only such powers as are delegated to them by the state." Brookhaven v Suf.Mead. Racing, 76 Misc2d 175, 176. See

also Floyd v NYS Urban Development Corp., 33 NY2d 1.

Jury trial, not entitled to for "Violation". People v Bonnerwith, 69 misc2d 516.

Meaning of terms. Gen const l § 10 - 61.

offenses and violations defined. Penal L § 10.00.

Penalties.

"Civil and criminal remedies are not mutually exclusionary."

People v Hacker, 76 Misc2d 610,613.

corporate fine. Where no corporate fine is specified, sentence to be imposed is set forth in Penal Law § 80.10(1). People v Great A & P Tea Co., 36 NY2d 345.

cumulative. ViI L § 20-2006(1)[a] does not permit cumulative penalties. ViI Southampton v Platt, 43 NY2d 848.

Police power. Where there is found a rational basis for legislative choice, the presumption of constitutionality cannot be overcome. Unless there is no justification on "any state of facts," The legislation must stand. Town of Hempstead v Goldblatt, 9 NY2d 101, aff'd 369 U.S. 590, 8 L.E.2d 130,82 S.C. 987.

Powers to enact legislation, "A town is a creature of the State Legislature and has only such powers and authority as the Legislature grants by statute and no more (People v Scott,26 NY2d 286, 289; Matter of Perry v Town of Cherry Val., 307 NY 427,430 Holroyd v Town of Indian Lake, 180 NY 318, 322)." Town

of North Hempstead v ViI of North Hills, 78 Misc2d 54; Mtr of Hansell v City of Long Beach, 61 AD2d 84. See, however, Municipal Home Rule Law § 10(1)[e](3) which authorized the amendment or supersession of the Town Law relating to the property, affairs or government of the Town.

Repeal, effect of, Gen Const L §§ 90,92,93.

effect on references. Gen Const L § 80.

pending actions and proceedings, Gen Const L § 94.

Substantial re-enactments, construction and effect; construed as continuation. Gen Const L § 95.

Title and headnotes. Gen Const L § 81.

Traffic and vehicles, penalties. V & T L §§ 1800,1801,1180 (f).

AMENDED SPELLING/PRINTED 2/94 LL#13-1994