

CHAPTER 1

GENERAL PROVISIONS

TABLE OF CONTENTS

SECTION 1-1. NAME OF CODE. 2

SECTION 1-2. REPEAL OF EXISTING ORDINANCES. 2

SECTION 1-3. EFFECT OF REPEALING ORDINANCES..... 2

SECTION 1-4. EFFECTIVE DATE..... 2

SECTION 1-5. DEFINITIONS AND RULES OF CONSTRUCTION..... 2

SECTION 1-6. CAPTIONS..... 4

SECTION 1-7. SEVERABILITY. 5

SECTION 1-8. NUMBERING OF ORDINANCES..... 5

SECTION 1-9. STATUTES OR CODES INCLUDED AND EXCLUDED. 5

SECTION 1-10. HEARINGS. 5

SECTION 1-11. FORM OF REQUEST..... 5

SECTION 1-12. PROCEDURE. 6

SECTION 1-13. NOT ADDITIONAL REMEDY. 6

SECTION 1-14. DATES. 6

SECTION 1-15. GENERAL PENALTY FOR VIOLATION OF. 6

CHAPTER 1

GENERAL PROVISIONS

SECTION 1-1. NAME OF CODE.

The ordinances contained in this code and all ordinances of a general nature hereafter adopted and inserted herein and all amendments, additions and changes thereto shall be part of this code and shall be known and cited as the “Revised Ordinances of Howell Town, 1985”.

SECTION 1-2. REPEAL OF EXISTING ORDINANCES.

So far as the provisions of these Revised Ordinances are the same as those of previously existing ordinances, they shall be construed as continuations thereof. All ordinances and resolutions of this municipality heretofore in force, except such as are of a private, local or temporary nature including franchises, grants, dedications, bond issues, elections and special levies for local assessments, hereby are repealed.

SECTION 1-3. EFFECT OF REPEALING ORDINANCES.

The repeal of the ordinances as provided in section 1-2, shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or proceeding commenced under or by virtue of the ordinances repealed or the term of office or any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

SECTION 1-4. EFFECTIVE DATE.

These Revised Ordinances shall become effective July 1, 1985.

SECTION 1-5. DEFINITIONS AND RULES OF CONSTRUCTION.

In the construction of the ordinances of this town, the following rules and definitions shall be observed and applied unless such construction would be inconsistent with the manifest intent of these ordinances:

- A. **GENERAL RULE.** All words and phrases shall be construed and understood according to the common use and understanding of the language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.
- B. **GENDER – SINGULAR AND PLURAL.** Unless otherwise indicated from the context of the ordinance, all words used in the singular shall include the

plural and all words used in the masculine gender shall extend to and apply to the feminine gender.

- C. **PERSON.** The term “person” includes all individuals both male and female, any governmental agency, corporation, partnership, association, company, and every other form of organization whether formed voluntarily or involuntarily.
- D. **TENSES.** The use of any verb in the present tense shall include the future and past tense when applicable.
- E. **HIGHWAY – ROAD.** The terms “highway” and “road” include public bridges, and may be equivalent to the words “county highway”, “county road”, “common road”, and “state road”.
- F. **STREET.** The term “street” includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks, and intersections.
- G. **BUSINESS.** The term “business” includes any trade, profession, calling, activity, operation or enterprises for which a license is required by any ordinance of this town.
- H. **LICENSE.** The term “license” includes any certificate or license issued by this town.
- I. **PROPERTY.** The term “property” includes both real and personal property.
- J. **OWNER.** The term “owner” applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lessee of a whole or part of such building or land.
- K. **TENANT – OCCUPANT.** The terms “tenant” or “occupant” applied to a building or land shall apply to any person who occupies all or any part of such building or land either alone or with others.
- L. **REASONABLE TIME.** In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.
- M. **TIME – HOW COMPUTED.** The time within which an act is to be done as provided in any ordinance or in any resolution or order of this town, when expressed days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a holiday, then the last

shall be the day next following such Sunday or holiday which is not a Sunday or holiday. When time is express in hours, Sunday and all holidays shall be excluded.

- N. WEEK. The word “week” shall be construed to mean any seven-day period.
- O. LOCATION. Whenever any act, conduct of offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct, or offense prohibited or required shall be within the boundaries of the town.
- P. CHIEF OF POLICE, CITY MARSHAL, TOWN MARSHAL OR MARSHAL. The terms “chief of police”, “city marshal”, “town marshal” or “marshal” as used in this code all have the same meaning and may be used interchangeably.
- Q. MUNICIPALITY OR TOWN. The words “municipality” or “town” as used throughout this code means the Howell Town.
- R. GOVERNING BODY, TOWN COUNCIL OR COUNCIL. The words “governing body”, “town council” or “council” as used throughout this code means the board of trustees of this town.
- S. OFFENSE. Offense means any act, action, or conduct prohibited by this code or the failure to perform any acts required in this code.
- T. OFFICER OR OFFICIALS. The terms “officer” or “official” as used in this code mean any elected or appointed person employed by the town unless the context clearly indicates otherwise.
- U. RECORDER/CLERK. The term “recorder/clerk” means the individual appointed to act as clerk of the town.
- V. MAYOR/TOWN BOARD PRESIDENT. The term “mayor” as used throughout this code, and unless the context clearly indicates otherwise, shall include and mean “town president”.

SECTION 1-6. CAPTIONS.

The captions in this code immediately preceding each section are intended as mere captions to indicate the content of the section and shall not be deemed or taken to be part of the section.

SECTION 1-7. SEVERABILITY.

It is hereby declared to be the intention of the town council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional or without effect by any final judgment or decree of a court of competent jurisdiction, such judgment or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

SECTION 1-8. NUMBERING OF ORDINANCES.

The town clerk shall record, in a book used exclusively for that purpose, all ordinances passed by the town council. The clerk shall give each ordinance a number, if the town council has not already so done. Immediately following each ordinance, or codification of ordinances, the clerk shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and publication or posting of the ordinance or codification. Failure to comply with this section shall not affect or render invalid any ordinance of this municipality.

SECTION 1-9. STATUTES OR CODES INCLUDED AND EXCLUDED.

Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the citation or statute part of this code unless the provisions of this code specifically include, incorporate or make the citation or statute part of this code by reference or incorporation, and any such reference or citation not specifically included or incorporated may be changed, amended or deleted without publication on an order of the town council.

SECTION 1-10. HEARINGS.

Unless otherwise specifically provided in any ordinance of the town or any code adopted by reference, a hearing before the town council may be requested by any person:

- A. Who is denied or refused a permit or license by any officer, agent or employee of the town.
- B. Whose permit or license is revoked, restricted, qualified, or limited from that for which it was first issued.
- C. Who desires a hearing on any matter pertaining to the town.

SECTION 1-11. FORM OF REQUEST.

The request for hearing must be made in writing to the mayor or town clerk and made within:

- A. (For Section 1-10 subsections A and B) 30 days following the date notice denying, refusing, revoking, qualifying, restricting or revoking the license or permit is mailed by the town to the applicant or license holder at his address as it appears on the application or license.
- B. (For Section 1-10 subsection C) 10 days before the regularly scheduled meeting of the town council.

SECTION 1-12. PROCEDURE.

- A. Following receipt of a request for a hearing, the town council shall inform the person requesting a hearing of the time and place the hearing is to be held.
- B. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the town may produce to support its decision and to present his own evidence in support of his contention.
- C. The town council shall, within ten days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the town council.

SECTION 1-13. NOT ADDITIONAL REMEDY.

Sections 1-10 through 1-13 shall not be construed so as to afford any aggrieved party more than one hearing before the town council nor shall the hearing provided in the above sections apply to any criminal complaint or proceeding.

SECTION 1-14. DATES.

After this code of Revised Ordinances is enacted, each section that is amended, added to, changed or deleted shall be followed by the date the action was taken, e.g., (1-1-85).

SECTION 1-15. GENERAL PENALTY FOR VIOLATION OF ORDINANCES.

Any person, who shall violate any ordinance or any provision of any ordinance of the town where the punishment is not otherwise provided, shall be punished by a fine in any sum up to and including \$299.00 by imprisonment not to exceed six months, or by both a fine and imprisonment.