

NOTICE

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CODIFIED ORDINANCES OF KETTERING

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
Chap. 103. Official Standards.
Chap. 105. Districts and Boundaries.
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CHAPTER 101
Codified Ordinances

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CROSS REFERENCES

See sectional histories for similar State law
Codification in book form - see Ohio R.C. 731.23
Imprisonment until fine and costs are paid - see Ohio R.C.
1905.30, 2947.20
Statute of limitations on prosecutions - see GEN. OFF. 606.06
Ordinances and resolutions - see ADM. Ch. 123

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Kettering, Ohio, 1972, for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless otherwise expressly provided or the context otherwise requires:

(a) And may be read or, and or may be read and, if the sense requires it (ORC 1.02 (H))

- (b) Another or person, when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property. (ORC 1.02 (B), (C))
- (c) Council means the legislative authority of the Municipality.
- (d) County means Montgomery County, Ohio
- (e) Keeper or proprietor includes all persons, whether acting by themselves or as a servant, agent or employee.
- (f) Land or real estate includes rights and easements of incorporeal nature. (ORC 701.01 (F))
- (g) Municipality or City means the City of Kettering, Ohio.
- (h) Oath includes an affirmation. (ORC 701.01 (C))
- (i) Owner, when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (j) Person or whoever includes all persons, natural and artificial, and includes but is not limited to private corporations, partners, principals, agents and employees, and all officials, public or private. (ORC 1.02 (A))
- (k) Premises, as applied to property, includes land and buildings.
- (l) Property includes real, personal, mixed estates and interests. (ORC 701.01 (E))
Personal property includes all property except real.
Real property includes lands, tenements, and hereditaments.
- (m) Public authority includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.
- (n) Public place includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (o) Registered mail includes certified mail. (ORC 1.02 (I))
- (p) Sidewalk means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (q) State means the State of Ohio, or any department, division, commission, board, educational or other institution of the State of Ohio.
- (r) Street includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (s) Tenant or occupant, as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (t) Writing includes printing. (ORC 1.02 (D))

101.03 RULES OF CONSTRUCTION.

- (a) General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- (b) As used in the Codified Ordinances, unless the context otherwise requires:
- (1) Tense. Words in the present tense include the future tense.
 - (2) Gender. Words in the masculine gender include the feminine and neuter genders.

- (3) Plural. Words in the plural number include the singular number, and words in the singular number include the plural number. (ORC 1.10)

(c) Calendar - Computation of Time. The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.

When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday. (ORC 1.14)

When an act is to take effect or become operative from and after a day named, no part of that day shall be included. (ORC 1.15)

In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Joint Authority. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with State statute or Charter provisions.

(f) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(a) When a law which repealed a former law is repealed, the former law is not thereby revived. (ORC 1.19)

(b) When a provision of the Codified Ordinances is repealed or amended, such repeal or amendment does not affect pending actions, prosecutions or proceedings, civil or criminal. When the repeal or amendment relates to the remedy, it does not affect pending actions, prosecutions or proceedings, unless so expressed, nor does any repeal or amendment affect causes of such action, prosecution or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing law. (ORC 1.20)

(c) When a provision of the Codified Ordinances is repealed, such repeal does not:

- (1) Affect any rights or liabilities which exist, have accrued or have been incurred by virtue of such repealed provision;
- (2) Affect an action or proceeding for the enforcement of any rights or liabilities existing or arising thereunder;

(3) Relieve any person from punishment for an act committed in violation of such repealed provision;

(4) Affect an indictment or prosecution for a violation of such repealed provision.

For the purposes of this section, such repealed provision shall continue in full force and effect notwithstanding such repeal, provided this does not affect the limitation of actions, prosecutions or proceedings imposed by any State statute. (ORC 1.21)

101.05 CONSTRUCTION OF SECTION REFERENCES.

When reference is made to any section or group of sections of the Codified Ordinances, such reference shall extend to and include any amendment of or supplement to the section or group of sections so referred to or any section or sections hereafter enacted in lieu thereof; and unless otherwise provided, whenever a reference to a section or group of sections is made in any amendment or supplement to any section of the Codified Ordinances hereafter enacted, such reference shall be deemed to refer to the section or sections as the same shall then stand or as thereafter amended.

Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in such reference.

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances. (ORC 1.23)

101.06 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters or sections of the Codified Ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

101.07 SEPARABILITY.

Each section of the Codified Ordinances and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof. (ORC 1.13)

101.08 CORRECTION OF TYPOGRAPHICAL ERRORS AND MECHANICAL DEFECTS

The correction of typographical errors and mechanical defects in the Codified Ordinances shall not be deemed to constitute or require additional legislation. Accordingly, as part of the work of continuing the codification and recodification of the ordinances of this city, this ordinance section assigns and delegates to the law department the authority to correct such errors and defects as that department may observe or as may be brought to its attention by the office of the city manager or by other departments. Such corrections by the law department shall be made by revising pages of the books of codified ordinances. This authority and responsibility may be exercised, however, only in accordance with the following standards:

1. Corrections shall be limited to typographical errors, spelling, sentence structure, punctuation, capitalization, paragraphing, arrangement, headings, style and the numbering of parts, titles, chapters, sections and pages.
2. The attorneys in the law department shall use professional skill and judgement to avoid changes in purpose or meaning. (Ord. 3607-93; passed 5/25/93.)

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding fifty dollars (\$50.00). A separate offense shall be deemed committed on each day during or on which a continuing violation occurs.

Legislative history: Ord. 3493-91; passed 5/14/91. Ord. 3607-93; passed 5/15/93.