

TOWN OF COLCHESTER SELECTBOARD
P.O. Box 55
Colchester, VT 05446

CERTIFICATE OF AMENDMENT

We, the Colchester Selectboard, hereby certify that pursuant to Chapter 1, Section 104 through 109, of the Colchester Town Charter, held a public hearing, and adopted the following amendment to Chapters 1 (General Provisions), Chapter 4 (Building Code and Construction), Chapter 7 (Fire Prevention) and Chapter 8 (On-Site Sewage Disposal and Potable Water).

Bold – to be added
~~Strikethrough – to be deleted~~

See Attached.

DATED this 14th day of May, 2013. EFFECTIVE July 14, 2013.

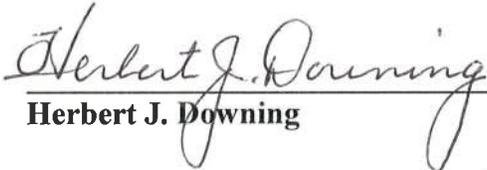
COLCHESTER SELECTBOARD



Nadine Scibek

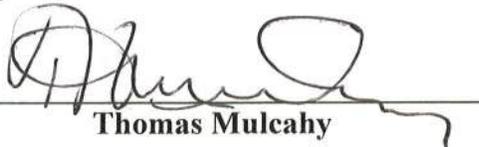


Marc Landry



Herbert J. Downing

Kathrine Niquette



Thomas Mulcahy

Sec. 1-9. General penalty; violations.

Whenever in this Code or in any ordinance of the Town any act is prohibited or is made or declared to be unlawful, an offense or a misdemeanor, or whenever in such Code or ordinance 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 therefor, the violation of any such provision of this Code or ordinance shall be punished as outlined below.

This section shall be known and may be cited and referred to as "Civil Enforcement Ordinance of the Town of Colchester."

A. Civil ordinance violations jurisdiction; enforcement of civil ordinance violations:

- (1) A civil penalty (a fine not more than that allowed by law) may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation. The following penalties may be assessed for all municipal complaints:

First offense \$200~~50~~.00

Second offense 400~~100~~.00

Third and subsequent offenses 150~~800~~.00

Waiver fee (first offense) 25~~100~~.00

Waiver fee (second offense) 200~~50~~.00

Waiver fee (third and subsequent offenses) 4~~100~~.00

- (2) All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is ~~five-eight~~ hundred dollars (\$8~~500~~.00) or less, shall be brought before the ~~traffic and municipal ordinance bureau~~ judicial bureau pursuant to Title 24, Chapter 59 and Title 4 of the Vermont Statutes Annotated ~~chapter 24 of title 23~~.

B. Civil ordinance violation complaint; complaint for municipal civil ordinance violations:

- (1) The summons and complaint shall be a form known as the "municipal complaint."
- (2) The municipal complaint shall be signed by the issuing municipal official. The original copy shall be filed with the ~~traffic and~~

Comment [CB1]: Consider changing to scale to \$800.00 as the highest fine.

~~municipal ordinance judicial bureau.~~ A copy shall be retained by the issuing municipal official, and two (2) copies shall be given to the defendant.

- (3) The municipal official may void or amend the municipal complaint issued by that official by so marking the complaint and sending it to the ~~traffic and municipal ordinance bureau~~ judicial bureau.
- (4) The municipal complaint shall contain a description of the ordinance allegedly violated, the allegations, the amount of the penalty, and an explanation of rights and instructions on answering the allegations. The municipal complaint shall contain, in boldface print, the following:

"IF YOU ADMIT TO A VIOLATION OF THE ORDINANCE OF THE TOWN/CITY/VILLAGE OF OR IF YOU DO NOT CONTEST THE ALLEGATIONS, SIGN THE COMPLAINT ADMITTING THE VIOLATION OR STATING THAT THE ALLEGATIONS ARE NOT CONTESTED AND SEND IT TO THE ~~TRAFFIC AND MUNICIPAL ORDINANCE BUREAU~~ JUDICIAL BUREAU WITHIN 20 DAYS.

"IF YOU WANT TO DENY THE ALLEGATIONS IN THIS COMPLAINT, YOU MUST SEND A SIGNED DENIAL TO THE ~~TRAFFIC AND MUNICIPAL ORDINANCE~~ JUDICIAL BUREAU WITHIN 20 DAYS.

"IF YOU DO NOT ANSWER THIS COMPLAINT WITHIN 20 DAYS, A DEFAULT JUDGEMENT WILL BE ENTERED AGAINST YOU AND YOU WILL BE REQUIRED TO PAY A FEE OF TWENTY DOLLARS (\$20.00) FOR FAILURE TO ANSWER THE COMPLAINT WITHIN THE TIME ALLOWED. THE FAILURE TO PAY THE PENALTY ASSESSED WILL RESULT IN FURTHER LEGAL ACTION AGAINST YOU.

"IF YOU ADMIT OR DO NOT CONTEST OR DO NOT ANSWER, YOU WILL BE LIABLE FOR THE AMOUNT INDICATED IN THE COMPLAINT."

C. *Civil ordinance violation response; answer to municipal complaint; default:*

- (1) A person who is charged with a municipal civil ordinance violation shall have twenty (20) days from the date the municipal

complaint is issued to admit or deny the allegations or to state that he or she does not contest the allegations in the complaint.

- (2) A person who admits or does not contest the allegations may so indicate and sign the complaint. The ~~traffic and municipal ordinance~~ judicial bureau shall accept the admission or statement that the allegations are not contested and accept payment of the waiver fee.
- (3) If the person sends in the amount of the waiver penalty without signing the complaint, the ~~traffic and municipal ordinance~~ judicial bureau shall accept the payment indicating that payment was made and that the allegations were not contested. If the person who admits the violation fails to pay the waiver fee, the ~~traffic and municipal ordinance~~ judicial bureau shall enter a default judgement against the person.
- (4) A person who denies the allegations may so indicate and sign the complaint. Upon receipt, ~~the traffic and municipal ordinance~~ judicial bureau shall schedule a hearing.
- (5) If a person fails to appeal or answer a municipal ~~ordinance~~ complaint or fails to appear at a municipal ~~ordinance~~ hearing, the ~~traffic and municipal ordinance~~ judicial bureau shall enter a default judgement against the person. The judicial bureau shall assess the full penalty provided for in the ordinance found to have been violated, if the penalty does not exceed one hundred seventy-five dollars (\$175.00). The bureau shall mail a notice to the person that a default judgement has been entered. A default judgement may be set aside by the hearing officer for good cause shown.

D. Civil ordinance violation hearing:

- (1) The ~~traffic and municipal ordinance~~ judicial bureau shall notify the person charged and the issuing official of the time and place for the hearing.
- (2) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable.

- (3) The municipality may be represented by a municipal official. "Municipal official" shall be defined as being any Colchester Police Officer, the zoning administrator, the assistant zoning administrator, the building inspector, the assistant building inspector, the director of planning and zoning, ~~town planner~~, the ~~development review coordinator~~, the life safety inspector, the health officer, ~~the sign administrator~~, and the designated animal control officer.
- (4) At the hearing, the municipal official may dismiss or amend the complaint, subject to the approval of the hearing officer.
- (5) The hearing officer shall make findings which shall be stated on the record or, if more time is needed, shall make written findings at a later date. The hearing officer may make a finding that the person has committed a lesser-included violation.

E. Civil ordinance violation appeals:

- (1) A decision of the hearing officer may be appealed to the ~~district court~~ Criminal Ddivision of the Ssuperior Ceourt. The proceeding before the ~~district court~~Criminal Ddivision of the Ssuperior Ceourt shall be on the record, or at the option of the defendant, de novo. If the appeal is de novo, the defendant shall have the right to trial by jury. An appeal shall stay payment of a penalty.
- (2) If a decision is appealed, the municipal attorney shall represent the municipality.
- (3) No appeal as of right exists to the Vermont Supreme Court. On motion made to the Vermont Supreme Court by a party, the Vermont Supreme Court may allow an appeal to be taken to it from the ~~district court~~criminal division of the superior court.
- (4) If an appellant prevails on an appeal to the ~~district court~~criminal division of the superior court, the Ttown will reimburse the filing fee paid.

(Ord. of 9-10-96; Ord. of 9-27-97; Ord. of 7-14-98; Ord. of 2-24-04)

Sec. 1-10. Municipal official; enforcement of municipal ordinances.

In accordance with and pursuant to 24 V.S.A. Chapter 59, the following town officers are hereby designated and appointed as "municipal officials," as that term is used in Chapter 59; and as such each is hereby granted the authority, subject to the direction of the town manager, to enforce the provisions of the Code of Ordinances, as specified below, and

specifically to issue municipal civil complaints alleging violations of said Code of Ordinances:

Ordinance Provision	Designated Municipal Official
Zoning regulations	Zoning Administrator, Director of Planning & Zoning, town planner, Building Inspector, & Assistant Building Inspector life safety inspector, development review coordinator
Subdivision regulations	Zoning Administrator, Director of Planning & Zoning, town planner, Building Inspector, & Assistant Building Inspector life safety inspector, development review coordinator
Building code and building code construction ordinance	Building Inspector and Assistant Building Inspector life safety inspector
Fire prevention and protection	Life safety inspector and Building Inspector; subsection 7-14 shall also be extended to all law enforcement officers
Onsite sewage disposal regulations	Health officer, building inspector and life safety inspector Wastewater Official

April 1 May 14, 2013

DRAFT CHAPTER 1, SECTION 1-9; 1-10

Ordinance Provision	Designated Municipal Official
Sign regulations	Zoning administrator, town planner, building inspector, life safety inspector, development review coordinator
Chapter 18-- Stormwater	Building Inspector & Assistant Building Inspector, health officer

(Ord. of 2-24-04; Ord. of 9-13-05(1))