

Chapter 1

GENERAL PROVISIONS

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Article I. In General

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, Village of Yorkville, Wisconsin" and may be cited as the "Yorkville Code."

State law reference— Authority of village to adopt a code of ordinances, Wis. Stats. § 66.0103.

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

The following definitions and rules of construction shall apply to this Code and to all ordinances unless the context requires otherwise:

Acts of agents. When a provision 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.

Code. The term "Code" shall mean the Code of Ordinances, Village of Yorkville, Wisconsin.

County. The term "county" shall mean Racine County, Wisconsin.

Delegation of authority. A provision that authorizes or requires a village officer or village employee to perform an act or make a decision and/or authorizes such officer or employee to act or make a decision through subordinates.

Gender. A word importing the masculine gender only shall extend and be applied to females, firms, partnerships and corporations as well as to males.

State law reference— Similar provisions, Wis. Stats. § 990.001(2).

May. The term "may" is to be construed as being permissive and not mandatory.

Month. The term "month" shall mean a calendar month unless otherwise expressed.

State law reference— Similar provisions, Wis. Stats. § 990.01(21).

Number. A word importing the singular may extend and be applied to the plural as well as to the singular number and vice versa.

State law reference— Similar provisions, Wis. Stats. § 990.001(1).

Oath. The term "oath" shall be construed to include an affirmation in all cases where by law an affirmation may be substituted for an oath, and in such cases, the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

State law reference— Similar provisions, Wis. Stats. § 990.01(24).

Officers, departments, boards, commissions or employees, etc. Whenever reference is made to officers, departments, boards, commissions or employees, etc., is referred to by title, such reference shall be construed as if followed by the words "of the Village of Yorkville, Wisconsin."

Owner. The term "owner," when applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or part of such building or land.

Person. The term "person" shall mean any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, joint stock company, joint adventure, any receiver, executor, trustee, conservator, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

State law reference— Similar provisions, Wis. Stats. § 990.01(26).

Personal property. The term "personal property" shall mean any property other than real property.

State law reference— Similar provisions, Wis. Stats. § 990.01(27).

Property. The term "property" includes real property and personal property.

State law reference— Similar provisions, Wis. Stats. § 990.01(31).

Real property. The term "real property" includes land, tenements and hereditaments and all rights thereto and interests therein.

State law reference— Similar provisions, Wis. Stat. § 990.01(35).

Shall. The term "shall" shall be construed as being mandatory.

Sidewalk. The term "sidewalk" shall mean any portion of a street between the curblin e or lateral line of the roadway and the adjacent property line intended for pedestrian use.

Signature or subscription by mark. The terms "signature" or subscription include a mark when the signer or subscriber cannot write. In such situations, a witness who writes his name near such person's name shall write such person's name near the mark.

Similar provisions, Wis. Stat. § 990.01(38).

State. The term "state" shall mean the State of Wisconsin.

Street. The term "street" shall mean the entire width of a way held by the village in fee or by easement or dedication that has a part open for public use for vehicular travel. The term "street" does not include a designated state or federal highway or road or a designated county road.

State law reference— Similar provisions, Wis. Stat. § 990.01(12).

Tense. Words used in the past or present tense shall also include the future as well as the past and present.

Village. The term "village" shall mean the Village of Yorkville, Wisconsin.

Village board. The term "village board" shall mean the village board of the Village of Yorkville, Wisconsin.

Wisconsin Statutes. All references to "Wisconsin Statutes" and "Wis. Stat." shall mean and refer to the latest edition or supplement of the Wisconsin Statutes.

Written or in writing. The terms "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

State law reference— Similar provisions, Wis. Stat. § 990.01(48).

(Code 1982, § 25.01)

State law reference— Definitions and rules of construction, Wis. Stat. §§ 990.001, 990.01.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any such sections, including the catchlines, are amended or reenacted.

State law reference— Headings of statutes, Wis. Stat. § 990.001(6).

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Sec. 1-5. References to chapters or sections.

All references to chapters or sections are to the chapters or sections of this Code unless otherwise specified.

Sec. 1-6. References and editor's notes.

The references and editor's notes, appearing after sections or subsections throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

Sec. 1-7. Continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same legislation previously adopted by the village relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Sec. 1-8. Effect of repeal of ordinances.

- (a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.
State law reference— Effect of repeals, Wis. Stat. § 990.03.

Sec. 1-9. Certain ordinances not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:
 - (1) Any offense or act committed or done, or any penalty or forfeiture incurred, before the effective date of this Code;
 - (2) Any ordinance promising or guaranteeing the payment of money for the village or authorizing the issue of any bonds of the village or any evidence of the village's indebtedness;
 - (3) Any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village;

- (4) Any administrative ordinances of the village not in conflict or inconsistent with this Code;
- (5) Any right or franchise granted by any ordinance;
- (6) Any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street or public way or public grounds and parks and other public places;
- (7) The ordinance adopting the budget or any appropriation ordinance;
- (8) Any ordinance levying or imposing taxes or special assessments;
- (9) Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load of vehicles or loading zones;
- (10) Any ordinance regarding contracts and purchases with or without bids;
- (11) Any ordinance establishing and prescribing the street grades of any street curblines or bulkhead lines or width of sidewalks or streets;
- (12) Any ordinance providing for local improvements and assessments for such improvements;
- (13) Any ordinance regarding plats, land divisions or subdivisions;
- (14) Any ordinance annexing territory or excluding territory or any ordinance amending the boundaries of the village;
- (15) Any ordinance establishing positions, classifying positions, establishing pension or employee benefits, setting salaries of village officers and employees or any personnel regulations or indemnifications policies, or otherwise related to employees;
- (16) Any ordinance on investment and other financial policies;
- (17) Any ordinance calling an election;
- (18) Any ordinance relating to the acquisition of lands by the village by condemnation proceedings;
- (19) Any ordinance levying a fee, rate, deposit or charge or release of persons from liability or approving claims;
- (20) Any ordinance regarding lighting of streets, sidewalks and alleys, water, sewer and electric main and line construction or municipal utility regulations or construction of public works;
- (21) Any ordinance adopted by reference by any section of this Code and not included herein;

- (22) Any temporary or special ordinance;
 - (23) Any ordinance the subject of which cannot by law be repealed by the adopting ordinance.
- (b) All such ordinances are recognized as continuing in full force and effect to the same extent as if published at length in this Code. All ordinances are on file in the administrator/clerk's office.
 - (c) This Code shall not be deemed to repeal any preamble, recital or finding of fact contained in any ordinance included herein, but all such matters shall be deemed incorporated in the sections herein derived from such respective ordinances.

Sec. 1-10. Amendments to Code; effect of new ordinances; amendatory language.

- (a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from affected reprinted pages. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code by the village board.
- (b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code being amended in the following language: "That section _____ of the Code of Ordinances, Village of Yorkville, Wisconsin, is hereby amended to read as follows:" The new provisions shall be set out in full.
- (c) If a new section not then existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Village of Yorkville, Wisconsin, is hereby amended by adding a section to be numbered _____, which section reads as follows:" The new section shall then be set out in full as desired.
- (d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

State law reference— Adoption of municipal ordinances, Wis. Stat. § 66.0101.

Sec. 1-11. Supplementation of Code.

- (a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village. A supplement to this Code shall include all substantive permanent and general parts of ordinances passed by the village board or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall

be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement insofar as it is necessary to do so embody them into a unified code. For example, the person may:
 - (1) Organize the ordinance material into appropriate subdivisions.
 - (2) Provide appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
 - (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
 - (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code. In no case shall the codifier make any change in the meaning or effect of ordinance provisions included in the supplement or already embodied in the Code.

Sec. 1-12. Severability.

The village board declares that it is its intent to enact this Code and all provisions adopted by reference in this Code without invalid or unconstitutional provisions. The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code, or of any provision adopted by reference in this Code, is declared unconstitutional or invalid by judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other remaining section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code.

State law reference— Severability, Wis. Stat. § 990.001(11).

Sec. 1-13. Clerk to file documents incorporated by reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the administrator/clerk shall file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person, during the administrator/clerk's office hours, subject to such orders or regulations, which the administrator/clerk may prescribe for their preservation.

(Code 1982, § 25.03)

Sec. 1-14. Penalty provisions.

- (a) *General penalty.* Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
 - (1) *First offense.* Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$5.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
 - (2) *Second offense.* Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$500.00 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six months.
- (b) *Continued violations.* Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- (c) *Execution against defendant's property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.
- (d) *Citation method of enforcement.*
 - (1) *Enforcement.* The village hereby elects to use the citation method of enforcement of ordinances. The village code enforcement officer, Racine County Sheriff's Department and other village personnel charged with the responsibility of enforcing the provisions of this Code are hereby authorized to issue citations for violations of this Code, including ordinances for which a statutory counterpart exists.

- (2) *Contents of citation.* The citation shall contain the following:
- a. The name and address of the alleged violator.
 - b. Factual allegations describing the alleged violation.
 - c. The time and place of the offense.
 - d. The number and section of the ordinance violated.
 - e. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
 - f. The time and date at which the alleged violator may appear in court.
 - g. A statement which in essence informs the alleged violator:
 1. That a cash deposit may be made, which deposit shall be delivered or mailed to the Village of Yorkville prior to the time of the initial court appearance.
 2. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
 3. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment imposed by Wis. Stat. § 757.05, a jail assessment imposed by Wis. Stat. § 302.46(1), a crime laboratories and drug law enforcement assessment imposed by Wis. Stat. § 165.755, any applicable consumer information assessment imposed by Wis. Stat. § 100.261 and any applicable domestic abuse assessment imposed by Wis. Stat. § 973.055(1) not to exceed the amount of the deposit or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
 4. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the alleged violator's arrest or consider the nonappearance to be a plea of no contest and enter judgment, or the village may commence an action to collect the forfeiture, the penalty assessment imposed by Wis. Stat. § 757.05, the jail assessment imposed by Wis. Stat. § 302.46(1), the crime laboratories and drug law enforcement assessment imposed by Wis. Stat. § 165.755, any applicable consumer information assessment imposed by Wis. Stat. § 100.261 and any applicable domestic abuse assessment imposed by Wis. Stat. § 973.055(1).
 5. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that

the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under Wis. Stat. § 800.093.

- h. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subsection (d)(2)g of this section has been read. Such statement shall be sent or brought with the cash deposit.
 - i. Such other information as the village deems necessary.
- (3) Form of citation. The form of the citation to be used by the village is on file in the administrator/clerk 's office and is adopted by reference as though fully set forth in this section.
- (4) *Schedule of deposits.*
 - a. A schedule of cash deposits may be established for use with citations issued under this section of the Code by adoption of a resolution by the village board according to the penalty provisions of this Code or the Wisconsin Statutes, whichever is applicable. In the absence of a scheduled or statutorily mandated deposit amount for a particular violation, the deposit amount shall be \$100.00 plus applicable court costs and assessments.
 - b. Deposits shall be made in cash, money order or certified check to the Village of Yorkville who shall provide a receipt therefor.
- (5) *Procedure.* Wis. Stat. § 66.0113(3) and any amendments thereto, relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.
- (6) *Nonexclusivity.*
 - a. *Other ordinance.* Adoption of this section does not preclude the village board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
 - b. *Other remedies.* The issuance of a citation under this section shall not preclude the village board or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

(Code 1982, § 25.04)

Sec. 1-15. Presumption of responsibility.

The occupant of any premises upon which a violation of any chapter or section of this Code is apparent, the owner of any object or material placed or remaining anywhere in violation of any chapter or section hereof and the occupant of any premises served by any excavation or structure

illegally made or erected, shall be deemed prima facie responsible for the violation so evidenced and shall be subject to the penalty provided therefor.
(Code 1982, § 25.09)

Sec. 1-16. Liability of Village.

The village shall not assume any responsibility or liability by reason of the issuance or revocation of any license, permit or certificate under any chapter or section of this Code or by reason of approval or disapproval of any application, plans, specifications, buildings or structures; nor shall the village be liable for any damages resulting from the enforcement of this Code; and, further, in all cases where any action has been taken by any enforcement officer or duly authorized official of the village to enforce this Code, such action or act shall be considered as done in the name or on behalf of the village and accordingly, any such person so acting for the village shall not be liable for any damage that may accrue to persons or property as the result of any such act committed in the discharge of his lawful duties.

(Code 1982, § 25.10)