

TITLE I: GENERAL PROVISIONS

Chapter

1. USE AND CONSTRUCTION

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§ 1-1-1 TITLE OF CODE; CITATION.

These collected ordinances shall be known and referred to as the "Code of Ordinances, Village of Almond, Wisconsin." References to the code or ordinances, Village of Almond, Wisconsin, shall be cited as follows: "§ 2-1-1, Code of Ordinances, Village of Almond, Wisconsin."

§ 1-1-2 PRINCIPLES OF CONSTRUCTION.

The following rules or meanings shall be applied in the construction and interpretation of ordinances unless the application would be clearly inconsistent with the plain meaning or intent of the ordinances.

(A) *Acts by agents.* When an ordinance requires an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.

(B) *Code and code of ordinances.* The words "codes" and "code of ordinances" when used in any section of this code shall refer to this code of general ordinances of the Village of Almond unless the context of the section clearly indicates otherwise.

(C) *Computation of time.* In computing any period of time prescribed or allowed by these ordinances, the day of the act or event from which the period of time begins to run shall not be included,

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but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than 7 days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this section, **LEGAL HOLIDAY** means any statewide legal holiday specified by state law.

(D) *Fine*. The term **FINE** shall be the equivalent of the word **FORFEITURE**, and vice versa.

(E) *Gender*. Every word in these ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa.

(F) *General rule*. All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if that is the intent of the ordinances.

(G) *Joint authority*. All words purporting to give a joint authority to 3 or more village officers or employees shall be construed as giving the authority to a majority of these officers or other persons.

(H) *Person*. The word **PERSON** shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.

(I) *Repeal*. When any ordinance having the effect of repealing a prior ordinance is itself repealed, the repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.

(J) *Singular and plural*. Every word in these ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these ordinances referred to a plural number shall also be construed to apply to 1 person or thing.

(K) *Tense*. The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.

(L) *Wisconsin Statutes*. The term **WISCONSIN STATUTES** and its abbreviation as "Wis. Stats." shall mean, in these ordinances, the Wisconsin Statutes.

(M) *Wisconsin Administrative Code*. The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this code, as amended or renumbered from time to time.

Statutory reference:

Legal holidays, see Wis. Stats. § 995.20

§ 1-1-3 CONFLICT OF PROVISIONS.

(A) If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

(B) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

§ 1-1-4 SEPARABILITY OF PROVISIONS.

If any provision of this code of ordinances is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of these ordinances.

§ 1-1-5 EFFECTIVE DATE OF ORDINANCES.

(A) *Code.* The code of ordinances, Village of Almond, Wisconsin shall take effect from and after passage and publication as provided by state law.

(B) *Subsequent ordinances.* All ordinances passed by the Village Board subsequent to the adoption of the code of ordinances, except when otherwise specifically provided, shall take effect from and after their publication.

Statutory reference:

Code of ordinances, see Wis. Stats. § 66.0103

§ 1-1-6 REPEAL OF GENERAL ORDINANCES.

(A) All general ordinances heretofore adopted by the Village Board are hereby repealed. This shall not include any ordinances or parts of ordinances or resolutions relating to the following subjects and not conflicting with the provisions of this code:

- (1) Salaries of public officials and employees;
- (2) The annexation of territory to the village;
- (3) Releases of persons from liability;
- (4) Contracts or rights created by resolution or Board action other than general ordinance;
- (5) Naming of public property within the village;

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- (6) Tax and special assessment levies;
- (7) Construction of public works;
- (8) Budget ordinances, resolutions and actions;
- (9) Issuance of corporate obligations by the village;
- (10) Establishment of grades, curb lines and widths of sidewalks, and the location of public streets and alleys;
- (11) Waterfront property lines and regulations; and
- (12) The effective dates of Chapter 4, Title 6 and § 6-1-13.

(B) *Effect of repeals.* The repeal or amendment of any provision of this code or of any other ordinance or resolution of the Village Board shall not:

- (1) Affect any rights, privileges, obligations or liabilities which were acquired or incurred or which had accrued under the repealed or amended provision, unless the village has expressly reserved the right to revoke that right, privilege, obligation or liability; or
- (2) Affect any offense, penalty or forfeiture, or prosecution for any offense, or levy of any penalty or forfeiture which has arisen prior to the repeal or amendment of the relevant provision of any ordinance or resolution. The preceding sentence shall not preclude the application of a lesser penalty or forfeiture if the new amending or repealing provision contains such a lesser penalty or forfeiture. The procedure for prosecution of any violations of ordinances repealed or amended shall be conducted according to the procedure set forth in the new amending or repealing provision or other procedure currently in effect.

§ 1-1-7 GENERAL PENALTY.

(A) *General penalty.* Any person who shall violate any of the provisions of this code shall upon conviction of that violation, be subject to a penalty, which shall be as follows.

(1) *First offense; penalty.* Any person who shall violate any provision of this code shall, upon conviction thereof, forfeit as per the village fee schedule, together with the costs of prosecution and in default of payment of the forfeiture and costs of prosecution shall be imprisoned in the County Jail until the forfeiture and costs are paid, but not exceeding 90 days.

(2) *Second offense; penalty.* Any person found guilty of violating any ordinance or part of an ordinance of this code who shall previously have been convicted of a violation of the same ordinance within 1 year shall upon conviction thereof, forfeit as per the village fee schedule, together with costs

of prosecution and in default of payment of the forfeiture and costs shall be imprisoned in the County Jail until the forfeiture and costs of prosecution are paid, but not exceeding 6 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) *Other remedies.* The village shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.

§ 1-1-8 CLERK TO MAINTAIN COPIES OF DOCUMENTS INCORPORATED BY REFERENCE.

Whenever any standard code, rule, regulation, statute 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 Village Clerk shall maintain in his or her office a copy of any such material as adopted and as amended from time to time. Materials on file at the Village Clerk's office shall be considered public records open to reasonable examination by any person during the office hours of the Village Clerk subject to the restrictions on examination as the Clerk imposes for the preservation of the material.

§ 1-1-9 DEPOSIT SCHEDULE FOR ORDINANCE VIOLATIONS.

(A) All ordinances within the village that are violated shall be assessed fees as follows:

(1) First violation of any ordinance: \$100.

(2) Second violation of any ordinance, within 12 months from the date of the first violation: \$250.

(3) Third violation of any ordinance, within 24 months from the date of the first violation: \$350.

(B) In addition to the amounts listed above, the deposit must include all prior violation fees that are not already paid, court costs, and costs incurred by the village for restitution of the ordinance violation.

(C) Schedule of fees:

<i>Violation</i>	<i>First violation of any village ordinance within a 12-month period</i>	<i>Second violation of the same village ordinance within a 12-month period</i>	<i>Third or more violation of the same ordinance within a 12-month period</i>
Forfeiture	\$100.00	\$250.00	\$350.00
Court costs	\$25.00	\$25.00	\$25.00
Penalty surcharge	\$26.00	\$65.00	\$91.00
Jail surcharge	\$10.00	\$10.00	\$10.00
Crime lab and drug surcharge	\$13.00	\$13.00	\$13.00
Court support surcharge	\$68.00	\$68.00	\$68.00
Justice information surcharge	\$21.50	\$21.50	\$21.50
TOTAL	\$263.50	\$452.50	\$578.50

(Am. Ord. passed 6- -2010)

§ 1-1-10 RECEIPT OF CASH DEPOSITS.

All deposits shall be made in cash, money order, or certified check, payable to the village. Receipts will be given for all deposits received.

§ 1-1-11 FEE SCHEDULE.

The village's fee schedule is adopted by reference, a copy of which can be found in the Village Clerk's office.

§ 1-1-12 ISSUANCE OF CITATIONS FOR VIOLATIONS.

(A) *Statutory authority.* Pursuant to Wis. Stats. § 66.0113, the Village Board hereby elects to use the citation method of enforcement of village ordinances described herein, or in a separate ordinance, including those for which a statutory counterpart exists. The Village Board reserves the right to use any legal process other than or in addition to the citation method of enforcement.

(B) *Form of citations.* The citation shall contain the following:

- (1) The name and address of the alleged violator;
- (2) The factual allegations describing the alleged violation;
- (3) The time and place of the offense;
- (4) The section of the ordinance violated;

(5) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so;

(6) The time at which the alleged violator may appear in court;

(7) A statement which in essence informs the alleged violator:

(a) That a cash deposit based on the schedule established by this or other village ordinance may be made which shall be delivered or mailed to the County Clerk of Court prior to the time of the scheduled court appearance.

(b) That if a deposit is made, no appearance in court is necessary unless the defendant is subsequently summoned.

(c) That if a cash deposit is made and the alleged violator does not appear in court, he or she will be deemed to have entered a plea of no contest, and submitted to a forfeiture which applicable penalty assessment, or if the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.

(d) 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 warrant for the defendant's arrest or consider the non-appearance to be a plea of no contest and enter judgment, or an action may be commenced to collect the forfeiture.

(8) 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 (7) above has been read. The statement shall be sent or brought with the cash deposit;

(9) A statement that if the court finds the violation involves an offense that prohibits conduct prohibited by the state punishable by fine or imprisonment or both, and that the violation resulted in property damage or physical injury to a person other than the alleged violator, the court may summon the defendant into court to determine if restitution shall be ordered under Wis. Stats. § 800.093.

(10) Such other information as the village deems necessary.

(C) *Schedule of deposits.*

(1) The schedule of cash deposits for citations issued under this section are by reference § 1-1-9 plus current court cost per Wis. Stats. Ch. 814.

(2) Deposits shall be made in cash, money order or certified check to the County Clerk of Circuit Court who shall provide a receipt therefore.

(D) *Issuance of citations.* At the direction of the Village Board, the following officials shall issue citations with respect to those specified ordinances which are directly related to their official responsibilities;

- (1) Village President;
- (2) Village Board member;
- (3) Zoning Administrator;
- (4) Assistant Zoning Administrator; and
- (5) Building Inspector.

(E) *Procedure.* Wis. Stats. § 66.0113(3) relating to violator's options and procedures on default is hereby adopted and incorporated by reference.

(F) *Nonexclusivity.*

(1) *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.

(2) *Other remedies.* The issuance of a citation hereunder shall not preclude the Village Board or any other authorized office from proceedings under any other ordinance or law or by any other enforcement method to enforce any ordinance regulation or order.

(Ord. passed 11-9-2009)