

Chapter 1
GENERAL PROVISIONS

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[HISTORY: Adopted by the Village Board of the Village of Iola as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Adoption of Code

[An ordinance making certain substantive changes to existing ordinances, adopting certain new pieces of legislation and providing for the adoption of this Code as the "Code of the Village of Iola" is presently proposed before the Village Board. Upon final adoption, it will be included here as Article I of this chapter.]

§§ 1-1 through 1-15. (Reserved)

ARTICLE II
Construction and Penalties
[Adopted 2-12-1996 as Secs. 1-1-2,
1-1-6 and 1-1-7 of the 1996 Code]

§ 1-16. Principles of construction.

The following rules or meanings shall be applied in the construction and interpretation of ordinances codified in this Code of Ordinances unless such 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,” “Code of Ordinances” and “Municipal Code” when used in any section of this Code shall refer to this Code of Ordinances of the Village of Iola 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, 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 seven 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. Use has been made of masculine pronouns in these ordinances solely for the sake of brevity. Unless specifically stated to the contrary, words 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 such is the intent of the ordinances.
- G. Joint authority. All words purporting to give a joint authority to three or more village officers or employees shall be construed as giving such authority to a majority of such officers or other persons.
- H. Officers. The term “officers” shall refer solely to local offices created by state statute.
- I. Officials. The term “officials” shall mean all village officers and employees.
- J. 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.
- K. Repeal. When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.
- L. 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 referring to a plural number shall also be construed to apply to one person or thing.
- M. Tense. The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- N. Wisconsin Statutes. The term “Wisconsin Statutes” and its abbreviation as “Wis. Stats.” shall mean, in these ordinances, the Wisconsin Statutes for the year 1993-94, as amended from time to time.

- O. 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.
- P. Village. The term "village" shall mean the Village of Iola, Waupaca County, Wisconsin.

§ 1-17. General penalty.

- A. General penalty. Except where a penalty is provided elsewhere in this Code, 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 — penalty. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$50 nor more than \$1,000, 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.¹
 - (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 one year shall, upon conviction thereof, forfeit not less than \$50 nor more than \$1,000 for each such offense, together with 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 of prosecution 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 the court for violations 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 said forfeiture and costs.
- D. Citation procedure. All village officers and other village personnel charged with responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to Sec. 66.119(1)(a), Wis. Stats., to issue citations for violations of this Code of Ordinances for which a statutory counterpart exists.
- E. 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.
- F. Deposit schedule. The deposit schedule adopted by the State Board of Circuit Court Judges under Sec. 345.26, Wis. Stats., is hereby adopted by reference as if fully set forth herein, to

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

govern and control any offense and penalty prescribed in this Code of Ordinances to which it applies.

§ 1-18. Village Clerk-Treasurer 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-Treasurer 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-Treasurer's office shall be considered public records open to reasonable examination by any person during the office hours of the Village Clerk-Treasurer subject to such restrictions on examination as the Clerk-Treasurer imposes for the preservation of the material.

ARTICLE III

Citations

**[Adopted 2-12-1996 as Title 1,
Ch. 2, of the 1996 Code]**

§ 1-19. Authorization for use of citation.

The Village of Iola hereby elects to use the citation method of enforcement of ordinances. All village officers and other village personnel charged with responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to Sec. 66.119(i)(a), Wis. Stats., to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

§ 1-20. Officials authorized to issue citation.

Citations authorized in § 1-19 above may be issued by law enforcement officers of the village and by the following designated village officials with respect to sections of the Code which are directly related to the official's area of responsibility. The officials granted authority to issue citations under this section may delegate the authority to other village employees within the designated official's department with the approval of the Village Board:

- A. Building Inspector.
- B. Fire Inspector.

§ 1-21. Form of citation.

The form of the citation to be issued by village police officers or other designated village officials is incorporated herein by reference and shall provide for the following information:

- A. The name, address, date of birth and physical description of the alleged violator;
- B. The factual allegations describing the alleged violation;

- C. The date and place of the offense;
- D. The section of the ordinance violated;
- E. A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so;
- F. The time at which the alleged violator may appear in court;
- G. A statement which in essence informs the alleged violator:
 - (1) That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time;
 - (2) That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned;
 - (3)² That if the alleged violator makes a cash deposit and does not appear in court, he or she will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by Sec. 165.87, Wis. Stats., a jail assessment imposed by Sec. 302.46(1), Wis. Stats., a crime laboratories and drug law enforcement assessment imposed by Sec. 165.755, Wis. Stats., and any applicable domestic abuse assessment imposed by Sec. 973.055(1), Wis. Stats., and court costs as imposed by Sec. 800.10, Wis. Stats., not to exceed the amount of the deposit, or will be summoned into court to answer the complaint if the court does not accept the plea of no contest;
 - (4)³ That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture and the penalty assessment imposed by Sec. 165.87, Wis. Stats., a jail assessment imposed by Sec. 302.46(1), Wis. Stats., a crime laboratories and drug law enforcement assessment imposed by Sec. 165.755, Wis. Stats., and any applicable domestic abuse assessment imposed by Sec. 973.055(1), Wis. Stats.;
 - (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 a 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 Sec. 800.093, Wis. Stats.⁴
- H. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under Subsection G and shall send the signed statement with the cash deposit;
- I. Such other information as may be deemed necessary.

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁴ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 1-22. Schedule of cash deposits.

The schedule of cash deposits for the various ordinances for which a citation may be issued are as established on the deposit schedule adopted by the Village Board, a copy of which is on file with the Village Clerk-Treasurer. In addition to the deposit amount listed, the deposit must include a penalty assessment imposed by Sec. 165.87, Wis. Stats., and court costs as imposed by Sec. 800.10, Wis. Stats. The Chief of Police shall be provided a copy of all bond schedules and amendments thereto.

§ 1-23. Receipt of cash deposits.

Deposits shall be made in cash, money order, personal checks or certified check to the Clerk of Circuit Court. Receipts shall be given for all deposits received.

§ 1-24. Procedure.

Section 66.119(3) of Wisconsin Statutes, relating to violators' options and procedure on default, is hereby adopted and incorporated herein by reference.

§ 1-25. Nonexclusivity of chapter.

- A. Adoption of this chapter does not preclude the Village Board from adopting any other ordinance providing for the enforcement of any other law or ordinance relating to the same or other matters.
- B. The issuance of a citation hereunder shall not preclude the village 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.

Chapter 7

ADMINISTRATIVE DETERMINATIONS

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| § 7-1. Review of administrative determinations. | § 7-7. Request for review of determination. |
| § 7-2. Reviewable determinations. | § 7-8. Procedure for review of determination. |
| § 7-3. Determinations not subject to review. | § 7-9. Administrative appeal. |
| § 7-4. Municipal authority defined. | § 7-10. Hearing of administrative appeal. |
| § 7-5. Persons aggrieved. | § 7-11. Final determination. |
| § 7-6. Reducing determination to writing. | § 7-12. Judicial review. |
| | § 7-13. Legislative review. |

[HISTORY: Adopted by the Village Board of the Village of Iola 2-12-1996 as Title 2, Ch. 8, of the 1996 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions and committees — See Ch. 15.

Village Board — See Ch. 62.

§ 7-1. Review of administrative determinations.

Any person aggrieved by an administrative determination of the Village Board or a board, commission, committee, agency, officer or employee of the village or agent acting on its behalf may have such determination reviewed as provided in this chapter. The remedies under this chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

§ 7-2. Reviewable determinations.

The following determinations are reviewable under this chapter:

- A. The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.
- B. The suspension, revocation or nonrenewal of an existing permit, license right, privilege or authority, except as provided in § 7-3D.
- C. The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.
- D. The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.

- E. The suspension or removal of a village officer or employee except as provided in § 7-3B and G.

§ 7-3. Determinations not subject to review.

The following determinations are not reviewable under this chapter:

- A. A legislative enactment. (A legislative enactment is an ordinance, resolution or adopted motion of the Village Board.)
- B. Any action subject to administrative or judicial review procedures under state statutes or other provisions of this Code.
- C. The denial of a tort or contract claim for money required to be filed with the village under Sec. 62.25, Wis. Stats.
- D. The grant, denial, suspension or revocation of a fermented malt beverage license or intoxicating liquor license under Chapter 12S, Wis. Stats.
- E. Judgments and orders of a court.
- F. Determinations made during municipal labor negotiations.
- G. Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.

§ 7-4. Municipal authority defined.

“Municipal authority” includes the Village Board, commission, committee, agency, officer, employee or agent of the village making a determination under § 7-1, and every person, committee or agency of the village to make an independent review under § 7-8B.

§ 7-5. Persons aggrieved.¹

A person aggrieved includes any individual, partnership, corporation, association, public or private organization, limited liability company, or officer, department, board, commission or agency of the village, whose rights, duties or privileges are adversely affected by a determination of a municipal authority. No department, board, commission, agency, officer or employee of the village who is aggrieved may initiate review under this chapter of a determination of any other department, board, commission, agency, officer or employee of the village, but may respond or intervene in a review proceeding under this chapter initiated by another.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

§ 7-6. Reducing determination to writing.

If a determination subject to this chapter is made orally or, if in writing, does not state the reasons therefor, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within 10 days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated, and shall advise such person of his or her right to have such determination reviewed, that such review may be obtained within 30 days, and the officer or person to whom a request for review shall be addressed.

§ 7-7. Request for review of determination.

Any person allegedly aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within 30 days of notice to such person of such determination. The request for review shall state the grounds upon which the person allegedly aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body who made the determination, but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

§ 7-8. Procedure for review of determination.

- A. Initial determination. If a request for review is made under § 7-7, the determination to be reviewed shall be termed an initial determination.
- B. Who shall make review. A review under this section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of such determination by another person, committee or agency of the village, appointed by the Village President without confirmation, shall be provided if practicable.
- C. When to make review. The municipal authority shall review the initial determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person allegedly aggrieved.
- D. Right to present evidence and argument. The person aggrieved may file with his or her request for review, or within the time agreed with the municipal authority, written evidence and argument in support of his or her position with respect to the initial determination.
- E. Decisions on review. The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review which shall state the reasons for such decision. The decision shall advise the person aggrieved of his or her right to appeal the decision, that appeal may be taken within 30 days, and the office or person with whom notice of appeal shall be filed.

§ 7-9. Administrative appeal.

- A. From initial determination or decision on review.
- (1) If the person aggrieved had a hearing substantially in compliance with § 7-10 when the initial determination was made, he or she may elect to follow §§ 7-6 through 7-8, but is not entitled to a further hearing under § 7-10 unless granted by the municipal authority. He or she may, however, seek judicial review under § 7-12.
 - (2) If the person aggrieved did not have a hearing substantially in compliance with § 7-10 when the initial determination was made, he or she shall follow §§ 7-6 through 7-8 and may appeal under this section from the decision made under § 7-8.
- B. Time with which appeal may be taken. Appeal from a decision on review under § 7-8 may be taken within 30 days of notice of such decision.
- C. How appeal may be taken. An appeal under this section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review, written notice of appeal.

§ 7-10. Hearing of administrative appeal.

- A. Time of hearing. The village shall provide the appellant a hearing on an appeal under § 7-9 within 15 days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least 10 days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the Village Attorney, who shall forthwith advise the Village President of such appeal.
- B. Conduct of hearing. At the hearing the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Village President shall appoint, without confirmation, an impartial decision maker who may be an officer, committee, board or commission of the village or the Village Board who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Village President to conduct the hearing and report to the decision maker.
- C. Record of hearing. The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant, shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the village.
- D. Hearing on initial determination. Where substantial existing rights are affected by initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this section before making such determination.

§ 7-11. Final determination.

- A. Within 20 days of completion of the hearing conducted under § 7-10 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons therefor. Such determination shall be a final determination.
- B. A determination following a hearing substantially meeting the requirements of § 7-10 or a decision on review under § 7-8 following such hearing shall be a final determination, judicial review of which may be obtained under § 7-12.

§ 7-12. Judicial review.

- A. Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 30 days of receipt of the final determination.
- B. The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his or her expense. If the person seeking review establishes indigence to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the village and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

§ 7-13. Legislative review.

- A. Seeking review pursuant to this chapter does not preclude a person aggrieved from seeking relief from the Village Board or any of its boards, commissions, committees or agencies which may have jurisdiction.
- B. If in the course of legislative review under this section a determination is modified, such modification and any evidence adduced before the Village Board, board, commissions, committee or agency shall be made part of the record on review under § 7-12.
- C. The Village Board, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under § 7-10.

