

# Chapter 1

## General Provisions

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# Village of Sister Bay Code of Ordinances

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### **Sec. 1.1 Designation and Citation of Code.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the ‘Municipal Code of the Village of Sister Bay, Wisconsin,’ and may be so cited. State law references: Authority to codify ordinances, Wis. Stats. § 66.0103.

### **Sec. 1.2 Definitions and Rules of Construction.**

The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

And/or. The term "and" may be read as "or" and the term "or" may be read "and" where the sense requires it.

Board, Village Board. Whenever the terms "board" and "village board" are used without qualification, they shall read as if the phrase "of Sister Bay, Wisconsin," followed such terms.

Code. Whenever the term "Code" is used without further qualification, it shall mean the "Municipal Code of the Village of Sister Bay, Wisconsin," as designated in section 1.1.

County. The term "County" shall mean the County of Door, Wisconsin.

Delegation of authority. Whenever a section of this Code requires or authorizes an officer or employee of the Village to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision or section specifically provide otherwise.

Gender. A term importing the masculine gender only shall extend and be applied to females and to firms, partnerships, corporations as well as to males, unless the intention to give a more limited meaning is disclosed by the context. State law references:

Joint authority. Terms purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless otherwise provided. State law references: Similar provisions, Wis. Stats. § 990.001(8).

May. The term “may” shall be construed as being permissive.

Month. The term “month” shall mean a calendar month.

Number. Any term importing the singular may extend and be applied to the plural as well as to the singular number and vice versa. State law references: Similar provisions, Wis. Stats. § 990.001(1).

Oath. The term “oath” includes affirmation in all cases where, by law, an affirmation may be substituted for an oath. If any oath or affirmation is required to be taken, such oath or affirmation shall be taken before and administered before some officer authorized by the laws of this state, to administer oaths, at the place where the oath is required to be taken or administered, unless otherwise expressly directed, and, when necessary, duly certified by such officer. If an oath is administered, it shall end with the words "so help me God." In actions and proceedings in the courts, a person may take an oath or affirmation in communication with the administering officer by telephone or audiovisual means. State law references: Similar provisions, Wis. Stats. § 990.01(24).

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Officers and employees generally. Whenever any officer or employee is referred to by title, such as "Clerk" or "Lead Operator," such reference shall be construed as if followed by the terms "of the Village of Sister Bay, Wisconsin."

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

Person. The term "person" shall extend and be applied to associations, clubs, societies, firms, partnerships, LLC's, LLP's and bodies politic and corporate as well as to individuals.

Personal property. The term "personal property" includes every species of property except real property.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" shall include real, personal and mixed property.

Real property. The term "real property" shall include lands, tenements and hereditaments and attachments thereto.

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

Sheriff. The term "sheriff" shall be construed as if followed by the terms "of Door County, Wisconsin."

Signature. If the signature of any person is required by law, it shall always be the writing of such person, or, if the person is unable to write, the person's mark or the person's name written by some other person at the person's request and in the person's presence including electronic signatures. State law references: Similar provisions, Wis. Stats. § 990.01(38).

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

Street. The term "street" shall include any highway, street, avenue, boulevard, road, alley, lane, or viaduct in the village, dedicated or devoted to public use.

Tenant, occupant. The terms "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease thereof or who occupies the whole or part of a building or land, either alone or with others.

Tense. Terms used in the past or present tense include the future as well as the past and present.

### Time computation.

- (1) The time within which an act is to be done or a proceeding had or taken shall be computed by excluding the first day and including the last. When any such time is expressed in hours, the whole of Sunday and of any legal holiday, from 12:00 midnight to 12:00 midnight, shall be excluded.
- (2) If the last day within which an act is to be done or a proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.
- (3) When the last day within which a proceeding is to be had or an act done, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the state or any county, city, village, town, school district or other subdivision of the state, of any money, return, statement, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or with which such return, statement, report, notice or other document is required to be filed do not

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include any office hours thereof on such Saturday, the proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.

- (4) Regardless of whether the time limited in any statute for the taking of any proceeding or the doing of any act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.
- (5) The term "legal holiday," as used in this definition, means any statewide legal holiday provided in Wis. Stats. § 895.20. When an act is permitted to be done by the use of the postal service and the last day within the time prescribed by law for performing such act falls on a legal holiday designated by the President such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this section.

Village. The term "Village" shall mean the Village of Sister Bay, Wisconsin.

Wis. Stats. and statute. The abbreviation "Wis. Stats." and the term "statute" shall mean the official Wisconsin Statutes, as amended.

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

Year. The term "year" shall mean a calendar year.

### **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 sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any such sections, including the catchlines, are amended or reenacted.

### **Sec. 1.4 References to Chapters or Sections.**

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

### **Sec. 1.5 References and Editor's Notes.**

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

### **Sec. 1.6 History Notes.**

The history notes appearing in parentheses after sections of 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. 1.7 Provisions Considered as Continuation of Existing Ordinances, Conflict and Separability.**

- (a) *Continuation of Existing Ordinances.* The provisions appearing in this Code so far as they are the same as ordinances existing at the time of adoption of this Code shall be considered as a continuation thereof and not new enactments.
- (b) *Conflict.* If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter. Should a mandatory state or federal law be passed that conflicts with any provision with this code, state or federal law shall supersede the conflicting provision and the code amended to reflect state or federal law.
- (c) *Separability.* If any section, subsection, sentence, clause or phrase of this Code 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 section, subsection, sentence, clause or phrase or portion thereof. The Village Board of Trustees hereby declare that they would have passed this Code and

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each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

### **Sec. 1.8 Code Does Not Affect Prior Offenses, Rights, Etc.**

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

### **Sec. 1.9 Effect of Repeals or Amendments.**

- (a) The repeal of an ordinance or portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect.
- (b) The repeal of an ordinance or a portion of this Code shall not affect any prosecution, punishment or penalty incurred or pending before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed, except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.
- (c) The repeal or amendment of any section or provision of this Code or of any other ordinance by the Village Board shall not affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless such obligation or privilege has been reserved by the village. A right of action shall continue and any offender shall be subject to the forfeiture or penalty as provided in this Code or ordinances and prosecution shall proceed, in all respects, as if such provision or ordinance had not been repealed or amended, except that proceedings has after the effective date of adoption of this Code, shall be conducted according to the provisions of this Code, and shall be, in all respects, subject to the provisions of this Code.

### **Sec. 1.10 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 issuance of any bonds or notes of the village, any evidence of the village's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village.
  - (3) Any administrative ordinances of the village not in conflict or inconsistent with the provisions of this Code, including but not limited to letting contracts without bids and releasing persons from liability.
  - (4) Any right or franchise granted by any ordinance.
  - (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street, alley or public way in the village.
  - (6) Any appropriation ordinance.
  - (7) Any ordinance levying or imposing taxes or levying special assessments or taxes.
  - (8) Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load weights of vehicles, or loading zones.
  - (9) Any ordinance or amendment to the zoning map.
  - (10) Any ordinance establishing and prescribing the street grades of any street in the village.
  - (11) Any ordinance providing for local improvements, assessing taxes therefore and prescribing utility rates and fees.
  - (12) Any ordinance dedicating or accepting any plat or subdivision in the village.

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- (13) Any ordinance regarding animals not codified in this Code.
  - (14) Any ordinance regarding the location of fire hydrants.
  - (15) Any ordinance annexing land.
  - (16) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the village.
  - (17) Any ordinance establishing positions, classifying positions, or setting salaries of village officers and employees, or any personnel regulations.
  - (18) Any temporary or special ordinances.
  - (19) Any ordinance calling an election.
  - (20) Any charter ordinance unless repealed by charter ordinance.
  - (21) The village's schedules of fees and charges.
- (b) All such ordinances in subsection (a) of this section are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein. All ordinances are on file in the Clerk's office.

### **Sec. 1.11 Issuance of Citations for Violations of Village Ordinances.**

(a) *Purpose and statutory authority.* Pursuant to Wis. Stats. § 66.0113, the Village Board elects to grant authority to use the citation method of enforcement of Village ordinances described in this section, other than those for which a statutory counterpart exists.

(b) *Form of citation.* 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 a 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 that:
  - a. The alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time.
  - b. If the alleged violator makes a deposit, he need not appear in court unless subsequently summoned.
  - c. If the alleged violator makes a cash deposit and does not appear in court, he either will be deemed to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment imposed by Wis. Stats. § 757.05, a jail assessment imposed by Wis. Stats. § 302.46(1), a crime laboratories and drug law enforcement assessment imposed by Wis. Stats. § 165.755, any applicable consumer information assessment imposed by Wis. Stats. § 100.261 and any applicable domestic abuse assessment imposed by Wis. Stats. § 973.055(1) 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.
  - d. If the alleged violator does not make a cash deposit and does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter a judgment under subsection (b)(7)b of this section, or the municipality may commence an action against the alleged violator to collect the forfeiture, the penalty assessment imposed by Wis. Stats. § 757.05, the jail assessment imposed by Wis. Stats. § 302.46(1), the crime laboratories and drug law enforcement assessment imposed by Wis. Stats. § 165.755, any applicable consumer information assessment imposed by Wis. Stats. § 100.261 and any applicable domestic abuse assessment imposed by Wis. Stats. § 973.055(1)
  - e. If the Court finds that the violation involves an ordinance that prohibits conduct that is the same or similar to conduct prohibited by statute punishable by fine or imprisonment, or and

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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. Stats. § 800.093.

- (8) 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 has read the statement required under subsection (b)(7) of this section and shall send the signed statement with the cash deposit;
- (9) Such other information as the Village deems necessary.

(c) *Schedule of deposits.* With the exception of citations and deposits mentioned elsewhere in this Code that do not appear on the most recent Fee Schedule adopted by the Board of Trustees, all deposits, including assessments, fees and court costs, shall be per the most recent Fee Schedule adopted by Resolution by the Board of Trustees.

The amount of the total deposit shall be revised by any change in the penalty assessment, jail assessment, automation fees or court costs, as provided under statute and law and as set forth in the revised uniform state traffic deposit schedule adopted by the Wisconsin Judicial Conference. Deposits shall be made in cash, credit card, money order or certified check to the Clerk of Circuit Court for the County, who shall provide a receipt therefore.

In lieu of a Court appearance a cash deposit in the amount of the Basic Deposit shown on the adopted Fee Schedule is permitted. If allowed by the Court, no court costs, assessments or other fees will be imposed. If the violator does not appear in Court or pay the Basic Deposit by the date indicated on their citation the required cash deposit plus all assessments, fees and court costs will be assessed.

(d) *Issuance of citation.* The following may issue citations with respect to the ordinances in subsection (c) of this section which are directly related to their official responsibilities: Village Administrator, Zoning Administrator, Village Official, or any other Village law enforcement officer; the Sheriff or any Deputy Sheriff of the County Sheriff's Department; and any State law enforcement officer. Every day of a violation shall constitute a separate offense and may result in a per day citation.

### **Sec. 1.12 General Penalty.**

Unless another penalty is expressly provided in this Code or in any ordinance of the village, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to forfeiture, which shall be per the adopted Fee Schedule. In the event the penalty is not expressed on the Fee Schedule, the penalty shall be as identified in the Municipal Code.

### **Sec. 1.13 Clerk to File Ordinances, Supplements**

The Clerk shall certify one copy of this Code as the original Municipal Code of the Village of Sister Bay, Wisconsin, and shall file the Code as being part of the Village Ordinance book with a true and correct copy to the Village Library. In addition, the Clerk shall retain in the office at least one copy of the Municipal Code of the Village of Sister Bay, Wisconsin, in current form in which shall be inserted all supplements as herein provided.

### **Sec. 1.14 Failure of Officers to Perform Duties.**

The failure of any officer or employee of the village to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violations of this Code, unless a penalty is specifically provided for such act or omission.

### **Sec. 1.15 Responsibility for Acts; Aiding and Abetting.**

Every person concerned in the commission of any act prohibited by this Code, whether he directly commits the act or prosecutes, counsels, aids or abets in its commission, may be prosecuted and, upon conviction, is punishable as if he had directly committed such act.