

## **Part II**

### **CODE OF ORDINANCES**

#### **Chapter 1**

##### **GENERAL PROVISIONS**

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

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Municipal Code of the Village of North Prairie, Wisconsin" and may be so cited.

**State Law References:** Authority to codify ordinances, s. 66.0103, Wis. Stats.

## **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 word "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 words "of North Prairie, Wisconsin" followed such terms.

*Code.* Whenever the term "Code" is used without further qualification, it shall mean the Municipal Code of the Village of North Prairie, Wisconsin, as designated in section 1-1.

*County.* The term "county" shall mean the County of Waukesha, Wisconsin.

*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:** Similar provisions, s. 990.001(2), Wis. Stats.

*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, s. 990.001(8), Wis. Stats.

*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, s. 990.001(1), Wis. Stats.

*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, s. 990.01(24), Wis. Stats.

*Officers and employees generally.* Whenever any officer or employee is referred to by title, such as "clerk-treasurer" or "health officer," such reference shall be construed as if followed by the words "of the Village of North Prairie, 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, joint tenant, or tenant by the entirety 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 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 terms "real property" shall include lands, tenements and hereditaments and all rights and interests thereto and therein

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

*Sheriff.* The term "sheriff" shall be construed as if followed by the words "of Waukesha County, Wisconsin."

*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 such 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 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 s. 895.20, Wis. Stats. 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 North Prairie, Wisconsin.

*Wis. Stats. or statute.* The abbreviation "Wis. Stats." or the word "statute" shall mean the official Wisconsin Statutes, as amended.

*Written; 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.

*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.**

The provisions appearing in this Code so far as they are the same as those of the Code of the Village of North Prairie and of ordinances existing at the time of adoption of this Code shall be considered as a continuation thereof and not new enactments.

**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 judgement 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 had 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.**

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 the village not printed herein.
- (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 subdivision, land use, zoning or rezoning 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 therefor and prescribing utility rates and fees.
- (12) Any ordinance dedicating or accepting any plat or subdivision in the village.
- (13) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the village or regarding border agreements.
- (14) Any ordinance establishing positions, classifying positions, or setting salaries of village officers and employees, or any personnel regulations.
- (15) Any temporary or special ordinances or any ordinance under s. 66.30, Wis. Stats.
- (16) Any ordinance calling an election.

- (17) Any ordinance authorizing street maintenance agreements.
- (18) Any ordinance establishing grades, curblines and widths of sidewalks in the public streets and alleys.
- (19) Any ordinance regarding the lighting of streets and alleys.
- (20) Any ordinance naming public grounds and parks.
- (21) Any ordinance regarding the establishment of wards, ward boundaries and election precincts.
- (22) Any charter ordinance unless repealed by charter ordinance.
- (23) Any ordinance releasing persons from liability.
- (24) Any ordinance regarding construction of public works.
- (25) Any ordinance regarding sewer, solid waste, similar rules and regulations and sewer and main construction.
- (26) The village's schedules of fees and charges.

All such ordinances 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-treasurer's office.

#### **Sec. 1-11. Penalties.**

(a) For any adult adjudged to have violated the provisions of any municipal ordinance, the municipal court is authorized to impose a forfeiture of not less than \$10.00 nor more than \$500.00 plus allowable statutory costs for each offense. Failure to pay any forfeiture under this section shall subject such violator to be sentenced to the county jail and/or revocation or suspension of driving privileges.

(b) For any person adjudged to have violated an ordinance relating to truancy or school dropout, the municipal court is authorized to impose any of the dispositions listed in s. 938.342, Wis. Stats., in accordance with the provisions of those statutes, and such statutes are hereby adopted and incorporated herein. Any future amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this section in order to secure uniform statewide regulation of peace and good order of the state.

(c) For any juvenile adjudged to have violated any ordinance other than truancy or school dropout, the municipal court is authorized to impose any of the dispositions listed in ss. 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes, and such statutes are adopted and incorporated herein. Any future amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this section in order to secure uniform statewide regulation of peace and good order of the state.

(d) For any juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court imposed under ss. 938.343 or 938.344, Wis. Stats., the municipal court is authorized to impose any of the sanctions listed in s. 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes, and such statutes are adopted and incorporated herein. Any future amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this section in order to secure uniform statewide regulation of peace and good order of the state.

(e) The violation of any ordinance of the Village of North Prairie, for which specific penalty provisions are not described within the terms of the ordinance, is subject to the penalties described in Village of North Prairie Ordinance No. 10-96 dated on or about September 12, 1996. (Ord. No. 10-96, § 1, 9-12-1996; Ord. No. 7-04, § 1, 7-8-2004)

**Sec. 1-12. Deposit for forfeiture in lieu of court appearance.**

Any person charged with violating any provision, section or chapter of this Code for which no other deposit amount is expressly provided may pay a deposit as provided in the bond schedule, plus costs, at the police department in lieu of a court appearance. Persons wishing to contest charges may contact the police department to arrange a court appearance date.

**State Law References:** Citations for certain ordinance violations, s. 66.0113, Wis. Stats.; fees in forfeiture actions, s. 814.63, Wis. Stats.

**Sec. 1-13. Deposit for forfeiture in lieu of court appearance for continuing violation.**

Any person charged with a continuing violation of any provision, section or chapter of this Code for which each day constitutes a separate offense may pay the applicable amount from the bond schedule, plus costs, from the date of the first violation to and including the date the deposit is made, in lieu of court appearance, at the police department. Persons wishing to contest charges may contact the police department to arrange a court appearance date.

**Sec. 1-14. Amendments; language of amendments; new material; repeals.**

(a) All ordinances passed subsequent to this Code which 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 herein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Subsequent amending ordinances, as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances.

(b) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

**Sec. 1-15. Effect of amendments to Code.**

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the village board to make the addition or amendment a part hereof, shall be deemed to be incorporated in this Code so that reference to the "Municipal Code of the Village of North Prairie, Wisconsin"

shall be understood and intended to include such additions and amendments.

**Sec. 1-16. 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 board. A supplement to the 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, and shall also include all charter ordinances adopted or amended, during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and 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 which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

**State Law References:** Code of ordinances generally, s. 66.0103, Wis. Stats.

**Sec. 1-17. Clerk-treasurer to file documents incorporated by reference.**

Whenever in this Code any standard, code, rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other sections of this Code, are adopted by reference, they shall be deemed incorporated in this Code as if fully set forth herein. The clerk-treasurer is hereby directed and required to file, deposit and keep in the 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 clerk-treasurer's office hours, subject to such orders or regulations which the clerk-treasurer may prescribe for their preservation.

**Sec. 1-18. Clerk-treasurer to file ordinances, supplements.**

The clerk-treasurer shall certify one copy of this Code as the original Municipal Code of the Village of North Prairie, Wisconsin, and shall file the Code as being part of the village ordinance book. In addition, the clerk-treasurer shall retain in the office at least one copy of the Municipal Code of the Village of North Prairie, Wisconsin, in current form in which shall be inserted all supplements as herein provided.

**Sec. 1-19. Conflicting provisions.**

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.

**Sec. 1-20. Delinquent taxes, assessments and fees.**

No initial or renewal license, permit, variance, conditional use approval, special exception, zoning matter or any other discretionary action of the village board or any of its boards, commissions, departments or employees shall be:

- (1) Approved for any applicant who:
  - a. Is delinquent in the payment of any taxes, assessments, special assessments, sanitary sewer assessments, personal property taxes, engineering, legal, administrative or other claim owed to the village.
  - b. Is delinquent in the payment of a forfeiture resulting from the violation of any ordinance of the village.
  - c. Is delinquent in the payment of any taxes or other claims due to the state or county.
  - d. Has any outstanding warrant or capias from any municipal, state or federal court.
- (2) Issued for any premises or property for which taxes, assessments, special assessments, sanitary sewer assessments, personal property taxes, engineering, legal, administrative or other claims for the village are delinquent and unpaid.

(Ord. No. 5-92, 7-14-1992)

**Sec. 1-21. Severability of parts of Code.**

It is declared to be the intention of the village board that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since such would have been enacted by the village board without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.