

CHAPTER 19

General Provisions

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19.01 RULES OF CONSTRUCTION.

- (1) In the construction of this Code of general ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance.
 - (a) Wisconsin Statutes. The term Wisconsin Statutes whenever used in this Code shall mean the Wisconsin Statutes for the year 1990 and shall include subsequent amendments thereto.
 - (b) Gender: Singular and Plural. Every word in this Code and in any ordinance importing the masculine gender may extend and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to one person or one thing; provided that these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.
 - (c) Person. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic, and all entities of any kind capable of being sued unless plainly inapplicable.
 - (d) Acts by Agents. When a provision requires an act to be done which may by law be done as well by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

19.02 CONFLICT AND SEPARABILITY.

- (1) **Conflict and Separability**. 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.
- (2) **Separability of Code Provisions**. 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 the Village of Hales Corners hereby declares that they would have passed this Code and 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.

19.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE. Whenever in this Code any standard, code, rule, regulation, or other written or printed matter are adopted by reference, they shall be deemed incorporated in this Code as if fully set forth herein and the Village Clerk is hereby directed and required to 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 Village Clerk's office hours, subject to such orders or regulations which the Village Clerk may prescribe for their preservation.

19.04 PENALTY PROVISIONS.

- (1) **General Penalty.** Whenever so provided 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:
 - (a) First Offense – Penalty. Any person who shall violate any provisions of this Code subject to a penalty shall, upon conviction thereof, forfeit not more than \$400.00 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 or County House of Correction until said forfeitures and costs are paid, but not exceeding 90 days. In event, however, an ordinance incorporates by reference a State Statute which limits the maximum fine to a lesser amount than reflected herein, the State Statute shall prevail.
 - (b) 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 shall upon conviction thereof, forfeit not less than \$10.00 nor more than \$400.00 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 or County House of Correction until said forfeiture and costs of prosecution are paid, but not to exceed six (6) months. In event, however, an ordinance incorporates by reference a State Statute which limits the maximum fine to a lesser amount than reflected herein, the State Statute shall prevail.
- (2) 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 ordinance in this Code.
- (3) **Execution Against Defendant's Property.** Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the 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 said forfeiture and costs.
- (4) **Juvenile Justice Code Dispositional Orders and Sanctions Adopted.** The Municipal Code is authorized to enter an order making one or more of the available dispositions set forth under §938.343, Wis. Stats., for the disposition of a juvenile adjudged to have committed certain intoxicating liquor, beer, and drug violations, which statutes are incorporated herein in their entirety. The Municipal Code is authorized to order any of the sanctions enumerated under §938.355(6)(d), Wis. Stats., as a consequence for any

incident in which the juvenile has violated one or more conditions of his or her dispositional order, which statutory subsection is incorporated herein in its entirety.

19.05 REPEAL OF GENERAL ORDINANCES. All ordinances heretofore adopted by the Village Board of the Village of Hales Corners are hereby repealed, except all ordinances or parts of ordinances or resolutions relating to the following subjects and not conflicting with any of the provisions of this Code:

- (1) The issuance of corporate bonds and notes of the Village of Hales Corners of whatever name or description.
- (2) The establishment of grades, curb lines, and widths of sidewalks in the public streets and alleys.
- (3) The fixing of salaries of public officials and employees.
- (4) Creating or abolishing offices.
- (5) Rights, licenses, or franchises or the creation of any contract with the Village of Hales Corners.
- (6) The lighting of streets and alleys.
- (7) The annexation of territory to the Village of Hales Corners.
- (8) The naming and changing of names of streets, alleys, public grounds, and parks.
- (9) The letting of contracts without bids.
- (10) The establishment of wards, ward boundaries, and election precincts.
- (11) Tax and special assessment levies.
- (12) Release of persons, firms, or corporations from liability.
- (13) Construction of any public works.
- (14) Water, sewer, and electrical rates, rules, and regulations and sewer and water main construction.
- (15) Budget ordinances, resolutions, and actions.
- (16) The Zoning Ordinance being Ordinance No. 30 (Chronological Ordinance No. 102) which is reenacted with all amendments thereto.

19.06 EFFECT OF REPEALS. The repeal of any section or provision of this Code or of any other ordinance or resolution of the Village Board shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.

- (2) Affect any vested right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Village.
- (3) Affect any offense committed or penalty or forfeiture incurred, previous to the time when any ordinance shall be repealed or amended, 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.

19.07 USE OF CITATION.

(1) Authorization for Use of Citation.

- (a) Authority. Pursuant to the authority of Wisconsin Statute §66.119, as amended, the Village of Hales Corners hereby elects to adopt and authorize the use of a citation to be issued for violations of ordinances, including ordinances for which a statutory counterpart exists.
- (b) Citation. The form of the citation is hereby prescribed as found in §66.119(1)(b), Wis. Stats., as amended, which is incorporated herein by reference.
- (c) Schedule of Cash Deposits. A schedule of cash deposits shall be established by municipal judge action, upon the recommendation of the Chief of Police, which is incorporated herein by reference.

(2) Officials Authorized to Issue Citation.

- (a) Citations authorized in subsection (1) above, may be issued by officers of the Police Department or by other 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 officials department with the approval of the Village Board.
 - 1. Building Inspector.
 - 2. Fire Inspector.
 - 3. Fire Chief and Assistant Fire Chief.
 - 4. Health Officer and Sanitarian.
 - 5. Weed Commissioner.

(3) Form of Citation.

- (a) The form of the citation to be issued by law enforcement officer s or other designated Village officials is incorporated herein by reference and shall provide for the following information:
 - 1. The name, address, date of birth, and physical description of the alleged violator;
 - 2. The factual allegations describing the alleged violation;
 - 3. The date 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, if known;
 - 7. A statement which in essence informs the alleged violator: that the alleged violator may make a cash deposit of a specified amount to be

mailed to a specified official within a specified time; that if the alleged violator makes such a deposit, he need not appear in court unless subsequently summoned; that if the alleged violator makes a cash deposit and does not appear in court, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by §165.87, Wis. Stats., and court costs as imposed by §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; 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 §165.87, Wis. Stats.

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 read the statement required under subsection 7 and shall send the signed statement with the cash deposit.
9. Such other information as may be deemed necessary.

(4) **Schedule of Cash Deposits.**

- (a) 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 municipal judge, a copy of which is on file with the Village Administrator. In addition to the deposit amount listed, the deposit must include a penalty assessment imposed by §165.87, Wis. Stats., and court costs as imposed by §800.10, Wis. Stats.

(5) **Receipt of Cash Deposits.**

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

(6) **Procedure.**

- (a) §66.119(3), Wis. Stats., relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(7) **Nonexclusivity of Section.**

- (a) Adoption of this section 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 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.

19.08 TITLE: EFFECTIVE DATE: CITATION. These ordinance shall be known as the "Municipal Code of Hales Corners, Wisconsin" and shall take effect from and after passage and publication as provided in §66.035, Wis. Stats. All references thereto shall be cited by section number (example: section 13.06, Village Code of Hales Corners, Wisconsin.)