

Title 1 ► Chapter 1

Use and Construction

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Sec. 1-1-1 Title of Code; Citation.

These collected Ordinances shall be known and referred to as the "Code of Ordinances, Village of Elk Mound, Wisconsin." References to the Code of Ordinances, Village of Elk Mound, Wisconsin, shall be cited as follows (sample): "Section 2-1-1, Code of Ordinances, Village of Elk Mound, Wisconsin."

Sec. 1-1-2 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 Elk Mound 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

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Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (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.** Use has been made of masculine pronouns in these Ordinances solely for the sake of brevity. Unless specifically stated to the contrary, this Code of Ordinances is gender neutral and 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, phrases and ordinances shall be construed according to their plain meaning in common usage and shall be liberally construed in favor of the Municipality. 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. Unless specifically defined below, words and phrases used in this Code of Ordinances shall have the same meaning as they have at common law and to give this Code of Ordinances its most reasonable application. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.
- (g) **Joint Authority.** All words purporting to give a joint authority to three (3) 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, limited liability companies, firms, bodies politic, joint venture, joint stock company, association, public or private corporation, the United States, the State of Wisconsin, including any unit or division thereof, any county, city, village, town, municipal utility, municipal power district or other governmental unit, cooperative, estate, trust, receiver, executor, administrator, any other fiduciary, any representative appointed by order of any court or otherwise acting on behalf of others, or any other entity of any kind which is capable of being sued (includes singular as well as plural).
- (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 (1) 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 2009-2010 edition, as amended from time to time; future amendments shall be incorporated herein.
- (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 Elk Mound, Dunn County, Wisconsin.

Sec. 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.

Sec. 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.

Sec. 1-1-5 Effective Date of Ordinances.

- (a) **Code.** The Code of Ordinances, Village of Elk Mound, Wisconsin shall take effect 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.

State Law Reference: Code of Ordinances, Sec. 66.0103, Wis. Stats.

Sec. 1-1-6 General Penalty.

- (a) **General Penalty.** Except where a penalty is provided elsewhere in this Code of Ordinances, 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 Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00), 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 until such forfeiture and costs are paid, but not exceeding ninety (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 one year shall upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00) 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 (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.
- (d) **Court Authority to Impose Alternative Juvenile Dispositions and Sanctions.**
 - (1) For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in Sec. 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes and this Section.
 - (2) For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under Sections 938.343 or 938.344, Wis. Stats., the municipal court is authorized to impose any of the sanctions listed in Sec. 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.
 - (3) This Section is enacted under the authority of Sec. 938.17(2)(cm), Wis. Stats.
- (e) **Juvenile Disposition Alternatives for Alcohol/Drug Offenses.**
 - (1) If a juvenile is found to have engaged in underage drinking of alcohol, drinking of alcohol on school premises or at a school sponsored activity, falsifying proof of age, possessing drug paraphernalia, delivery of drug paraphernalia to a minor in violation of Village ordinances, the Court may order any of the following:
 - a. 1. A forfeiture;
 2. Suspension or revocation of the juvenile's driver's license;
 3. Participation in a supervised work program;
 - b. After ordering any of the above penalties, the Court may, with the juvenile's agreement, enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed and may require the juvenile to do any of the following:
 1. Submit to an Alcohol or Other Drug Abuse (AODA) assessment;
 2. Participate in an outpatient AODA treatment program if an AODA assessment recommends treatment;
 3. Participate in an AODA education program.
 - (2) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
 - a. The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines

- that participation in the court program will likely benefit the juvenile and the community;
- b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
 - c. The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.
- (3) If the Court finds that a juvenile's parent or guardian is unable to provide or refuses to provide a court-ordered AODA services for the juvenile through his or her health insurance or other third (3rd) party payments, the Court may order the parent or health insurer to pay.
 - (4) If payment is not attainable as described in Subsection (e)(3) above, the Court may order the municipality to pay for any AODA services so ordered.
- (f) **Dispositional Alternatives for Other Ordinance Violations.** The Court may impose one (1) or more of the following dispositional alternatives against a juvenile found to have violated a municipal ordinance, for which no penalty is otherwise provided, as follows:
- (1) Counseling for the juvenile and/or the parent or guardian;
 - (2) A forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing the same violation.
 - (3) If the forfeiture is for a violation that is only applicable to a juvenile, the maximum forfeiture amount is Fifty Dollars (\$50.00) plus costs;
 - (4) Suspend a fishing, hunting or driving license from ninety (90) days to five (5) years for failure to pay the forfeiture;
 - (5) Order the juvenile to participate in a supervised work program or other community service work;
 - (6) Order participation in an AODA assessment, an outpatient AODA treatment or an AODA education program;
 - (7) Order participation in a pupil assistance program provided by the juvenile's school provided the juvenile's school agrees;
 - (8) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
 - a. The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
 - b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
 - c. The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.
- (g) **Violation of Juvenile Dispositional Orders.** The Court may impose the following sanctions on a juvenile who has violated a Village ordinance and who has violated a condition of his or her dispositional order:
- (1) Suspend the juvenile's operating privilege for a period not more than ninety (90) days;

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- (2) Detain the juvenile in his or her home or current residence for not more than thirty (30) days without electronic monitoring;
 - (3) Order no more than twenty-five (25) hours of community service work in a supervised work program.
- (h) **Municipal Court Costs.** Pursuant to Sec. 814.65(1), Wis. Stats., as amended, the Village of Elk Mound authorizes the Municipal Judge, if a Municipal Court is created, to collect a minium fee on each separate matter, whether it is on default of appearance, a plea of guilty or not contest, on issuance of a warrant or summons, or the action is tried as a contested matter.

State Law Reference: Sec. 66.0109, Wis. Stats.

Sec. 1-1-7 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/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.