

# Chapter 1

## GENERAL PROVISIONS

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

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### ARTICLE I

#### Construction and Penalties

[Adopted as Title 1, Ch. 1, §§ 1-1-2, 1-1-3, 1-1-5, 1-1-6 and 1-1-7, of the 1987 Village Code]

#### § 1-1. Principles of construction.

The following rules or meanings shall be applied in the construction and interpretation 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 Black Creek, 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. Every word 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. 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.
- I. 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.
- J. 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 referred to a plural number shall also be construed to apply to one person or thing.
- K. Tense. The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- L. Wisconsin Statutes. The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these ordinances, the Wisconsin Statutes as of the adoption of this Code, as amended or renumbered from time to time. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- M. 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.
- N. Village. The term "Village" shall mean the Village of Black Creek, Outagamie County, Wisconsin.

**§ 1-2. Conflict with other 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.

**§ 1-3. When effective.**

- A. Code. The Code of Ordinances, Village of Black Creek, 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.

**§ 1-4. 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 forfeiture of not less than \$100 nor more than \$1,000 and, on default, imprisonment for not more than 90 days. **[Amended 6-9-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (1) Penalties are assessed according to the State of Wisconsin Uniform State Deposit Schedule.
- B. Continued violations. Each violation and each day a violation 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.

**§ 1-5. 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 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 imposes for the preservation of the material.

## ARTICLE II

**Adoption of Code****]Adopted 12-2-2019 by Ord. No. 12-05-2019]****§ 1-6. Adoption of Code.**

Pursuant to § 66.0103, Wis. Stats., the ordinances of the Village of Black Creek of a general and permanent nature adopted by the Village Board of the Village of Black Creek, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 390, are hereby approved, adopted, ordained and enacted as the "Code of the Village of Black Creek," hereinafter referred to as the "Code."

**§ 1-7. Code supersedes prior ordinances.**

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

**§ 1-8. Continuation of existing provisions.**

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

**§ 1-9. Copy of Code on file.**

A copy of the Code has been filed in the office of the Village Clerk-Treasurer and shall remain there for use and examination by the public for at least two weeks, in accordance with § 66.0103, Wis. Stats., and until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the Village Clerk-Treasurer, and such certified copy shall remain on file in the office of said Village Clerk-Treasurer to be made available to persons desiring to examine the same during all times while said Code is in effect.

**§ 1-10. Amendments to Code.**

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Village Board to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Village of Black Creek" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

**§ 1-11. Publication; filing.**

The Clerk-Treasurer of the Village of Black Creek, pursuant to law, shall cause to be published, in the manner required by law, a notice of the adoption of this ordinance. Sufficient copies of the Code shall be maintained in the office of the Clerk-Treasurer for inspection by the public at all times during regular office hours. The publication of notice of the enactment of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-12. Code to be kept up-to-date.**

It shall be the duty of the Village Clerk-Treasurer, or someone authorized and directed by the Clerk Treasurer, to keep up-to-date the certified copy of the Code required to be filed in the Clerk-Treasurer's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code.

**§ 1-13. Sale of Code.**

Copies of the Code, or any chapter or portion of it, may be purchased from the Village Clerk-Treasurer or an authorized agent of the Clerk-Treasurer upon the payment of a fee to be set by the Village Board. The Clerk Treasurer may also arrange for procedures for the periodic supplementation of the Code.

**§ 1-14. Altering or tampering with Code; penalties for violation.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village of Black Creek to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a penalty as provided in § 1-4 of the Code.

**§ 1-15. Severability of Code provisions.**

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

**§ 1-16. Severability of ordinance provisions.**

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

**§ 1-17. Repealer.**

- A. All ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Village of Black Creek which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.
- B. Repeal of specific enactments. The Village Board of the Village of Black Creek has determined that the following ordinances are no longer in effect and hereby specifically repeals the following legislation:
  - (1) The 1987 Code of Ordinances of the Village of Black Creek, adopted by ordinance August 10, 1987, as amended and supplemented.
  - (2) As part of the 2019 codification, the following provisions from the 1987 Village Code are specifically repealed:
    - (a) Ordinance adopted 1-17-2011, Officers and Employees amendment.
    - (b) Chapter 4, Cable Television, of Title 5, Public Utilities, of the 1987 Village Code.
    - (c) Section 7-3-1, Pharmacists' Permits, of Chapter 3, Pharmacists' Permits; Cigarette License, of the 1987 Village Code.
    - (d) Sections 9-4-1 and 9-4-2, Exposing Minors to Harmful Materials; Obscenity Prohibited; of Chapter 4, Obscenity, of the 1987 Village Code.

**§ 1-18. Ordinances saved from repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 1-17 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to April 10, 2017.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.

- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Village's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinances adopting or amending the Zoning Map or otherwise rezoning property.
- O. Any charter ordinances.
- P. Any ordinance or portion of an ordinance establishing or amending a specific fee amount for any license, permit or service obtained from the Village.
- Q. Any ordinance or portion of an ordinance establishing or amending a deposit or bond schedule.
- R. Any ordinance or portion of an ordinance establishing or amending rates or charges for water or sewer service.

**§ 1-19. Changes in previously adopted ordinances.**

- A. In compiling and preparing the ordinances for publication as the Code of the Village of Black Creek, no changes in the meaning or intent of such ordinances have been made, except as provided for in this section. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Village Board that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.

## B. The following changes are made throughout the Code:

- (1) References to specific chapters and sections of the Wisconsin Statutes and Wisconsin Administrative Code are amended to reflect the numbering of the statutes and Administrative Code as of the publication of this Code.
- (2) References to the "Department of Industry, Labor and Human Relations" are amended to read "Department of Safety and Professional Services."
- (3) References to the "State Board of Health" are amended to read "State Department of Health Services."
- (4) References to "Village Clerk" and "Village Treasurer" are amended to read "Village Clerk-Treasurer."
- (5) References to "Superintendent of Streets" are amended to read "Director of Public Works."
- (6) In Chapter 185, Grass and Weeds, "natural lawn management permit" and "natural lawn management plan permit" are amended to read "natural lawn permit"; and "Weed Commissioner" is amended to read "Director of Public Works."
- (7) In Chapter 205, Intoxicating Liquor and Fermented Malt Beverages, references to "alcoholic beverages" are amended to read "alcohol beverages." References to Class A and Class B intoxicating liquor licenses are amended to read "Class A" and "Class B"; references to Class A and Class B fermented malt beverage licenses are amended to read "Class A" and "Class B"; and references to Class C wine licenses are amended to read "Class C."
- (8) In Chapter 219, Mining, Nonmetallic, the term "license" is amended to read "permit."
- (9) In Chapter 226, Mobile Home Communities, the term "mobile home park" is amended to read "mobile home community," and the term "mobile home parks" is amended to read "mobile home communities."
- (10) In Chapter 230, Mobile Homes, the terms "monthly parking fee" and "parking permit fee" are amended to read "monthly permit fee."
- (11) In Chapter 308, Streets and Sidewalks, "Superintendent of Streets" is amended to read "Director of Public Works."
- (12) In Chapter 328, Vehicles, Abandoned and Junked, the term "Wisconsin Motor Vehicle Division" is amended to read "Wisconsin Division of Motor Vehicles."
- (13) In Chapter 350, Water, specific water rates are removed and replaced with reference to the PSC tariff.
- (14) In Chapter 370, Floodplain Zoning, the term "zoning agency" is amended to read "Plan Commission."
- (15) In Chapter 377, Shoreland-Wetland Zoning, the term "planning agency" is amended to read "Plan Commission."

- (16) In Chapter 390, Zoning, the term "front yard" is amended to read "street yard" and the term "mobile home park" is amended to read "mobile home community."
- C. The adoption of the Code includes the adoption of the following new ordinance:
- (1) Chapter 23, Court, Municipal.
- D. The amendments and/or additions as set forth in Schedule A<sup>1</sup> attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

**§ 1-20. When effective.**

This ordinance shall take effect upon passage and publication as required by law.

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1. Editor's Note: In accordance with § 1-19D, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article II. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 12-2-2019 by Ord. No. 12-05-2019." Schedule A, which contains a complete description of all changes, is on file in the Village offices.