

# TITLE 1

## General Provisions

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## 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 Nichols, Wisconsin and Village of Black Creek, Wisconsin" References to the Code of Ordinances, Village of Nichols, Wisconsin shall be cited as follows: :Section 21-1, Code of Ordinances, Village of Nichols, Wisconsin and Village of Black Creek, 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 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 (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 law.

(d) **Fine.** The term "fine" shall be the equivalent of the work "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, 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 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 (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. )
- (i) **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.
- (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 for the year 1991-92, as amended from time to time.
- (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 Nichols, Outagamie 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 Black Creek, Wisconsin shall take effect as provided by state law, on September 1, 2006 are as follows:
- (1) The Village of Nichols Ordinance Sec 10-5-1 to Sec. 10-5-8 shall become Village of Black Creek Ordinance Sec. 8-4-1 to 8-4-8. Sec. 8-4-1(a) shall have the addition of: in the Village of Black Creek *or Village of Nichols.*
  - (2) Village of Nichols Ordinance Sec. 11-2-6 to 11-2-9(a) and 11-2-1(c) shall become Village of Black Creek Ordinance 9-2-8 to 9-2-13.
  - (3) Village of Nichols Ordinance Sec. 7-1-6 to 7-1-20 shall become Village of Black Creek Ordinance Sec. 7-1-6 to 7-1-20.
  - (4) Village of Nichols Ordinance Sec. 10-5-8 shall become Village of Black Creek Ordinance Sec. 9-3-5.
  - (5) The Village of Nichols shall add Black Creek Ordinance Sec. 9-3-6, Issuance of Worthless Checks.:
    - (a) Whoever issues any check or other order for the payment of money less than \$1,000.00 Dollars which, at the time of issuance, he or she intends not to be paid is guilty of a violation of this Section.
    - (b) Any of the following is prema facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:
      - (1) Proof that at the time of issuance, the person did not have an account with the drawee, or
      - (2) Proof that at the time of issuance, person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or
      - (4) Proof that when presentment was made within a reasonable time, the person did not have sufficient fund or credit with the drawee and the person failed within five (5) days after receiving notice of dishonor to pay the check or other order.
    - (c) This section does not apply to a post-dated check or to a check given in past consideration, except as a payroll check.
    - (d) Fines are assessed according to State of Wisconsin Uniform State Deposit Schedule.
- (b) **SUBSEQUENT ORDINANCES.** All ordinances passed by the Village Boards of Nichols and Black Creek subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication.

- (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 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 One Thousand Dollars (\$1,000.00), 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.
- (h) 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.

SEC 1-1-7 VILLAGE CLERK 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 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's office shall be considered public records open to reasonable examination by any person during the office hours of the Village Clerk subject to such restrictions on examination as the Clerk imposes for the preservation of the material.

## CHAPTER 2

### Use of Citation

- 1-2-1 Authorization for Use of Citation
- 1-2-2 Officials Authorized to Issue Citation
- 1-2-3 Form of Citation
- 1-2-4 Schedule of Cash Deposits
- 1-2-5 Receipt of Cash Deposit
- 1-2-6 Procedure
- 1-2-7 Nonexclusivity of Chapter

#### SEC. 1-2-1 AUTHORIZATION FOR USE OF CITATION.

The Village of Nichols Hereby elects to use the citation method of enforcement of ordinances. The Village of Black Creek Police Chief and officers charged with responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to Sec. 66.119(1)(a) Wis Stats, to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

#### SEC. 1-2-2 OFFICIALS AUTHORIZED TO ISSUE CITATION.

Citations authorized in Section 1-2-1 above may be issued by 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 official's department with the approval of the Village Board:

- a) Building Inspector.
- b) Fire Inspector.
- c) Weed Commissioner.

#### SEC. 1-2-3 FORM OF CITATION.

The form of the citation to be issued by Village police officers or other designated Village officials is incorporated herein by reference and shall provide for the following information:

- The name, address, date of birth and physical description of the alleged violator;
- The factual allegations describing the alleged violation;
- c) The date and place of the offense;
- d) The Section of the Ordinance violated;
- e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so;
- (f) The time at which the alleged violator may appear in court;
- (g) A statement which in essence informs the alleged violator:
  - (1) That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time;
  - (2) That if the alleged violator makes such a deposit; he need not appear in court unless subsequently summoned;

- (3) 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 Sec. 165.87, Wis. Stats., and court costs as imposed by Sec. 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;
- (4) 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 Sec. 165.87, Wis. Stats.;
- (h) 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 (g) and shall send the signed statement with the cash deposit;
- (i) Such other information as may be deemed necessary.

#### **SEC. 1-2-4 SCHEDULE OF CASH DEPOSITS.**

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 Village Board, a copy of which is on file with the Village Clerk. In addition to the deposit amount listed, the deposit must include a penalty assessment imposed by Sec. 165.87, Wis. Stats., and court costs as imposed by Sec. 800.10, Wis. Stats. The Chief of Police shall be provided a copy of all bond schedules and amendments thereto.

#### **SEC. 1-2-5 RECEIPT OF CASH DEPOSITS.**

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

#### **SEC. 1-2-6 PROCEDURE.**

Section 66.119(3) of Wisconsin Statutes relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

#### **SEC. 1-2-7 NONEXCLUSIVITY OF CHAPTER.**

- (a) Adoption of this Chapter 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 a 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.