

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY**



## CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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### ' 10.01 TITLE OF CODE.

This codification by and for the Village of Wapella shall be designated as the code of Wapella, and may be so cited.

### ' 10.02 DEFINITIONS.

For the purpose of this code the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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**ANOTHER.** When used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.

**BOARD** or **BOARD OF TRUSTEES.** The Board of Trustees of the Village of Wapella.

**COUNTY.** DeWitt County, Illinois.

**COUNTY BOARD.** The County Board of DeWitt County, Illinois.  
(5 ILCS 70/1.07)

**COURT.** Construed to mean any court of competent jurisdiction.

**DECREE.** Synonymous with **JUDGMENT.**  
(5 ILCS 70/1.24)

**ELECTORS.** Persons qualified to vote for elective officers at municipal elections.  
(65 ILCS 5/1-1-2)

**EXECUTIVE OFFICER.** Words used for an executive or ministerial officer may include any deputy or other person performing the duties of such officer, either generally or in special cases.  
(5 ILCS 70/1.08)

**HERETOFORE** or **HEREAFTER.** **HERETOFORE** means any time previous to the day on which the ordinance, resolution or statute takes effect; **HEREAFTER** means at any time after that date.  
(5 ILCS 70/1.17)

**HIGHWAY, ROAD** or **STREET.** May include any road laid out by authority of the United States, or of this state, or of any town or county of this state, and all bridges thereupon.  
(5 ILCS 70/1.16)

**ILCS.** Illinois Compiled Statutes, 1992, as heretofore and hereafter amended.

**KEEPER** or **PROPRIETOR.** Includes all persons, whether acting by themselves, or as a servant, agent or employee.

**LAND** or **REAL ESTATE.** Includes rights and easements of an incorporeal nature.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.  
(5 ILCS 70/1.10)

**MUNICIPAL CODE.** The Illinois Municipal Code, 65 ILCS 5.

**OATH.** Includes affirmation, and **SWEAR** includes affirm.  
(5 ILCS 70/1.12)

**OWNER.** When applied to property, includes any part owner, joint owner, purchaser and seller under a contract and/or deed, or tenant in common of the whole or part of the property, and includes any beneficiary of a land trust which owns property.

**PERSON.** Any legal person; includes associations, partnerships, corporations, joint ventures and bodies politic and corporate as well as individuals.  
(5 ILCS 70/1.05)

**PERSONAL PROPERTY.** Includes all property, except real.

**POLICE OFFICERS.** Police officers employed and in the service of the Village of Wapella.

**POLICE FORCE.** Includes such persons in the employ of a village as members of the Department of Police, who are or shall hereafter be appointed and sworn as **POLICE OFFICERS**.  
(5 ILCS 70/1.20)

**PREMISES.** As applied to property, includes land and buildings.

**PRESIDENT.** The President of the Village of Wapella.

**PROPERTY.** Includes real, personal, mixed estates and other interests.

**PUBLIC AUTHORITY.** Includes school districts; units of legal government; the village, city, county, state or federal governments, officers and agencies thereof, or any commissions or committees thereof; or any duly authorized public official.

**PUBLIC PLACE.** Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance or any other place for the sale of merchandise, public accommodation or amusement.

**REAL PROPERTY.** Includes lands, tenements and hereditaments.

**REGISTERED MAIL.** Includes certified mail and **CERTIFIED MAIL** includes **REGISTERED MAIL**.

**SHALL.** The act referred to is mandatory.

**SIDEWALK.** The portion of the street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.  
(625 ILCS 5/1-188)

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***SPECIAL DISTRICTS.*** The meaning ascribed in Article VII of the Constitution of the State of Illinois of 1970.

(5 ILCS 70/1.29)

***STATE.*** The State of Illinois.

***STREET.*** Where the context admits, includes alleys, lanes, courts, boulevards, squares and other public thoroughfares.

***TENANT* or *OCCUPANT.*** As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of the premises, alone or with others.

***THIS CODE* or *THIS CODE OF ORDINANCES.*** The village code hereby adopted, and as hereinafter modified by amendment, revision and by the adoption of new titles, chapters or sections.

***UNITS OF LOCAL GOVERNMENT.*** The meaning established in ' 1 of Article VII of the Constitution of the State of Illinois of 1970.

(5 ILCS 70/1.28)

***VILLAGE, MUNICIPALITY* or *MUNICIPAL CORPORATION.*** The Village of Wapella, irrespective of its population or legal classification.

***WEEK.*** Seven consecutive days.

***WHOEVER.*** Includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.

***WRITTEN* or *IN WRITING.*** Includes printing, electronic and any other mode of representing words and letters; but when the written signature of any person is required by law on any official or public writing or bond, required by law, it shall be:

(1) In the proper handwriting of that person, or in case he or she is unable to write, his or her proper mark; or

(2) An electronic signature as defined in the Electronic Commerce Security Act, 5 ILCS 175/1-101 et seq., except as otherwise provided by law.

(5 ILCS 70/1.15)

***YEAR.*** A calendar year unless otherwise expressed; and the word ***YEAR*** alone is equivalent to the expression A Year of Our Lord@.

(5 ILCS 70/1.10)

' **10.03 SECTION HEADINGS.**

Headings and captions used in this code are employed for reference purposes only, and shall not be deemed a part of the text of any section.

' **10.04 RULES OF CONSTRUCTION.**

(A) Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative or judicial definition or otherwise, shall be construed accordingly.

(B) As used in this code, unless the context otherwise requires, the following rules will be followed.

(1) The singular shall include the plural, and the plural shall include the singular.  
(5 ILCS 70/1.03)

(2) Words of one gender shall include the other genders.  
(5 ILCS 70/1.04)

(3) Words in the present tense shall include the future.  
(5 ILCS 70/1.02)

(4) **AND** may be read **OR**, and **OR** may be read **AND**, if the context admits.

(C) The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this state, and then it shall also be excluded. If the day succeeding Saturday, Sunday or a holiday is also a holiday or a Saturday or Sunday, then the succeeding day shall also be excluded.  
(5 ILCS 70/1.11)

(D) When the law requires an act to be done which may by law as well be done by an agent as by the principal, the requirement shall be construed to include all such acts when done by an authorized agent.

(E) Words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving authority to a majority of the officers or persons.  
(5 ILCS 70/1.09)

(F) These rules of construction shall not apply to any provision of this code which shall contain any express provision excluding that construction, or when the subject matter or context of this code may be repugnant thereto.

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(G) All general provisions, terms, phrases and expressions shall be liberally construed in order that the true intent and meaning of the President and Village Board may be fully carried out.

(5 ILCS 70/1.01)

(H) The provisions of any ordinance, insofar as they are the same as those of any prior ordinance, shall be construed as a continuation of the prior provisions, and not as a new enactment.

(5 ILCS 70/2)

**' 10.05 OFFICIAL TIME.**

The official time for the village shall be as set by federal law.

**' 10.06 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.**

(A) The repeal of a repealing ordinance does not revive the ordinance originally repealed, nor impair the effect of any saving clause therein.

(B) The reenactment, amendment or repeal of an ordinance does not do any of the following, except as provided in division (C) below:

(1) Affect the prior operation of the ordinance or any prior action taken thereunder;

(2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;

(3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal; or

(4) Affect any investigation, proceeding or remedy in respect of any privilege, obligation, liability, penalty, forfeiture or punishment. The investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.

(C) If the penalty, forfeiture or punishment for any offense is reduced by a reenactment or amendment of an ordinance, the penalty, forfeiture or punishment, if not already imposed, shall be imposed according to the ordinance as amended.

**' 10.07 REFERENCE TO OTHER SECTIONS.**

(A) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, the reference shall be construed to mean a violation of any provision of the section or sections included in the reference.

(B) References in this code to action taken or authorized under designated sections of this code



include, in every case, action taken or authorized under the applicable legislative provision which is superseded by this code.

(C) Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision and the context clearly indicates that the reference to the section as amended or revised was not intended.

**' 10.08 CONFLICTING PROVISIONS.**

If the provisions of different codes, chapters or sections of these codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

**' 10.09 AMENDMENTS TO CODE.**

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, or in the case of repealed chapters, sections and divisions, or any part thereof, by subsequent ordinances, the repealed portions may be excluded from the code by the omission from reprinted pages affected thereby, and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of subsequent ordinances until this code of ordinances and subsequent ordinances numbered or omitted are re-adopted as a new code of ordinances by the Village Board.

**' 10.10 SEVERABILITY.**

If any provisions of a section of these codified ordinances or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

**' 10.11 REFERENCE TO PUBLIC OFFICE OR OFFICER.**

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the village exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary. Such references shall also include the designee or agent of any such officer or office, unless the law or the context clearly requires otherwise.

**' 10.12 ERRORS AND OMISSIONS.**

If a manifest error is discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected, and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

**' 10.13 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code of ordinances.

**' 10.14 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature (including, but not limited to tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the village; and all special ordinances) as well as any other ordinances pertaining to subjects not enumerated and embraced in this code of ordinances, shall remain in full force and effect unless herein repealed expressly or by necessary implication.

**' 10.15 ORDINANCES SAVED.**

Whenever an ordinance by its nature either authorizes or enables the Village Board or a certain village officer or employee to make additional regulations for the purpose of carrying out the intent of the ordinance, all regulations of a similar nature serving that purpose effected prior to the codification and not inconsistent thereto, shall remain in effect and are saved.

**' 10.16 TECHNICAL CODES.**

Whenever any technical codes are incorporated herein by reference, any subsequent amendments or revisions to such technical codes shall automatically become a part of this code and shall be made available for public inspection by the village. Further, to the extent of any conflict between the technical provisions of this code and any technical codes adopted by reference, the most restrictive provision shall prevail.

' **10.17 HISTORICAL AND STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the amending ordinances, if any, are listed following the text of the code section.

Example:

(Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) An AILCS@ cite included in the history indicates that the text of the section reads either verbatim or substantially the same as the statute. Example:

(65 ILCS 5/3.1-2-1)

(2) An AILCS@ cite set forth as a Astatutory reference@ following the text of the section indicates that the reader should refer to that statute for further information. Example:

' **38.04 PUBLIC RECORDS AVAILABLE.**

The village shall make available to any person for inspection or copying all public records, as provided in the Illinois Freedom of Information Act.

*Statutory reference:*

*Freedom of Information Act, see 5 ILCS 140/1 et seq.*

' **10.18 PUBLIC UTILITY ORDINANCES.**

No ordinance relating to railroads or railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the passage of this section or by virtue of ' 10.13, excepting as this code may contain provision for such matters, in which case this section shall be considered as amending such ordinance or ordinances in respect of such provisions only.

(1975 Code, ' 34-108)

' **10.19 PENDING SUITS.**

(A) No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied, to any judgment announced after the new ordinance takes

effect.

(B) This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

(C) Nothing contained in this or the preceding section shall be construed as abating any action now pending under or by virtue of any general ordinance of the village herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the village under any section or ordinance existing at the time of the passage of this ordinance.

(1975 Code, ' 34-109)

#### **' 10.99 GENERAL PENALTY.**

Whoever violates any provision of this code or other ordinance of this village for which another penalty is not specifically provided, shall be fined not more than \$750 for each and every violation thereof, and every day the violation continues shall constitute a separate offense.

***Statutory reference:***

*Authority to imprison for certain ordinance violations, see 65 ILCS 5/1-2-1.1*

*Limitations on penalties and collection upon default in payment, see 65 ILCS 5/1-2-1*