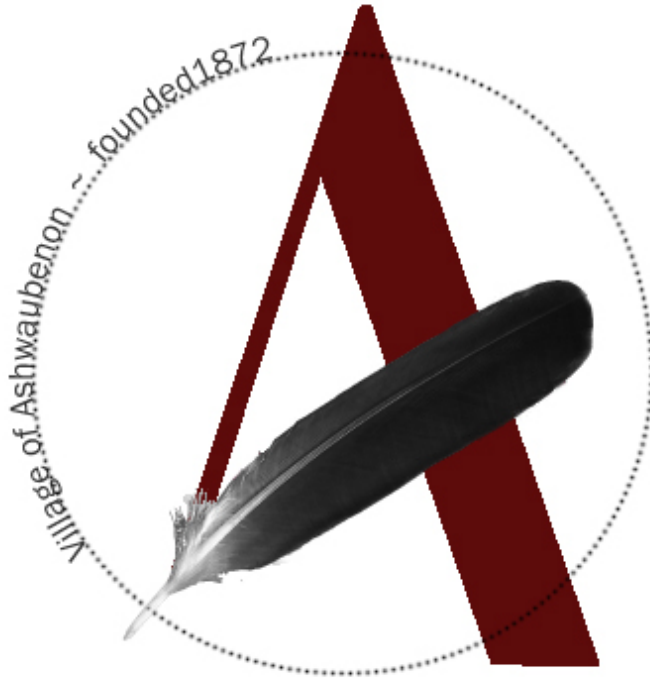


Village of Ashwaubenon

Municipal Code Book

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Printed for:
Chapter 1 - General Provisions

Municipal Code Book

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Chapter 1 - General Provisions

Article 1 - In General

1-1-1 Designation and Citation of Code

This Code and the ordinances contained herein shall be known as the "Municipal Code of the Village of Ashwaubenon, Wisconsin," and may also be cited as the Ashwaubenon Code. State law reference - Codification of ordinances, Wis. Stats. § 66.0103. (Code 2006, § 25.07)

1-1-2 Definitions and Rules of Construction

In the construction of this Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance, and provided these rules of construction shall not be applied to any provision which contains express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto:

Acts of agents. The term "acts of agents" means when a provision requires an act to be done which may, by law, as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent. State law reference - Similar provisions, Wis. Stats. § 990.001(9).

Charter ordinance. The term "Charter ordinance" means an ordinance adopted pursuant to Wis. Stats. § 66.0101 and printed in part I of this volume.

Code. The term "Code" means the Municipal Code of the Village of Ashwaubenon, Wisconsin.

Computation of time. The term "computation of time" means the time within which an act is to be done or proceeding had or taken shall be computed by excluding the first day and including the last; and when any such time is expressed in hours the whole of Sunday and of any legal holiday, from 12:00 midnight to 12:00 midnight, shall be excluded. If the last day within which an act is to be done or proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day. When the last day within which a proceeding is to be had or taken or an act done, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the village, of any money, return, statement, report, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or upon which such service is to be made or with which such return, statement, report, notice or other document is required to be filed, do not include any office hours thereof on such Saturday, said proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday. State law reference - Similar rule of construction, Wis. Stats. § 990.001(4).

County. The term "county" means Brown County, Wisconsin.

Delegation of authority. The term "delegation of authority" means a provision that authorizes or requires a village officer or village employee to perform an act or make a decision, authorizes such officer or employee to act or make a decision through subordinates.

Gender. The term "gender" means that every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males.

Joint authority. The term "joint authority" means all words purporting to give a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers

or other persons. State law reference - Similar rule of construction, Wis. Stats. § 990.001(8).

Month. The term "month" means a calendar month unless otherwise expressed. State law reference - Similar rule of construction, Wis. Stats. § 990.01(21).

Number. Every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing.

Oath. The term "oath" means and includes affirmation in all cases where by law an affirmation may be substituted for an oath. If any oath or affirmation is required to be taken, such oath or affirmation shall be taken before and administered by some officer authorized by the laws of the state to administer oaths, at the place where the same is required to be taken or administered, unless otherwise expressly directed, and, when necessary, duly certified by such officer. If an oath is administered, it shall end with the words "so help me God." In actions and proceedings in the courts, a person may take an oath or affirmation in communication with the administering officer by telephone or audiovisual means. State law reference - Similar rule of construction, Wis. Stats. § 990.01(24).

Officers, departments, boards, committees, commissions, etc. The term "officers, departments, boards, committees, commissions, etc.," means whenever any officer, employee, department, board, committee, commission, authority or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the Village of Ashwaubenon, Wisconsin."

Owner. The term "owner," as applied to property, means and includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The term "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all entities capable of being sued, unless plainly inapplicable. State law reference - Similar provisions, Wis. Stats. § 990.001(1) and 990.01 (26).

Preceding; following. The term "preceding," when used by way of reference to any Code section, means the section next preceding that in which the reference is made. The term "following," when used by way of reference to any Code section, means the section next following that in which the reference is made. State law reference - Similar rule of construction, Wis. Stats. § 990.01(9), (30).

Property. The term "property" means and includes real and personal property. State law reference - Similar rule of construction, Wis. Stats. § 990.01(31).

Signature. The term "signature" means that if the signature of any person is required by law, it shall always be the handwriting of such person or, if the person is unable to write, the person's mark or the person's name written by some other person at the person's request and in the person's presence, or, subject to any applicable requirements under Wis. Stats. § 137.11 et seq., the electronic signature of the person. State law reference - Similar rule of construction, Wis. Stats. § 990.01(38).

State. The term "state" means the State of Wisconsin.

Tense. The present tense of a verb includes the future when applicable and the future perfect tense includes past and future tenses. State law reference - Similar provisions, Wis. Stats. § 990.001(3).

Village. The term "village" means the Village of Ashwaubenon, Wisconsin.

Village board. The term "village board" means the Village Board of the Village of Ashwaubenon, Wisconsin.

Wis. Stats. The abbreviation "Wis. Stats." means the current edition of the Wisconsin Statutes and includes the most recent session.

Wisconsin statutes. The term "Wisconsin statutes" means all references to "Wisconsin Statutes."

Written or in writing. The term "written" or "in writing" means and includes any representation of words, letters, symbols or figures. This definition does not affect any law relating to signatures. State law reference - Similar rule of construction, Wis. Stats. § 990.01(48).

Year. The term "year" means a calendar year, unless otherwise expressed. State law reference - Similar rule of construction, Wis. Stats. § 990.01(49). (Code 2006, § 25.01)

1-1-3 Catchlines of Sections

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

1-1-4 References to Chapters or Sections

All references to chapters, articles, divisions or sections are to the chapters, articles, divisions and sections of this Code unless otherwise specified.

1-1-5 References and Editor's Notes

The state law references and editor's notes appearing after sections throughout this Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

1-1-6 History Notes

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

1-1-7 Provisions Deemed Continuation of Existing Code or Ordinances; Effect of Repeal

The provisions of this Code, insofar as they are the same in substance as those of the Code provisions and ordinances heretofore existing, shall be construed as a continuation of such ordinances and not as a new enactment. Any act done, offense committed, forfeiture or punishment incurred prior to the time of such repeal shall not be affected by such repeal, but may be enjoined, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected.

1-1-8 Code Does Not Affect Prior Offenses, Rights or Penalties

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or

any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

1-1-9 Amendments

- (A) Any additions or amendments to this Code, when passed in such form as to indicate the intention of the village board to make them a part of this Code, are incorporated in this Code so that a reference to this Code shall be understood as including them. 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 therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the village board.
- (B) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section ____ of the Municipal Code of the Village of Ashwaubenon, Wisconsin, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.
- (C) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Municipal Code of the Village of Ashwaubenon, Wisconsin, is hereby amended by adding a section to be numbered ____, which section reads as follows:" The new section shall then be set out in full as desired.
- (D) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

1-1-10 Supplementation of Code

- (A) By contract or by village personnel, supplements to this Code shall be prepared and printed. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.
- (B) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (C) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ____ to ____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code. State law reference - Codification, Wis. Stats. § 66.0103.

1-1-11 Conflict and Separability

- (A) *Conflict of provisions*. 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.
- (B) *Severability for Separability of provisions*. If any section, subsection, sentence, clause or phrase of the 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 hereby declares that it 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 may be declared invalid or unconstitutional. State law reference - Severability, Wis. Stats. § 990.001(11). (Code 2006, § 25.02)

1-1-12 Clerk to File Documents Incorporated by Reference

Whenever in this Code any standard, code, rule, regulation 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 clerk shall 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 clerk's office hours, subject to such orders or regulations which the clerk may prescribe for their preservation. (Code 2006, § 25.03)

1-1-13 General Penalty

- (A) *Generally.* Except as otherwise provided, 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.* Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$1.00 nor more than \$5,000.00, 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 90 days.
 - (2) *Second offense.* Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$1.00 nor more than \$5,000.00 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 until such forfeiture and costs are paid, but not exceeding six 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) *Execution against defendant's property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any 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 such forfeiture and costs. (Code 2006, § 25.04(1)—(3); Ord. No. O8-5-13, § 1, 8-27-2013)

1-1-14 Citation

Pursuant to Wis. Stats. § 66.0113, the village hereby elects to use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists.

- (A) *Information required.* The municipal citation shall contain the following information:
- (1) The name and address of the alleged violator.
 - (2) Factual allegations describing the alleged violation.
 - (3) The time and place of the offense.
 - (4) The section of the Code violated.
 - (5) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
 - (6) The time at which the alleged violator may appear in court.
 - (7) A statement which in essence informs the alleged violator:

- (a) That a cash deposit based on the schedule established by the village board as a part of this Code may be made which shall be delivered or mailed to the clerk of municipal court prior to the time of the scheduled court appearance.
 - (b) That if a deposit is made, no appearance in court is necessary, unless he is subsequently summoned.
 - (c) That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
 - (d) That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
- (8) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subsection (1)g of this section has been read. Such statement shall be sent or brought with the cash deposit.
- (9) Such other information as the village deems necessary.
- (B) *Form of citation.* The village hereby adopts for use the Wisconsin Uniform Municipal Citation, Form MSC 1, consisting of a three-part citation, a sample of which is on file in the office of the village clerk and adopted by reference as though fully set forth herein.
- (C) *Schedule of deposits.* The schedule of cash deposits for use with citations issued under this section shall be as adopted by the village board from time to time and such schedule shall be on file on the office of the chief of police and in the office of the village clerk. Deposits shall be in cash, money order or certified check to the village clerk or to the clerk of court, municipal court, who shall provide a receipt.
- (D) *Issuance of citation.*
- (1) *Law enforcement officer.* Any law enforcement officer may issue citations authorized under this section.
 - (2) *Village officials.* The following village officials and their designated agents may issue citations with respect to those specified sections which are directly related to their official responsibilities:
 - (a) Building inspector.
 - (b) Fire and health inspector.
 - (c) Zoning administrator.
 - (d) Park security officers as specified in Wis. Stats. § 19.35(2).

- (e) Street superintendent.
 - (f) Code enforcement officer.
 - (g) Animal control/humane officer.
 - (h) Village Engineer
- (E) *Procedure.* Wis. Stats. § 66.0113(3), relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.
- (F) *Nonexclusivity.*
- (1) Other ordinances. This section does not preclude the village board from adopting any other ordinances or providing for the enforcement of any law or ordinance relating to the same or other matter.
 - (2) Other remedies. 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. (Code 2006, § 25.04(4); Ord. No. 5-2-86, 5-27-1986; Ord. No. O3-3-88, 3-22-1988; Ord. No. O3-5-90, 5-27-1990; Ord. No. O3-1-06, § 1, 3-14-2006; Ord. No. O3-01-08, § 1, 3-11-2008)

1-1-15 Certain Ordinances Not Affected by Code

- (A) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:
- (1) The issuance of corporate bonds and notes of the village of whatever name or description;
 - (2) The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys;
 - (3) Rights, licenses or franchises or the creation of any contract with the village;
 - (4) The lighting of streets and alleys;
 - (5) Releases of persons, firms or corporations from liability;
 - (6) Construction of public works;
 - (7) Water, sewer and electric rules and regulations and sewer and water main construction;
 - (8) Budget ordinances, resolutions and actions;

- (9) Any offense or act committed or done, or any penalty or forfeiture incurred, before the effective date of this Code;
- (10) Any ordinance promising or guaranteeing the payment of money for the village or authorizing the issue of any bonds of the village or any evidence of the village's indebtedness;
- (11) Any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village;
- (12) Any administrative ordinances of the village not in conflict or inconsistent with this Code;
- (13) Any right granted by any ordinance;
- (14) Any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street or public way or public grounds and parks and other public places;
- (15) The ordinance adopting the budget or any appropriation ordinance;
- (16) Any ordinance levying or imposing taxes or special assessments;
- (17) Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load of vehicles or loading zones;
- (18) Any ordinance regarding contracts and purchases with or without bids;
- (19) Any ordinance establishing and prescribing the street grades of any street curb lines or bulkhead lines or width of sidewalks or streets;
- (20) Any ordinance providing for local improvements and assessments for such improvements;
- (21) Any ordinance regarding plats, land divisions or subdivisions;
- (22) Any ordinance annexing territory or excluding territory or any ordinance amending the boundaries of the village;
- (23) Any ordinance establishing positions, classifying positions, establishing pension or employee benefits, setting salaries of village officers and employees or any personnel regulations or indemnifications policies, or otherwise related to employees;
- (24) Any ordinance on investment and other financial policies;
- (25) Any ordinance calling an election;
- (26) Any ordinance relating to the acquisition of lands by the village by condemnation proceedings;

- (27) Any ordinance levying a fee, rate, deposit or charge or release of persons from liability or approving claims;
 - (28) Any ordinance regarding lighting of streets, sidewalks and alleys, water, sewer and electric main and line construction or municipal utility regulations or construction of public works;
 - (29) Any ordinance adopted by reference by any section of this Code and not included herein;
 - (30) Any temporary or special ordinance;
 - (31) Any ordinance, the subject of which cannot by law be repealed by the adopting ordinance.
- (B) All such ordinances are recognized as continuing in full force and effect to the same extent as if published at length in this Code. All ordinances are on file in the village clerk's office.
 - (C) This Code shall not be deemed to repeal any preamble, recital or finding of fact contained in any ordinance included herein, but all such matters shall be deemed incorporated in the sections herein derived from such respective ordinances. (Code 2006, § 25.05)

1-1-16 Effect of Repeals

The repeal or amendment of any section or provision of this Code or of any other ordinance or resolution of the village board shall not:

- (A) By implication be deemed to revive any ordinance not in force or existing at the time such repeal or amendment takes effect;
- (B) 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;
- (C) Affect any offense committed, or penalty or forfeiture incurred, previous to the time when any ordinance is repealed or amended; except when any forfeiture or penalty has 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; and
- (D) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid is repealed or amended; but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinance, and such prosecution shall proceed, in all respects, as if such ordinance had not been repealed; except all such proceedings had after the time this Code takes effect shall be conducted according to the provisions of this Code. (Code 2006, § 25.06)