

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

This codification by and for the Village of Forsyth shall be designated as the Forsyth, Illinois, Code of Ordinances 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.

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

COUNTY. Macon County, Illinois.

COUNTY BOARD. The County Board of Macon County, Illinois.
(ILCS Ch. 5, Act 70, § 1.07)

COURT. Construed to mean any court of competent jurisdiction.

DECREE. Synonymous with **JUDGMENT**.
(ILCS Ch. 5, Act 70, § 1.24)

ELECTORS. Persons qualified to vote for elective officers at municipal elections.
(ILCS Ch. 65, Act 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 that officer, either generally or in special cases.
(ILCS Ch. 5, Act 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.
(ILCS Ch. 5, Act 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.
(ILCS Ch. 5, Act 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.

MAYOR. The Mayor of the Village of Forsyth.

MONTH. A calendar month.
(ILCS Ch. 5, Act 70, § 1.10)

MUNICIPAL CODE. The Illinois Municipal Code, ILCS Ch. 65, Act 5.

OATH. Includes affirmation, and **SWEAR** includes affirm.
(ILCS Ch. 5, Act 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.
(ILCS Ch. 5, Act 70, § 1.05)

PERSONAL PROPERTY. Includes all property except real.

POLICE OFFICERS. Police officers employed and in the service of the Village of Forsyth.
POLICE FORCE shall be construed to include those 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.
(ILCS Ch. 5, Act 70, § 1.20)

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

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

PUBLIC AUTHORITY. Includes school districts; units of legal government; the village, 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 line and the adjacent property line intended for the use of pedestrians.
(ILCS Ch. 625, Act 5, § 1-188)

SPECIAL DISTRICTS. The meaning ascribed in Article VII of the Constitution of the State of Illinois of 1970.
(ILCS Ch. 5, Act 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 Section 1 of Article VII of the Constitution of the State of Illinois of 1970.
(ILCS Ch. 5, Act 70, § 1.28)

VILLAGE, MUNICIPALITY, or **MUNICIPAL CORPORATION.** The Village of Forsyth, 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) 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, ILCS Ch. 5, Act 175, §§ 1-101 *et seq.*, except as otherwise provided by law.
(ILCS Ch. 5, Act 70, § 1.15)

YEAR. A calendar year unless otherwise expressed; and the word **YEAR** alone is equivalent to the expression “Year of Our Lord.”
(ILCS Ch. 5, Act 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.
(ILCS Ch. 5, Act 70, § 1.03)

(2) Words of 1 gender shall include the other genders.
(ILCS Ch. 5, Act 70, § 1.04)

(3) Words in the present tense shall include the future.
(ILCS Ch. 5, Act 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.
(ILCS Ch. 5, Act 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 those acts when done by an authorized agent.

(E) Words purporting to give joint authority to 3 or more municipal officers or other persons shall be construed as giving authority to a majority of the officers or persons.
(ILCS Ch. 5, Act 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.

(G) All general provisions, terms, phrases, and expressions shall be liberally construed in order that the true intent and meaning of the Mayor and Village Board of Trustees may be fully carried out.
(ILCS Ch. 5, Act 70, § 1.01)

(H) The provisions of any ordinance, in so far 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.
(ILCS Ch. 5, Act 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 re-enactment, amendment, or repeal of an ordinance does not do any of the following, except as provided in division (C) of this section:

(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; and/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 re-enactment 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 1 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 of Trustees.

§ 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. The references shall also include the designee or agent of the 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 of Trustees 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 those 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; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) An “ILCS” cite included in the history indicates that the text of the section reads either verbatim or substantially the same as the statute. Example: (ILCS Ch. 65, Act 5, § 3.1) (Ord. 10, passed 1-17-1980; Am. Ord. 20, passed 1-1-1985). An “ILCS” cite set forth as a “statutory 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 ILCS Ch. 5, Act 140, §§ 1 et seq.

§ 10.99 PENALTIES AND CODE ENFORCEMENT.

(A) The violation of, or failure to comply with any provision of the Village Code shall constitute an offense against the village, and where no specific penalty is provided therefore, shall subject the offender, upon conviction, to be punished by a fine of not less than \$75 nor more than \$750. Each day any violation of any provision of the Village Code shall continue shall constitute a separate offense.

(B) Whenever in the Village Code a minimum but not a maximum fine or penalty is imposed, the court may in its discretion fine the offender any sum exceeding the minimum fine or penalty so fixed but not exceeding \$750 per day. Whenever in the Village Code a maximum but not a minimum fine or penalty is imposed, the minimum fine imposed by the village and any the court shall not be lower than \$75 per day.

(C) In all cases where the same offense is made punishable or is created by different clauses or sections of the Village Code, the prosecuting officer may elect under which to proceed. Not more than one recovery shall be had against the same person for the same offense, provided that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

(D) Any condition caused or permitted to exist in violation of any of the provisions of the Village Code shall be deemed a public nuisance and shall be subject to abatement by the village. The village shall be entitled to pursue any such remedies available to abate the public nuisance.

(E) Unless a process is otherwise specifically provided within the Village Code for a specific violation, in addition to law enforcement officers, the code enforcement official designated by the Village Board may issue citations for Village Code violations.

(F) Whenever a law enforcement officer determines that there has been a violation of the Village Code or has grounds to believe that a violation has occurred, the following action shall be taken:

(1) The law enforcement officer shall issue a citation and/or notice of violation.

(a) Such citation and/or notice of violation must:

1. Be in writing;
2. If applicable include a description of the real estate or individual sufficient for identification;
3. Include a statement of the violation or violations and a citation to the applicable Village Code provision(s) being violated;
4. The minimum fine (or double the minimum fine for a second or subsequent citation for the same matter) for violating said Village Code provision; and

5. Provide the option to settle the case by paying the minimum fine if payment is made within 15 days after the date the citation was issued.

(b) These notices may be deemed to be properly served if a copy thereof is:

1. Delivered personally; or

2. Sending by regular and certified or first-class mail addressed to the last known address.

(2) Payment of any fine shall be made by cash or check made payable to the Village of Forsyth. Failure to make payment within the said 15 day period will result in referral of the citation to the Village Attorney for prosecution in accordance with the law and as directed by the Village Board.

(3) These requirements shall not apply to moving violations under the Illinois Vehicle Code or violations that could result in prison both of which must be handled by the Macon County Sheriff's Department or other appropriate law enforcement officer with jurisdiction.

(G) Whenever the Code Enforcement Officer determines that there has been a violation of a building code, the property and maintenance code, or other similar Village Code provision dealing with property issues, the following action shall be taken:

(1) The Code Enforcement Officer shall issue a notice of violation by certified and regular mail to the person(s) who have committed the violation. The term **PERSONS** as used herein shall include corporations, partnerships and any other legal entity. The notice of violation shall state: (i) that a violation has occurred and what the violation is, including a citation to the Village Code or other applicable code; (ii) the applicable fine; (iii) that the violation must be corrected within 15 days of the postmark on the notice of violation; and (iv) that if the violation is not corrected the fines listed in the notice of violation will be imposed. The notice of violation must specify a list of the applicable fines and penalties.

(2) If the violation is corrected within the 15-day period, no further action will be taken and no fines will be imposed.

(3) The Village Administrator may grant an extension of the 15-day period if the person in violation has made a significant effort to correct the violation but cannot meet the deadline or other circumstances outside the control of the person in violation are found to exist by the Village Administrator. No extension may exceed 180 days and all extensions must be in writing and signed by both parties and a copy given to the Village Mayor.

(4) Only one notice of violation need be given and each day the violation continues shall be treated as an additional violation and offense. Each notice shall clearly specify this provision.

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(5) In cases of violations of any provision of the Village Code or other applicable code that may result in a health or safety issue, the Code Enforcement Officer shall have the discretion to shorten the notice times and may require immediate compliance or take other action necessary to address the violation(s).

(H) In accordance with the law, a default in the payment of a fine or penalty or any installment of a fine or penalty may be collected by any means authorized for the collection of monetary judgments. Any fees or costs incurred by the village with respect to attorneys or private collection agents retained by the municipality under ILCS Ch. 65, Act 5, § 1-2-1 shall be charged to the offender.

(I) For purposes of this section, **VILLAGE CODE** refers to any building, property maintenance, residential, plumbing, electrical or other code adopted by reference by the village and all other ordinances and resolutions adopted by the village.

(J) A law enforcement officer of the village may issue citations for a violation of the building code, property and maintenance code, or other similar Village Code provision in the same manner as provided for in division (G) above.

(K) In addition to any monetary fines set forth above, in the event that any building or structure is erected, constructed, altered, repaired, converted or maintained or any building, structure, or land is used in violation of the Village Code, the Village Attorney may institute, as directed by the Village Board, any proper action or proceedings in the name of the village to:

- (1) Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- (2) Restrain, correct, or abate such violation;
- (3) Prevent the occupancy of said building, structure, or land; and/or
- (4) Prevent any illegal act, conduct, business or use in, or about, said premises.

(L) If fines are not paid within 45 days and/or a violation is not remedied within 45 days of the notice sent in division (G)(1) above, or sooner as may be directed by the Village Administrator or Village Board, the Village Attorney shall send notice to the violator demanding compliance and seeking resolution. If the Village Attorney and staff are unable to resolve the violation after this demand, the Village Attorney may initiate collection efforts in court or otherwise to collect unpaid fines and/or to seek compliance with the provisions of the applicable code provision as directed by the Village Board. (Ord. 912, passed 6-2-2014; Am. Ord. 2017-10, passed 6-5-2017)