

CHAPTER XIII

INTERPRETATION AND MISCELLANEOUS

- 13.01 Codification Rules
- 13.02 Time When Ordinances Take Effect
- 13.03 Place of Imprisonment
- 13.04 Costs to be Included in Penalty
- 13.05 General Adult Penalty
- 13.06 General Juvenile Penalty
- 13.07 Regulating Minors and Malt Beverages,
Controlled Substances and Criminal Acts
REPEALED - 6/18/19
- 13.08 Each Day of Violation Separate Offense
REPEALED - 6/15/04
- 13.09 Chief of Police to Collect Forfeitures
- 13.10 Indigent Defendants: Forfeitures and
Imprisonment - REPEALED - 6/15/04
- 13.11 Deposit to Obtain Release
- 13.12 References to Public Officers
- 13.13 Residency Requirements and Criminal
Background Investigations
- 13.14 Errors
- 13.15 Conflicts
- 13.16 Severability Clause
- 13.17 Code as Evidence
- 13.18 Applicability of this Chapter
- 13.19 Reference to Amended Sections
- 13.20 Documents Incorporated by Reference
- 13.21 Retained Provisions not Expressly
Incorporated
- 13.22 Effect of Repeal
- 13.23 Rules of Construction
- 13.24 REPEALED 6/18/2019
- 13.25 REPEALED 6/18/2019
- 13.26 Revocation, Suspension and Non-Renewal
- 13.27 Weights and Measures

Amended: June 18, 2019

CHAPTER XIII

INTERPRETATION AND MISCELLANEOUS

13.01 Codification Rules.

(A) Numbering and heading system:

1.01 SECTION HEAD (if more than one paragraph)

(1) No headings (numbers only if more than one paragraph.)

(a) No headings (letter only if more than one paragraph.)

(i)

(ii)

(iii)

(B) For insertion between existing sections in the future, an additional decimal will be used:

1.01 present section

1.011 future section

1.02 present section

(C) Each chapter except for Chapter 2 contains only one penalty clause for the entire chapter. Future additions should refer to existing penalty clause for the chapter involved.

(D) Capitalize all officers and boards.

(E) Refer to "Village", not "Village of West Salem", to "State", not "State of Wisconsin", to "Board", not "Village Board".

13.02 Time When Ordinances Take Effect. All ordinances heretofore passed or that may hereafter be passed by the Board shall take effect and be in force from and after their passage and publication, unless otherwise ordered.

13.03 Place of Imprisonment. When imprisonment is imposed in default of payment of forfeitures and costs of prosecution for any offense under the provisions of this Code, it shall mean imprisonment in the County Jail of the County of La Crosse.

13.04 Costs and Penalty Assessments to be Included in Penalty.

(A) When a forfeiture is imposed for a violation of any of the provisions of this Code, the court shall also sentence the defendant to pay, and shall give judgment for the costs of prosecution, whether the section under which said prosecution or proceeding is had shall specifically direct or not.

(B) Whenever a forfeiture is imposed for a violation of any of the provisions of this Code, except for those ordinances involving non-moving traffic violations, there shall be imposed in addition a penalty assessment in an amount of Fifteen (15%) percent of the forfeiture imposed. If the forfeiture is suspended in whole or in part, the penalty assessment shall be reduced in proportion to the suspension. The penalty assessment shall be collected and transmitted monthly to the state treasurer according to §165.87 and §66.0114, Wis. Stats.

13.05 General Adult Penalty.

(A) General Penalty. Except where a penalty is provided elsewhere in this Code, any person seventeen (17) years of age or older 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 seventeen (17) years of age or older who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00), together with all court costs; jail, crime lab, penalty and other assessments; and any other taxable item of cost as provided for by the laws of the State of Wisconsin as applicable to forfeiture actions that are in effect at the time of the offense, and any other taxable costs as imposed by any other provision of this Code. In default of payment of such forfeiture and costs, may have his/her driving privileges suspended per Sec. 345.47(1)(b), Wis. Stats., or be imprisoned in the County Jail until such forfeiture, costs and assessments are paid or both, but not exceeding 90 days. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(2) Second and Subsequent Offenses - Penalty. Any person seventeen (17) years of age or older who is 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 or part of an Ordinance within three (3) years from the date of the last offense to the date of the current offense 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 all court costs; jail, crime lab, penalty and other assessments; and any other taxable costs as provided for by the laws of the State of Wisconsin as applicable to forfeiture actions that are in effect at the time of the offense, and any other taxable costs as imposed by any other provision of this Code. In default of payment of such forfeiture, costs and assessments, may have his/her driving privilege suspended per Sec. 345.47(1)(b), Wis. Stats., or be imprisoned in the County Jail until such forfeiture and costs are paid or both, but not exceeding ninety (90) days. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(B) Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense for which a separate penalty shall be assessed. 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.

(1) The Village shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures, costs and assessments.

(2) Execution or Assessment Against Defendant's Property. Whenever any person fails to pay a forfeiture, costs or assessments 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 said forfeiture, costs and

assessments. In the alternative, upon authorization of the court imposing an such forfeiture, costs and assessments, such sum as remains unpaid shall be assessed against any real property owned by the defendant within the Village and shall be added to the Village's portion of the property tax liability.

(3) In addition to any forfeiture imposed under this Section or any other penalty section of the Code of Ordinances of the Village of West Salem, the Village may institute an action or proceeding to enjoin any violation; and such violation or any nonpayment of any forfeiture, costs and assessments, shall constitute the basis for suspension, revocation or denial of any and all licenses and permits wherein the Village is the issuing authority by the officer or department issuing the same, or by the Village Board after allowing hearing on the same, or by a court of competent jurisdiction upon conviction of an ordinance violation.

(D) Time to Pay. Any forfeiture, costs and assessments imposed as a penalty pursuant to this Section or any penalty provisions of this Code shall be payable forthwith if so ordered by the court; however, the court may, in its discretion, allow reasonable time for payment, or reasonable payment plans, considering the defendant's ability to pay, and the court shall allow any time for payment or payment plan as provided for by any state law applicable at the time of imposition of the forfeiture.

(E) Exceptions. These general penalty provisions shall not apply in those cases where State Law or this Code of Ordinances expressly limits or prescribes the amount or nature of the penalty.

13.06 General Juvenile Penalty.

(A) Disposition of Children Twelve (12) Through Sixteen (16) Years of Age Adjudged to Have Violated an Ordinance. If the court finds a child twelve (12) through sixteen (16) years of age violated an ordinance adopted by this Code of Ordinances, it shall enter an order making one (1) or more of the dispositional orders permitted under Sec. 938.342, Wis. Stats. (Disposition; truancy and school dropout ordinance), Sec. 938.343, Wis. Stats.

(Disposition of juvenile adjudged to have violated civil law or ordinance), Sec. 938.344 Wis. Stats. (Disposition; certain intoxicating liquor, beer and drug violations) as applicable. (Upon stipulation of the parties and subject to the approval of the court upon a finding that such stipulation is in the public interest and serves the interests of justice, the court may impose terms not to exceed One Hundred Dollars (\$100.00) against the defendant upon dismissal of the action.) Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(B) Juvenile Disposition Alternatives for Alcohol/Drug Offenses.

(1) If a juvenile is found to have engaged in underage drinking of alcohol, drinking of alcohol on school premises or at a school sponsored activity, falsifying proof of age, possessing drug paraphernalia, delivery of drug paraphernalia to a minor in violation of Village ordinances, the Court may order any of the following:

- (a) A forfeiture;
- (b) Suspension or revocation of the juvenile's driver's license;
- (c) Participation in a supervised work program;

(2) After ordering any of the above penalties, the Court may, with the juvenile's agreement, enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed and may require the juvenile to do any of the following:

- (a) Submit to an Alcohol or Other Drug Abuse (AODA) assessment;
- (b) Participate in an outpatient AODA treatment program if an AODA assessment recommends treatment;
- (c) Participate in an AODA education program.

(C) Dispositional Alternatives for Other Ordinance Violations.
The Court may impose one or more of the following dispositional alternatives against a juvenile found to have violated a municipal ordinance, for which no penalty is otherwise provided, as follows:

- (1) Counseling for the juvenile and/or the parent or guardian.
- (2) A forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing the same violation.
- (3) If a forfeiture is for a violation that is only applicable to a juvenile, the maximum forfeiture amount is Three Hundred Dollars (\$300.00) plus costs. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.
- (4) Suspend a fishing, hunting or driving license from ninety (90) days to five (5) years for failure to pay the forfeiture.
- (5) Order the juvenile to participate in a supervised work program or other community service work.
- (6) Order participation in an AODA assessment, an outpatient AODA treatment or an AODA education program.
- (7) Order participation in a pupil assistance program provided by the juvenile's school provided the juvenile's school agrees.
- (8) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
 - (a) The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
 - (b) The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
 - (c) The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.

(D) Violation of Juvenile Dispositional Orders. The Court may impose the following sanctions on a juvenile who has

violated a Village ordinance and who has violated a condition of his or her dispositional order:

- (1) Suspend the juvenile's operation privilege for a period not more than ninety (90) days;
- (2) Detain the juvenile in his or her home or current residence for not more than thirty (30) days without electronic monitoring;
- (3) Order not more than twenty-five (25) hours of community service work in a supervised work program.

(E) Carry Over Rules From Adult General Penalty. The provisions of Sec. 13.05 (b)-(e) are applicable to this Section of the Code of Ordinances also.

13.07 Regulating Minors and Malt Beverages, Controlled Substances and Criminal Acts. Ordinance Repealed June 18, 2019

13.08 Each Day of Violation Separate Offense. Ordinance Repealed June 15, 2004.

13.09 Chief of Police to Collect Forfeitures. Whenever any forfeiture shall be imposed for a violation of any of the provisions of this Code and the person who is thus penalized shall neglect or refuse to pay such penalty and costs, it shall be the duty of the Chief of Police to issue execution forthwith against the goods and body of such person, and in default of such forfeiture and costs, the person against whom such forfeiture is imposed shall be committed to jail until such forfeiture and costs shall be paid, or until they shall be discharged according to law, and it shall be the duty of the officer in charge of such person to see that this Section be carried into effect.

13.10 Indigent Defendants: Forfeitures and Imprisonment. Ordinance Repealed June 14, 2004.

13.11 Deposit to Obtain Release. The Chief of Police may, whenever in his or her opinion circumstances justify it, receive from any person who shall have been accused of having violated any provision of this Code, and who shall have been arrested therefor, a deposit of money equal to the maximum penalty prescribed for such offense, and release such person from arrest until the

opening of court on the next succeeding day when such court shall be open, or until a time which may be fixed for the hearing of the case. In case any person who makes a deposit and is released in accordance with this Section shall fail to appear personally or by an authorized agent or attorney before the court at the time fixed for the hearing of the case, then the money deposited shall be retained and used for the payment of the forfeiture and the costs which may be imposed upon the depositor after an ex-parte hearing, and the surplus, if any, shall be refunded to the person who has made such deposit upon application therefor. In case such person is acquitted, then the whole amount shall be refunded upon application. Any sums not applied for shall be paid into the general fund of the Village. The provisions of this Section shall impose no liability on the part of the Village for the whole or any part of the money deposited with the Chief of Police.

13.12 References to Public Officers. References in this Code to any public officer shall apply to the person for the time being exercising the powers and performing the duties of the office intended; if the office intended has been abolished, or if the power or duty thereof which was under contemplation in the reference has been transferred or assigned to some other officer or officers, the reference shall be construed to follow the power or duty and to apply to the successor in authority to the officer referred to.

13.13 Residency Requirements and Criminal Background Investigations.

(A) Pursuant to Wisconsin State Statutes, there are no residency requirements for present and future non-law enforcement employees of the Village of West Salem.

(B) Residency for all full time law enforcement employees of the Village of West Salem shall be governed by the current Professional Police Contract.

(13.13(A) and (B) - Amended 3/15/2016 - Ord. No. 473)

(C) Submission of an application for employment, paid or unpaid, appointed positions with the Village, volunteer positions, all liquor license applications, and operator's license applications and/or renewals shall constitute consent to a

background investigation (including a criminal history and traffic history) by the Village. All applicants shall be investigated by the Police Department or a designee determined by the Chief of Police, and the results of said investigation shall be forwarded to either the Village Administrator or the Village Administrator's designee for placement in the applicant's file or employee's personnel file.

(D) The several Sections of this Ordinance are declared to be severable. If any Section shall be declared by decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of other portions of the Ordinance.

(13.13(C)and(D) created 08/05/08)

13.14 Errors. If any manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the manifest intention of any provision, the use of a word or words to which no meaning can be attached, or the use of one word or words where it is manifest that a different word or words should have been used to express the intent of any provision, such spelling shall be corrected and such word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the words correctly spelled, and as supplied, omitted or substitute, were used originally. But this Section shall not have the effect of permitting any change to be made should there exist doubt as to the meaning of the provision in question.

13.15 Conflicts. If the provisions of different chapters of this Code conflict or contradict each other the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of such chapter. If conflicting provisions be found in different sections of the same chapter of this Code, the provisions of the section which is last enacted shall prevail unless such consideration be inconsistent with the meaning of such chapter.

13.16 Severability Clause. If any section, subsection, sentence, clause or phrase of this Code of Ordinances is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence or phrase or portion thereof. The Village Board hereby declares that they would have passed this Code and each section, subsection,

sentence, clause or phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

13.17 Code as Evidence. This Code of Ordinances of the Village shall be published and printed in loose-leaf form, under the authority of the Village, for distribution and the Code as so printed and published may be used as evidence of the contents thereof under the provisions of the Wisconsin Statutes.

13.18 Applicability of this Chapter. The provisions of this Chapter shall apply to all ordinances hereafter passed amending or supplementing this Code, and to all other ordinances and resolutions hereafter passed or adopted, unless in any case other rules and principles are explicitly or clearly required to be applied thereto.

13.19 Reference to Amended Sections. Whenever in this Code reference is made to any other section or subsection of this Code, such reference shall extend and apply to such section or subsection as hereafter amended, revised or re-enacted, as long as such section or subsection referred to deals with the same subject matter as when the reference was made. If any section or subsection be repealed and re-enacted under another number dealing with the same general subject, whether in the same or in other language, existing references to such section or subsection as originally numbered shall thereafter be construed to apply to the section or subsection as it exists under its new number.

13.20 Documents Incorporated by Reference. Whenever, in this Code, the Wisconsin Statutes and any standard code, rule, regulation or other written or printed matter, are adopted by reference, they shall be deemed incorporated into this Code as if fully set forth herein and the Village Administrator is hereby directed and required to file, deposit and keep in his or her 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 Village Administrator's office hours, subject to such orders or regulations, which the

Administrator may prescribe for their preservation. Any future amendments, revisions, or modifications of said statutes, standard code, rule, regulation or other law are intended to be made part of this Code. Any act required to be performed or prohibited by any statute, rule regulation or law incorporated herein by reference is required or prohibited by this Code.

13.21 Retained Provisions Not Expressly Incorporated. All ordinances or parts of ordinances in West Salem which are incorporated in this revised ordinance known as the Revised Municipal Code are hereby confirmed and re-enacted without interruption of their operation and effect, and all ordinances or parts of ordinances, except as hereinafter provided, which are not incorporated, re-affirmed and re-enacted herein, are hereby in all things repealed. Excepted are all ordinances or parts of ordinances relating to the following subject, to-wit:

The fixing of salaries of public officials and employees;

The establishment of grades, curb lines and widths of sidewalks in public streets and alleys;

The annexation of territory to the Village;

The letting of contracts without bids;

Special assessment levies;

Water rates and rules and regulations for sewer and water main construction;

Village boundaries;

The issuance of corporate bonds of the Village of whatever description.

13.22 Effect of Repeal. The repeal or amendment of any section or subsection or provision of this Code or of any other ordinance or resolution shall not by implication revive anything not in force or existing at the time at which the repeal or amendment takes effect; affect the previous operation of any enactment so repealed or amended; affect any right, privilege, obligation or

liability acquired, accrued or incurred under any enactment so repealed or amended; affect any penalty, forfeiture or punishment incurred in respect of any offense committed against any enactment so repealed or amended; or affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid.

13.23 Rules of Construction.

(A) In General. In the construction of the provisions of this Code, the rules set forth in this section shall be observed unless such construction be inconsistent with the manifest intent of the Board.

(B) Words and Phrases - In General. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(C) Words and Phrases - Specifically. The words and phrases set forth in this subsection shall be construed as specifically provided as follows:

1. The expression "**this Code**" shall mean the Code of Ordinances of the Village of West Salem as now enacted and as hereinafter modified by the amendment or revision of any of its provisions.

2. All references to titles, chapter, sections or subsections are to the titles, chapters, section or subsections of this Code, unless otherwise, clearly indicated.

3. The word "**Board**" shall mean the Board of the Village of West Salem.

4. The word "**Village**" shall mean the Village of West Salem.

5. The word "**State**" shall mean the State of Wisconsin.

6. Words importing either gender shall include any other gender required for their proper application to particular cases.

7. Words in the singular shall include the plural, and words in the plural shall include the singular.

8. The use of any verb in the present tense shall include the future when applicable.

9. The word "**person**" shall extend and be applied to firms, corporations or voluntary associations, as well as to individuals, unless plainly inapplicable.

10. The word "**week**" shall be construed to mean seven (7) days; but publication in a newspaper of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one (1) insertion in each week, unless specifically stated to be for each day of the week or for more than one (1) day in each week.

11. The word "**highway**" or "**street**" shall be construed to include all public ways and thoroughfares and all bridges upon the same.

12. The word "**preceding**" and "**following**", when used by way of reference to any section or subsection of this Code, shall be construed to mean the section or subsection next preceding or next following that in which said reference is made unless some other section or subsection is designated in such reference.

13. The expression "**Owner**" used in respect to any land, building or premises shall include the owner, his agent, the lessee, the occupant or the person in charge of such building or premises, and in each case as circumstances and condition may require.

14. When any section of this Code 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.

15. The time within which an act is to be done as provided in any of the provisions of this Code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Sunday or a legal holiday it shall be excluded; and when any such time is expressed in hours, the whole of Sunday and of any legal holiday from midnight to midnight shall be excluded.

16. In all cases where any provision of this Code shall require any act to be done in a reasonable notice to be given to any person, said reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt execution of such duty, or compliance with such notice.

17. Whenever **"health department"** or **"health officer"** or words of the same meaning appear in this code, such words shall refer to the **"La Crosse County Health Department"** of the **"La Crosse County Health Officer"**.

13.24 Destruction of Noxious Weeds. Ordinance Repealed and Recreated as 2.05(D) - June 18, 2019

13.25 Weed and Grass Cutting. Ordinance Repealed and Recreated as 2.05(D) - June 18, 2019

13.26 Revocation, Suspension and Non-Renewal. In addition to all other grounds for revocation, suspension, or non-renewal of any license permitted in this Code of Ordinances, which are incorporated herein by reference, or otherwise permitted by these Ordinances, the Village Board may suspend, revoke, or refuse to renew any license or permit if an applicant or establishment has not paid current any fine, personal property tax, assessment, charge, fee, or other debt owed the municipality. **(created 06/05/12)**

13.27 Weights and Measures.

(A) Definition. Weights, measures or weighing or measuring devices are defined to include all weights, scales,

beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments. Weights and measures standards and enforcement procedures are in place to verify weight, volume, length, or count, ensuring that consumers acquire the quantity expected and the businesses sell the quantity advertised.

(B) Adoption. As required under Wisconsin State Statutes Chapter 98, cities and villages having a population of more than 5,000 are required to either establish its own weights and measures program or contract with the State of Wisconsin for weights and measures inspection services. The provisions of Wisconsin Statute Chapter 98 (Weights and Measures) is hereby adopted by reference.

(C) Under the provisions of Wis. Stat. Sec. 98.04(2), the Village of West Salem hereby contracts with the Wisconsin Department of Agriculture, Trade and Consumer Protection for weights and measures services in lieu of establishing its own program. Wis. Stat. Sec. 98.04(2) authorizes the Village to recover an amount not to exceed the cost of fees charged by the State by assessing fees on the businesses that receive services under the weights and measures program.

(Ordinance 484 Weights and Measures Adopted 6/05/2018)