

## Chapter 1

### GENERAL PROVISIONS

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[HISTORY: Adopted by the Board of Trustees of the Village of Jemez Springs as indicated in article histories. Amendments noted where applicable.]

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#### ARTICLE I Adoption of Code

[An ordinance adopting the Code of the Village of Jemez Springs and making certain substantive changes to existing ordinances of the Village is presently proposed before the governing body. Upon final adoption, it will be included here as Article I of this chapter.]

#### ARTICLE II Rules of Construction; Terminology [Adopted as Ch. 1, Art. 2, of the 1996 Village Code]

##### § 1-13. Definitions.

In the construction of this Code and of all ordinances of the Village, the following rules of construction and definitions shall be observed, unless such would be inconsistent with the manifest provisions or the context clearly requires otherwise.

BOARD OF TRUSTEES — The four duly elected Trustee officials of the Village, excluding the Mayor.

COUNTY — The County of Sandoval, New Mexico.

DELEGATION OF AUTHORITY — Whenever a provision appears in this Code requiring an officer of the Village to do some act or make inspections, it is to be construed to authorize such officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section expressly designates otherwise.

EASEMENT — A right, liberty, privilege or advantage without profit which the owner of one parcel of land may have in the lands of another. A right in the owner of one parcel of land, by reason of such ownership, to use the land of another for a special purpose not inconsistent with a general property right in the owner.

GENDER — Words importing the masculine gender shall include the feminine and neuter.

GENERALLY — All words and phrases shall be construed and understood according to the common and approved usage of 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.

GOVERNING BODY — The Mayor and Board of Trustees of the Village.

LAND AND REAL ESTATE — Includes rights and easements of incorporeal nature.

LAW — Any statute, ordinance or regulation promulgated by the federal government, the state, the county, the Village or any agencies thereof, as well as the rules and regulation of other bodies politic that may be appropriate.

MAYOR — The duly elected Mayor who serves as the chief executive officer of the Village, with rights and privileges as designated in state law.

MONTH — A calendar month.

NUMBER — Words used in the singular include the plural, and the plural includes the singular number.

OATH — Shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and affirmed."

OFFICIAL TIME STANDARD — Whenever certain hours are named in this Code they shall mean standard time or daylight saving time as may be in current use in the Village.

OR; AND — Or may be read "and" and "and" may be read "or" if the context of the provision requires it.

OWNER — When applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety or person holding a community interest, of the whole, or a part of such building or land.

PERSON — Includes a corporation, company, partnership, association or society, as well as a natural person.

PERSONAL PROPERTY — Includes money, goods, chattels, things in action and evidences of debt, except real property.

PRECEDING, FOLLOWING — The words "preceding" and "following" shall mean next before and next after, respectively.

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

PUBLIC PLACE — Any public way, park, cemetery, school yard or open space adjacent thereto, any public lake, pond, stream; and any place or business open to the use of the public in general, open to public view or to which the public has access.

PUBLIC WAY — Any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

REAL PROPERTY — Includes, land, tenements and hereditaments.

REASONABLE TIME — In all cases where any section of this Code shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice.

SHALL, MAY — The word "shall" is mandatory, and the word "may" is discretionary.

SIDEWALK — Any portion of a street between the curb, or the lateral line of the roadway and the adjacent property line intended for the use of pedestrians.

SIGNATURE or SUBSCRIPTION — Includes a mark when the person cannot write, his name being written near such mark, and witnessed by a person who writes his own name as witness.

STATE — The words "the state" or "this state" shall mean the State of New Mexico.

STREET — Includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, public ways and approaches thereto and other public thoroughfares in the Village devoted to public use.

TENANT, OCCUPANT — The words "tenant" and "occupant" applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

TENSE — Words used in the past or present tense shall include the future as well as the past or present.

VILLAGE — The words "the Village" or "this Village" shall mean the Village of Jemez Springs, Sandoval County, New Mexico.

WRITTEN, IN WRITING — The words "writing" and "in writing" shall include typewriting, printing on paper and any other mode of representing words and letters, including electronic media.

YEAR — A calendar year.

**§ 1-14. Provisions a continuation of existing ordinances.**

The provisions appearing in this Code shall be considered as continuations thereof and not as new enactments.

**§ 1-15. Incorporation by reference.**

All standards, codes, rules, regulations, and other subject matter herein or hereafter properly incorporated by reference, together with subsequent amendments thereto, pursuant to state law, and future incorporations by reference shall be kept, at a minimum, and preserved in the office of the Clerk/Treasurer.

**§ 1-16. Parenthetical and reference matter.**

The matter in bold at the end of each section is for information only and is not a part of the Code. Citations to ordinances or to state law indicate only the source of such section and the text may or may not be changed by this Code.

**§ 1-17. Catchlines of articles and sections.**

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

**§ 1-18. Conflicts.**

In addition to the rules of construction and definitions specified in this article, the following rules shall be observed in the construction of this Code:

- A. If the provisions of different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of such chapter.
- B. If conflicting provisions are found in different sections of the same chapter, the provisions of the section which imposes the greater restriction shall prevail unless such construction would be inconsistent with the meaning of such chapter.

**§ 1-19. Altering Code.**

It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with this Code in any manner whatsoever which will cause the law of the Village to be misrepresented due to such action, provided that supplementation of this Code by authorized persons shall be permitted.

**§ 1-20. Severability of parts of Code.**

The sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase shall be unenforceable or declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Code.

**§ 1-21. Effect of repeals.**

The repeal of an ordinance or any portion thereof shall not revive any ordinance in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

## ARTICLE III

**General Penalty**

[Adopted as Ch. 1, Art. 3, of the 1996 Village Code]

**§ 1-22. Maximum penalty. [Amended by Ord. No. 106]**

Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, the maximum penalty or violation of any municipal ordinance or section of this Code shall be as follows:

- A. Except for those violations of ordinances described in Subsections B and C of this section, a fine of not more than \$500 or imprisonment for not more than 90 days, or both;
- B. For violations of an ordinance prohibiting driving a motor vehicle while under the influence of intoxicating liquor or drugs, a fine of not more than \$1,000 or imprisonment for not more than 364 days, or both; and<sup>1</sup>
- C. For violations of an industrial user wastewater pretreatment ordinance as required by the United States Environmental Protection Agency, a fine of not more than \$1,000 per day for each violation.<sup>2</sup>

**§ 1-23. Mandatory fees collected upon conviction. [Amended by Ord. No. 106]**

- A. In addition to any fine or imprisonment described in § 1-22 of this Code, there is imposed upon any person convicted of violating any municipal ordinance the penalty for

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

which carries a potential jail term or any ordinance relating to the operation of a motor vehicle the following mandatory fees:<sup>3</sup>

- (1) A correction fee of \$20.
- (2) A judicial education fee of \$3.
- (3) A court automation fee of \$6.

- B. As used in this section, "convicted" means the defendant has been found guilty of a criminal charge by the Municipal Judge, either after trial, a plea of guilty or a plea of nolo contendere, or has elected to pay a penalty assessment in lieu of trial.

**§ 1-24. Penalty assessment fee. [Amended by Ord. No. 54<sup>4</sup> ]**

Any person violating any ordinance or section of this Code relating to the operation of a motor vehicle for which a penalty assessment schedule has been established, and who chooses to pay the penalty assessment, shall pay in addition to the penalty assessment a penalty assessment fee of \$10.

**§ 1-25. Disposition and use of fees collected. [Amended by Ord. No. 54; Ord. No. 106]**

- A. All corrections fees collected shall be deposited in a special corrections fund in the Village treasury and shall be used only for municipal jailer or juvenile detention officer training, for construction planning, construction, operation and maintenance of the municipal jail or a juvenile detention facility, for paying the costs of housing the Village's prisoners in other detention facilities or juvenile detention facilities in the state, or for complying with match or contribution requirements relating to jails or juvenile detention facilities, for providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing, for defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities, or for providing electronic monitoring systems.<sup>5</sup>
- B. All judicial education fees collected shall be remitted monthly to the State Treasurer for credit to the judicial education fund and shall be used for the education and training, including production of bench books and other written materials, of municipal judges and other municipal court personnel.
- C. All court automation fees collected shall be remitted monthly to the State Treasurer for credit to the municipal court automation fund and shall be used for the purchase and maintenance of court automation systems in the municipal courts. "Operation" includes staff expenses, temporary or otherwise, and costs as needed to comply with NMSA 1978, § 35-14-12. The court automation systems shall have the capability of providing, on a

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

timely basis, electronic records in a format specified by the Judicial Information Systems Council.<sup>6</sup>

- D. All penalty assessment fees, collected above and beyond the penalty assessment, shall be deposited in a special fund in the Village treasury and shall be used solely for the purpose of municipal jailer training, construction planning, constructing, operating or maintaining the municipal jail or for paying the cost of housing municipal prisoners in the county jail or complying with match or contribution requirements for the receipt of federal funds relating to jails.<sup>7</sup>

**§ 1-26. Penalty not exclusive.**

- A. The imposition of a penalty under the provisions of this Code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted under the provisions of this Code or state law.
- B. In the event any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the Village in addition to the imposition of a fine or imprisonment.

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6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).