

Title 1 GENERAL PROVISIONS

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- 1.08 GENERAL PENALTY**
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Chapter 1.01 CODE ADOPTION (Reserved)

Chapter 1.04 GENERAL PROVISIONS

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Section 1.04.010 Name.

This City shall be known by the name of the City of Olney, Illinois. (Ord. 73-18 § 1)

Section 1.04.020 Seal and flag.

The outline, color, size, symbols and other attributes of the seal and flag of the City of Olney shall be as established by the City Council. The official seal and flag shall be in the care, custody and control of the City Clerk or the City of Olney who shall be charged with their safekeeping. (Ord. 73-18 § 2)

Section 1.04.030 Definitions.

The following words and phrases, whenever used in the ordinances of the City of Olney, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

"And" or "or" shall include the other as if written "and/or."

"City" means the City of Olney, or the area within the territorial limits of the City, and such territory outside the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

"City," "town," "village," "municipal corporation" or "municipality" denote the municipality of Olney irrespective of its population or legal classification.

"Council" means the City Council of the City of Olney. "All its members" or "all Councilmembers" means the total number of Councilmembers holding office.

"County" means the County of Richland.

"Law" denotes applicable federal law, the Constitution and statutes of the state of Illinois, the ordinances of the City, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

"May" is permissive.

"Meeting" means any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business.

"Month" means a calendar month.

"Must" and "shall" are each mandatory.

"Oath" includes an affirmation or declaration 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."

"Owner," applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

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"Person" means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

"Person" or "whoever" as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

"Personal property" means and includes money, goods, chattels, things in action and evidences of debt.

"Preceding" and "following" mean next before and next after, respectively.

"Property" means and includes real and personal property.

"Real property" means and includes lands, tenements and hereditaments.

"Sidewalk" means that portion of a street between the curblines and the adjacent property line intended for the use of pedestrians.

"State" means the state of Illinois.

"Street" means and includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

"Tenant" and "occupant," applied to a building or land, mean and include any person who occupies the whole or a part of such building or land, whether alone or with others.

"This code" or "this code of ordinances" means the City code as adopted by the ordinance codified in Ch. 1.01, and as hereinafter modified by amendment, revision and by the adoption of new titles, chapters or sections.

"Written" means and includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

"Year" means a calendar year. (Ord. 13-18 § 2; Ord. 98-150 § 1; prior code § 1.04 (part))

Section 1.04.040 Interpretation of language.

All words and phrases shall be construed 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. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited. (Ord. 98-150 § 2; prior code § 1.04 (part))

Section 1.04.050 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the City unless it is apparent from the context that a different construction is intended:

- A. Gender. Each gender includes the masculine, feminine and neuter genders.
- B. Singular and Plural. The singular number includes the plural and the plural includes the singular.
- C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. 98-150 § 3)

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Section 1.04.060 Application to future legislation.

All of the provisions of Title I, not incompatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided. (Prior code § 1.02)

Section 1.04.070 Captions.

Headings and captions used in this code, other than the title, chapter and section numbers, are employed for reference purposes only and shall not be deemed a part of the text of any section. (Prior code § 1.03)

Section 1.04.080 Rule of separability.

Each chapter, section, or whenever divisible, part section of this code of ordinances is declared to be separable, and the invalidity of any chapter, section or divisible part section shall not be construed to affect the validity of any other chapter, section or part of this code. (Prior code § 1.05)

Section 1.04.090 Reference to other sections.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter be changed or materially altered by the amendment or revision. (Prior code § 1.06)

Section 1.04.100 Reference to offices.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the City, 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. (Prior code § 1.07)

Section 1.04.110 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 such intent, such spelling shall be corrected and such word or words supplied, omitted or substituted as will conform with the

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manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No such alteration shall be made or permitted if any question exists regarding the nature or extent of such error. (Prior code § 1.08)

Section 1.04.120 Official time.

The official time is as established by applicable state and federal law. (Prior code § 1.09)

Section 1.04.130 Code content--Prior ordinances.

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. (Prior code § 1.11)

Section 1.04.140 Ordinances unaffected.

All ordinances of a temporary or special nature and all 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. (Prior code § 1.12)

Section 1.04.150 Ordinances saved.

Whenever an ordinance by its nature either authorizes or enables the legislative body, or a certain municipal officer or employee, to make additional ordinances or regulations for the purpose of carrying out the intent of said ordinance, all ordinances and regulations of a similar nature serving such purpose, effected prior to the codification and not inconsistent thereto, shall remain in effect and are saved. (Prior code § 1.13)

Section 1.04.160 Acts by agents.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Ord. 98-150 § 4)

Section 1.04.170 Prohibited acts include causing and permitting.

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Whenever in the ordinances of the City any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Ord. 98-150 § 5)

Section 1.04.180 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded. (Ord. 98-150 § 6)

Section 1.04.190 Construction.

The provisions of the ordinances of the City, and all proceedings under them, are to be construed with a view to effect their objects and to promote justice. (Ord. 98-150 § 7)

Section 1.04.200 Repeal shall not revive any ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby. (Ord. 98-150 § 8)

Chapter 1.08 GENERAL PENALTY

Sections:

- 1.08.010 General penalty.**
- 1.08.020 Applicability to amended sections.**
- 1.08.030 Amount of fines throughout code amended.**
- 1.08.040 Additional penalty provisions.**
- 1.08.050 Default.**
- 1.08.060 Opportunity to settle ordinance violation cases.**

Section 1.08.010 General penalty.

A. Whenever, in this Code or in any ordinance of the City, any act is prohibited or is made or is declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, and there is no specific penalty provided therefor, any person who shall be convicted of any such violation shall be fined not less than seventy-five dollars (\$75.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

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B. Whenever fine and penalty provisions in this Code provide for a minimum fine in excess of the minimum fine and penalty set forth in Paragraph A of this Section of this Code, any person who shall be convicted of an offense for which a different fine is provided shall be fined not less than the minimum fine prescribed for the offense nor more than seven hundred fifty (\$750.00) for each offense.

C. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code or any ordinance of the City is committed, continued or permitted by any such person, and such person shall be punishable accordingly. (Ord. ⁱⁱ2014-20 § 1: Ord. 98-151 § 1: Ord. 98-129 § 1)

Section 1.08.020 Applicability to amended sections.

In case of the amendment of any section of this code for which a penalty is not provided, the penalty as provided in Section 1.08.010(A) shall apply to the section as amended, or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein. (Ord. ⁱⁱⁱ2014-20 § 1: Ord. 73-19 § 8)

Section 1.08.030 Amount of fines throughout code amended.

All fines and penalty provisions in this Code and all subsequent ordinances, excluding fine and penalty provisions for parking violations and provisions providing fines in excess of the minimum fine set forth herein, are amended to provide for a fine of "not less than seventy-five dollars (\$75.00) nor more than seven hundred fifty dollars (\$750.00)." (Ord. ^{iv}2014-20 § 1: Ord. 98-129 § 2: Ord. 97-17 § 1)

Section 1.08.040 Additional penalty provisions.

A. Whenever a finding of guilty is entered by the Court or a plea of guilty is entered by a defendant, the Court may, in lieu of a fine, enter an order requiring the defendant to perform some reasonable public service work, such as, but not limited to, the picking up of litter in public parks or along public highways or the maintenance of public facilities. Reasonable public service shall be as follows:

1. Not less than ten (10) hours nor more than one hundred (100) hours of public service work for an offense with a fine of not less than seventy-five dollars (\$75.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

2. A proportionate number of hours, but not more than one hundred (100) hours, of public service work for an offense with a minimum fine in excess of seventy-five dollars (\$75.00).

B. Whenever a finding of guilty is entered by the Court or a plea of guilty is entered by a defendant, the Court may, in addition to a fine imposed, enter an order to pay restitution with restitution to be an amount not to exceed actual out-of-pocket expenses or loss proximately

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caused by the conduct of the defendant. The Court shall determine the amount and conditions of payments.

C. In addition to or in lieu of a fine as penalty, the Court may sentence a person who has been found guilty or who has entered a plea of guilty for violating the Code or ordinance provision as charged to court supervision as defined under the Uniform Code of Corrections as it now exists or is hereafter amended.

D. In addition to any other remedy or penalty provided by this Code, the City Attorney or designee may apply to a court of competent jurisdiction to enjoin any violation of any provision of this Code, to compel compliance with the provisions of this Code, or to seek any other relief or remedy available at law or equity. Such application for relief may include a request for a temporary restraining order, temporary injunction, or permanent injunction. (Ord. ^v2014-20 § 1: Ord. 98-129 § 3)

Section 1.08.050 Default.

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. The City Attorney may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine or penalty or installment of that fine or penalty. Any fees or costs incurred by the City with respect to attorneys or private collection agents retained by the City Attorney under this Section shall be charged to the offender. (Ord. ^{vi}2014-20 § 1)

Section 1.08.060 Opportunity to settle ordinance violation cases.

A. Subject to subsection D of this Section, a person accused of violating a section of this Code (except parking violations) may offer to settle the case by paying one hundred dollars (\$100.00) for each offense, except those offenses set forth in the Table below for which different settlement amounts have been established, if payment is made within the time and in the manner set forth in subsection B of this Section or within an extended period of time authorized by the City Attorney or designee under subsection G of this Section.

B. Payments in settlement of ordinance violation cases shall be made within twenty-eight (28) days after the date that the Complaint for Violation of Ordinance with Notice to Appear was issued to the person accused of such violation. A payment shall be considered made within said twenty-eight (28) days if the payment is actually received by the City at Olney City Hall, or such other place as the City Attorney designates for receipt of fines, within the twenty-eight (28) day period. Payments shall be made by cash or certified check, money order or cashier's check made payable to the City of Olney, or such other forms of tender as the City Treasurer shall specify.

C. Payments made after the due date and before the court date shall be charged a late fee of twenty-five dollars (\$25.00).

D. The City Attorney or designee may, in his or her discretion, elect to reject any settlement of any violations set forth in this Code prior to the date the Complaint for Violation of Ordinance and Notice to Appear which charges a person with such violation is filed with the Circuit Clerk. In addition, if a violation proximately causes out-of-pocket expenses or loss to

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the victim or victims of the violation, the City Attorney or designee may elect to accept payment of restitution to the victim or victims of said violation in addition to the payment of the settlement amount set forth in this Section as settlement of a violation prior to and in lieu of filing a Complaint for Violation of Ordinance and Notice to Appear.

E. In lieu of payment of all or a portion of a settlement amount set forth in subsection A of this Section or as set forth in the Table below, the City Attorney or designee may, in his or her discretion, permit a person accused of violating a section of this Code to complete a proportionate number of hours, but not less than twelve (12) hours, of public service work, such as, but not limited to, the picking up of litter in public parks or along public highways or the maintenance of public facilities.

F. Police officers or code enforcement officers who have issued a Complaint for Violation of Ordinance and Notice to Appear to a person for an offense under this Code shall deliver the original copies of the Complaint for Violation of Ordinance and Notice to Appear to the City Attorney's Office.

G. The City Attorney or designee shall have authority to delay filing with the Circuit Clerk such Complaint for Violation of Ordinance and Notice to Appear charging the person with a violation of the Code in order to allow the accused person an opportunity to settle the case.

H. If a person pays a settlement amount pursuant to this Section, and such payment is not rejected under subsection D of this Section, then the Complaint for Violation of Ordinance and Notice to Appear charging the person with the particular violation shall not be filed by the City Attorney.

I. The Table set forth below contains the Chapters or Sections of the City of Olney Municipal Code for which different settlement amounts have been established which an accused person may offer to settle if payment is made within the time and in the manner set forth in subsection B of this Section or within an extended period of time authorized by the City Attorney or designee under subsection G of this Section.

Chap./Sec.	Title/Offense	Settlement Amount
Chap. 3.20	Hotel Operators' Occupation Tax	
	First offense	\$225.00
	Second & subsequent offense in any 180 day period	\$325.00
Sec. 6.04.110	Tethering	
	Second offense within a one-year period	\$175.00
	Third offense within a one-year period	\$275.00
	Fourth offense within a one-year period	\$525.00
	Fifth & subsequent offense within a one-year period	\$775.00
Chap. 8.20	Property Nuisances	
	Second offense	\$125.00
Chap. 9.24	Noise	
	Second offense within a one-year period	\$175.00
	Third offense within a one-year period	\$275.00
	Fourth offense within a one-year period	\$525.00
	Fifth or subsequent offense within a one-year period	\$775.00
Sec. 10.04.070	Sound Amplification Systems	
	First offense	\$175.00
	Second offense within a one-year period	\$275.00

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	Third offense within a one-year period	\$525.00
	Fourth or subsequent offense within a one-year period	\$775.00
Sec. 12.36.010	Ice Fishing Restrictions	
	Second offense	\$225.00
	Third offense or subsequent offense	\$425.00

(Ord. 2014-20 § 1)
(2014-20, Added, 06/23/2014, new section)

Chapter 1.12

RIGHT OF ENTRY FOR INSPECTION

Sections:

- 1.12.010 Right of entry.**
- 1.12.020 Authority to secure entry.**
- 1.12.030 Chapter controlling--Violation.**

Section 1.12.010 Right of entry.

Whenever any officer or employee of the City is authorized to enter any building or premises for the purpose of making an inspection to enforce any ordinance, the officer or employee may enter such building or premises at all reasonable times to inspect the same; provided, that the officer or employee shall effect entry in the manner provided in Section 1.12.020, except in emergency situations, or when consent of the person having charge or control of such building or premises has been otherwise obtained. (Ord. 98-152 § 1)

Section 1.12.020 Authority to secure entry.

If the building or premises to be inspected is occupied, the authorized officer or employee shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the officer or employee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and demand entry. If consent to such entry is not given, the authorized officer or employee shall have recourse to every remedy provided by law to secure entry. (Ord. 98-152 § 2)

Section 1.12.030 Chapter controlling--Violation.

This chapter shall be controlling over any other ordinance or part of an ordinance on the same subject, whether heretofore or hereafter adopted, unless such ordinance or part of an ordinance provides differently by an express reference to this chapter. Notwithstanding any other

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ordinance of this City, whether heretofore or hereafter adopted, it shall not be a violation of this chapter to refuse or fail to consent to an entry for inspection. (Ord. 98-152 § 3)

- ⁱ (2013-18, Amended, 05/28/2013, Add definition of "meeting")
- ⁱⁱ (2014-20, Amended, 06/23/2014, Amended)
- ⁱⁱⁱ (2014-20, Amended, 06/23/2014, added (A) to Section)
- ^{iv} (2014-20, Amended, 06/23/2014, Change amount of fines)
- ^v (2014-20, Amended, 06/23/2014, Amend Par. A and add B, C, & D)
- ^{vi} (2014-20, Added, 06/23/2014, Added .050)