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### **Sec. 1-1. Designation and citation of Code.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as the "Malta Municipal Code," and may be so cited.

**State Law reference**— Revision and codification of ordinances, 65 ILCS 5/1-2-3 et seq.

### **Sec. 1-2. Definitions and rules of construction.**

- (a) In the construction of this Code, and of all ordinances, the rules of construction and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the village board. The rules of construction and definitions set out in this section shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

*Board and village board.* The terms "board" and "village board" shall mean the board of trustees of the Village of Malta, Illinois.

*Code and this Code.* The terms "Code" and "this Code" shall mean the Malta Municipal Code, including any additions or amendments to such Code by ordinances adopted subsequent to the last ordinance included in the Code prior to its adoption. Reference to a section of this Code shall be understood also to refer to and include the penalty section relating thereto, unless otherwise expressly provided.

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*Computation of time.* 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 such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday, then such succeeding day shall also be excluded.

**State Law reference**— Similar provisions, 5 ILCS 70/1.11.

*Corporate limits and village limits.* The terms "corporate limits" and "village limits" shall mean the legal boundaries of the Village of Malta.

*County and the county.* The terms "county" and "the county" shall mean DeKalb County in the State of Illinois.

*Delegation of authority.* Whenever a provision appears requiring the head of a department or some other village officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

*Gender.* A word importing the masculine gender may be applied to females.

**State Law reference**— Similar provisions, 5 ILCS 70/1.04.

*ILCS.* The abbreviation "ILCS" shall mean the Illinois Compiled Statutes, as now or hereafter amended.

*In the village and within the village.* The terms "in the village" and "within the village" mean and include all territory over which the village now has or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

*Joint authority.* Terms purporting to give a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

**State Law reference**— Similar provisions, 5 ILCS 70/1.09.

*Misdemeanor.* The term "misdemeanor" shall mean any offense for which a sentence to a term of imprisonment in other than a penitentiary for less than one year may be imposed.

**State Law reference**— Similar provisions, 720 ILCS 5/2-11.

*Month.* The term "month" shall mean a calendar month.

**State Law reference**— Similar provisions, 5 ILCS 70/1.10

*Nontechnical and technical words.* Terms 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 law shall be construed and understood according to such meaning.

*Nuisance.* The term "nuisance" shall mean anything offensive or obnoxious to the health and welfare of the inhabitants of the village; or any act or thing repugnant to, or creating a hazard to, or having a detrimental effect on the property of another person or to the community.

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*Number.* Terms importing the singular number may extend and be applied to several persons or things, and terms importing the plural may include the singular.

**State Law reference**— Similar provisions, 5 ILCS 70/1.03.

*Oath.* The term "oath" shall be deemed to include an affirmation, and the term "sworn" shall be construed to include the word "affirmed."

**State Law reference**— Similar provisions, 5 ILCS 70/1.12.

*Occupant and tenant.* The terms "occupant" and "tenant," applied to a building or land, mean any person who holds a written or an oral lease of or who actually occupies the whole or a part of such building or land, either alone or with others.

*Offense.* The term "offense" shall mean any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

*Officers, departments, etc.* Officers, departments, boards, commissions, committees and employees referred to in this Code shall mean officers, departments, boards, commissions, committees and employees of the village, unless the context clearly indicates otherwise.

*Operator.* The term "operator" shall mean the person who is in charge of any operation, business or profession.

*Or, and.* The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

*Owner.* The term "owner," when applied to a building or land shall include any part owner, joint owner, tenant in common, tenant by the entirety, tenant in partnership, or joint tenant of the whole or a part of such building or land.

*Person.* The term "person," as well as all words referring to or importing persons, may extend and be applied to bodies politic and corporate as well as individuals.

**State Law reference**— Similar provisions, 5 ILCS 70/1.05.

*Personal property.* The term "personal property" means and includes every species of property, except real property as defined by this section.

*Preceding and following.* The terms "preceding" and "following" mean next before and next after, respectively.

*Property.* The term "property" shall include real and personal property.

*Real property.* The term "real property" shall include lands, tenements and hereditaments and shall embrace all chattels real.

*Shall, may.* The term "shall" is mandatory; the term "may" is permissive.

*Sidewalk.* The term "sidewalk" means that portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

*Signature and subscription.* The terms "signature" and "subscription" include a mark when the person cannot write.

*State.* The terms "state" and "the state" shall mean the State of Illinois.

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*Street.* The term "street" shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public as a matter of right for purposes of vehicular traffic.

*Tenant.* The term "tenant" applied to a building or land shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

*Tense.* Terms in the present tense include the future.

**State Law reference**— Similar provisions, 5 ILCS 70/1.02.

*Village.* The term "village" shall mean the Village of Malta, Illinois.

*Village president and president.* The terms "village president" and "president" shall mean the president of the village. The president of the village may also be referred to as "mayor" or "president" of the village.

**State Law reference**— Authority to provide president may also be referred to as mayor, 65 ILCS 5/1-1-2.1.

*Written and in writing.* The terms "written" and "in writing" may include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond required by law, it shall be in the proper handwriting of such person, or if he is unable to write, by his proper mark.

*Year.* The term "year" means a calendar year, unless otherwise expressed.

- (b) All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the village board may be fully carried out.
- (c) In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

**Sec. 1-3. Acceptance of Code in courts and tribunals of state.**

This Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this state as the ordinances of the village of general and permanent effect, except the excluded ordinances referred to in section 1-16.

**Sec. 1-4. Catchlines of sections, subsections and other headings.**

The catchlines of the several sections and subsections, and the headings of chapters, articles, divisions and subdivisions are intended as mere catchwords to indicate the contents of the section, subsection, chapter, article, division or subdivision, and shall not be deemed or taken to be titles of such sections, subsections, chapters, articles, divisions or subdivisions, nor as any part of the section, subsection, chapter, article, division or subdivision, nor, unless expressly so provided, shall they be so deemed when any of such sections, subsections, chapters, articles, divisions or subdivisions, including the catchlines or other headings, are amended or reenacted.

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**Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.**

- (a) All ordinances passed subsequent to the adoption of 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 in this Code. In the case of repealed chapters, sections or subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by the omission thereof from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or as omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the village board.
- (b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section \_\_\_\_\_ of the Malta Municipal Code is hereby amended to read as follows:...." The new provisions shall then be set out in full.
- (c) If a new section not then existing in the Code is to be added, the following language shall be used: "The Malta Municipal Code is hereby amended by adding a section (or article or chapter) to be numbered \_\_\_\_\_, which section (or article or chapter) reads as follows:...." The provisions shall then be set out in full.
- (d) All sections, articles, chapters or provisions of this Code desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.
- (e) Two official copies of this Code shall be maintained so that all amendments thereto and all general ordinances thereafter passed may be posted and inserted in their proper places within the Code. One of the copies shall be maintained by the village clerk and the other by the village attorney. In case of any doubt as to whether a new ordinance is a general ordinance, the village clerk shall be guided by the advice of the village attorney.

**Sec. 1-6. Effect of repeal of ordinances.**

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

**Sec. 1-7. Jurisdiction.**

Unless otherwise provided in this Code, this Code applies to acts performed within the corporate limits of the village. Provisions of this Code also apply to acts performed outside the corporate limits and up to the limits prescribed by law where the law confers power on the village to regulate such particular acts outside the corporate limits.

**Sec. 1-8. Severability of parts of Code.**

Should any section, paragraph, sentence, clause, phrase or word of this Code be declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this Code, since the same would have been enacted by the village board without the incorporation in this Code of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph or section.

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**Sec. 1-9. Unauthorized alteration or tampering with Code.**

It shall be unlawful for any person in the village to change or amend, by additions or deletions, any part or portions of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the village to be misrepresented thereby.

**Sec. 1-10. General penalty for violation of Code; continuing violations; judicial enforcement of Code upon conviction.**

Whenever in this Code or in any ordinance of the village any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be a misdemeanor and punishable by a fine not exceeding \$750.00. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

**State Law reference**— Authority to provide that ordinance violations constitute misdemeanors and to provide for penalties, 65 ILCS 5/1-2-1, 5/1-2-1.1.

**Sec. 1-11. Responsibility for acts.**

Every person concerned in the commission of an act prohibited by this Code, whether he directly commits the act, or prosecutes, counsels, aids or abets in its commission, may be prosecuted and on conviction is punishable as if he had directly committed such act.

**Sec. 1-12. Officers, employees not liable to fine for failure to perform duties.**

No provision of this Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this Code for a failure to perform such duty, unless the intention of the village board to impose such a fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

**Sec. 1-13. Acts punishable under different sections.**

In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the prosecuting officer may elect under which to proceed; but 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.

**Sec. 1-14. References and notes.**

Cross references, state law references, editor's notes and history notes are by way of explanation only and shall not be deemed a part of the text of any section.

**Sec. 1-15. Supplementation of Code.**

- (a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village board. A supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the village board during the period covered by

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the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate units, such as chapters, articles, divisions, subdivisions or sections.
  - (2) Provide appropriate catchlines, headings and titles for sections and other units of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
  - (3) Assign appropriate numbers to sections and other units to be inserted in the Code and, where necessary to accommodate new material, change existing section or other unit numbers.
  - (4) Change the terms "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections or the alphabetical arrangement of new chapters inserted into the Code. In no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-16. Ordinances not affected by adoption of Code.**

- (a) The repeal provided for in the ordinance adopting this Code shall not affect any of the following:
  - (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code. If any penalty, forfeiture or punishment is mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
  - (2) Any ordinance or resolution promising or guaranteeing the payment of money for the village, or authorizing the issuance of any bonds of the village or any evidence of the village's indebtedness, or any contract or obligation assumed by the village.
  - (3) Any right or franchise granted by any ordinance of the village.
  - (4) Any ordinance establishing, dedicating, accepting the dedication of, naming, grading, improving, altering, locating, opening, paving, widening, vacating, etc., any street, alley, sidewalk, public way, public park or public grounds in the village.
  - (5) Any appropriation ordinance.
  - (6) Any ordinance levying or imposing taxes or special assessments, or authorizing tax fund transfers, not inconsistent with this Code.
  - (7) Any ordinance rezoning specific property or any amendment thereto.

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- (8) Any ordinance establishing or prescribing grades in the village.
  - (9) Any ordinance providing for local improvements and assessing taxes therefor.
  - (10) Any ordinance dedicating or accepting any plat or subdivision in the village.
  - (11) Any ordinance establishing the boundaries of any wards in the village, or extending or contracting the boundaries of the village.
  - (12) Any ordinance respecting the conveyance or acceptance of real property or easements in real property.
  - (13) Any ordinance prescribing the number, classification or compensation of any village officers or employees, not inconsistent herewith.
  - (14) Any ordinance declaring certain property to be a public nuisance and authorizing procedures for the demolition of the same.
  - (15) Any ordinance adopted by reference by any provision of this Code or any amendments to such ordinances.
  - (16) Any ordinance establishing fire lanes on private property.
  - (17) Any temporary or special ordinance not in conflict with the provisions of this Code.
  - (18) Any administrative ordinances not in conflict or inconsistent with this Code.
- (b) The provisions of this Code, so far as they are the same in substance as those of heretofore existing ordinances, are continuations of such ordinances and not new enactments.