

CHAPTER 25

CONSTRUCTION AND EFFECT OF ORDINANCES

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25.01 RULES OF CONSTRUCTION. In the construction of this General Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

(1) WISCONSIN STATUTES. (Am. MSC '90) All references to "Wisconsin Statutes" or "Wis. Stats.," shall mean the Wisconsin Statutes for the years 1987-88 and shall include the 1989-90 biennial session.

(2) GENDER, SINGULAR AND PLURAL. Every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.

(3) PERSON. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all entities capable of being sued, unless plainly inapplicable.

(4) ACTS OF AGENTS. When a provision 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.

25.02 CONFLICT AND SEPARABILITY. (1) CONFLICT OF PROVISIONS. If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

(2) SEPARABILITY OF CODE PROVISIONS. If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Board hereby declares that it would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

25.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the Clerk shall file, deposit and keep in his 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 Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

25.04 PENALTY PROVISIONS. (1) GENERAL PENALTY.(a) First Offense. Except as otherwise provided:

1. Any person over the age of seventeen (17) years violating the provisions of all previously adopted ordinances shall be subject to a forfeiture of not less than \$10.00 nor more than \$500.00 plus allowable statutory costs per each offense. Failure to pay any forfeiture hereunder shall subject any violator over the age of seventeen (17) years to be sentenced to the County Jail and/or revocation or suspension of driving privileges.

2. Any person between the ages of twelve (12) and seventeen (17) years shall be subject to a forfeiture of not less than \$10.00 nor more than \$500.00 plus allowable statutory costs per each offense, or referred to the proper authorities as provided in Chapter 48, Wisconsin Statutes. Failure to pay any forfeiture hereunder shall subject any violator to the provisions of Section 48.17(2), Wisconsin Statutes.

3. Any person under the age of twelve (12) years shall be referred to the proper authorities as provided in Chapter 48, Wisconsin Statutes.

(b) Second Offense. Except as otherwise provided:

1. Any person over the age of seventeen (17) years violating the provisions of all previously adopted ordinances shall be subject to a forfeiture of not less than \$25.00 nor more than \$1,000.00 plus allowable statutory costs per each offense. Failure to pay any forfeiture hereunder shall subject any violator over the age of seventeen (17) years to be sentenced to the County Jail and/or revocation or suspension of driving privileges.

2. Any person between the ages of twelve (12) and seventeen (17) years shall be subject to a forfeiture of not less than \$25.00 nor more than \$1,000.00 plus allowable statutory costs per each offense, or referred to the proper authorities as provided in Chapter 48, Wisconsin Statutes. Failure to pay any forfeiture hereunder shall subject any violator to the provisions of Section 48.17(2), Wisconsin Statutes.

3. Any person under the age of twelve (12) years shall be referred to the proper authorities as provided in Chapter 48, Wisconsin Statutes.

(2) CONTINUED VIOLATIONS. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(3) EXECUTION AGAINST DEFENDANT'S PROPERTY. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any Court for violation of any ordinance of the Town, 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 such forfeiture and costs.

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(4) CITATION. Violations of nontraffic ordinances of the Town shall be enforced by the issuance of a Municipal Citation.

(a) Information Required. The Municipal Citation shall contain the following information:

1. The name and address of the alleged violator.
2. Factual allegations describing the alleged violations.
3. The time and place of the offense.
4. The section of the Code violated.

5. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.

6. The time at which the alleged violator may appear in court.

7. A statement which in essence informs the alleged violator:

a. That a cash deposit based on the schedule established by the Town Board as a part of this section may be made which shall be delivered or mailed to the Police Department at the Town Hall prior to the time of the scheduled court appearance.

b. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.

c. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.

d. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.

8. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subpar. 7. above has been read. Such statement shall be sent or brought with the cash deposit.

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9. Such other information as the Town deems necessary.

(b) Schedule of Deposits. The schedule of cash deposits for use with citations issued under this section shall be as adopted by the Town Board from time to time, and such schedule shall be on file in the office of the Clerk.

(c) Form of Deposits. Deposits shall be in cash, money order or certified check to the Town Clerk or to the Clerk of Courts, Circuit Court Branch IV, who shall provide a receipt therefor.

(d) Issuance of Citation. Any law enforcement officer may issue citations authorized under this section.

(e) Procedure. Section 66.119(3), Wis. Stats., relating to violator's options and procedure on default, is adopted and incorporated herein by reference.

(f) Nonexclusivity. 1. Other Ordinance. This section does not preclude the Board from adopting any other ordinance or providing for the enforcement of any law or ordinance relating to the same or other matter.

2. Other Remedies. The issuance of a citation hereunder shall not preclude the Town or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

25.05 REPEAL OF GENERAL ORDINANCES. All ordinances heretofor adopted by the Town Board which are in conflict with any provision of this Code are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:

(1) The issuance of corporate bonds and notes of the Town of whatever name or description.

(2) The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.

(3) The fixing of salaries of public officials and employees.

(4) Rights, licenses or franchises, or the creation of any contract with the Town.

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- (5) The lighting of streets and alleys.
- (6) The naming and changing of names of streets, alleys, public grounds and parks.
- (7) The letting of contracts without bids.
- (8) Tax and special assessment levies.
- (9) Releases of persons, firms or corporations from liability.
- (10) Construction of public works.
- (11) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (12) Budget ordinances, resolutions and actions.

25.06 EFFECT OF REPEALS. The repeal or amendment of any section or provision of this Code or of any other ordinance or resolution of the Board shall not:

(1) By implication be deemed to revive any ordinance not in force or existing at the time such repeal or amendment takes effect.

(2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Town.

(3) Affect any offense committed, or penalty or forfeiture incurred, previous to the time when any ordinance is repealed or amended; except when any forfeiture or penalty has been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.

(4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid is repealed or amended; but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinance, and such prosecution shall proceed, in all respects, as if such ordinance had not been repealed; except all such proceedings had after the time this Code takes effect shall be conducted according to the provisions of this Code.

25.07 TITLE; EFFECTIVE DATE; CITATION. These ordinances shall be known as the "General Code of the Town of Ottawa" and shall take effect from and after passage and publication as provided in §66.035, Wis. Stats. All references thereto shall be cited by section number (example: §13.06, General Code of the Town of Ottawa).

25.08 KEEPING CODE CURRENT; REVISOR'S AMENDMENTS. (1) The Town Clerk shall certify one copy of the Code as the original General Code of the Town and shall file the same as part of the Town Ordinance Book. Such copy shall be retained in its original form. In addition, the Clerk shall retain in his or her office at least one copy of the General Code in current form in which shall be inserted all supplemental sheets as provided in sub. (2).

(2) Whenever any ordinance amending, repealing, revising or creating any section of this Code is adopted by the Town Board, the Clerk, after recording such ordinance in the ordinance book, shall forward such ordinance or resolution to the Revisor, who shall incorporate them into the General Code. The Revisor shall make no substantive changes to such ordinances and resolutions but may renumber, rearrange and edit them without first submitting them to the Town Board, and such renumbering, rearranging and editing shall not affect the validity of such ordinances and resolutions or the provisions of this General Code affected thereby.