

## CHAPTER 25

### CONSTRUCTION AND EFFECT OF ORDINANCES

25.01	Rules of Construction
25.02	Conflict and Separability
25.03	Clerk to File Documents Incorporated by Reference
25.04	Penalty Provisions
25.05	Repeal of General Ordinances
25.06	Effect of Repeals
25.07	Title; Effective Date; Citation
25.08	Keeping Code Current; Revisor's Amendments
25.09	Withholding of Licenses, Permits and Approvals

<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
25.01	Rules of Construction		
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## **25.01 RULES OF CONSTRUCTION.**

In the construction of this Municipal Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

- (1) **STATUTORY REFERENCES.** (Am. MCC '95) All references to “Wisconsin Statutes” or “Wis. Stats.” means the current version of the Wisconsin Statutes, as amended from time to time, all references to the “Wisconsin Administrative Code” or “Wis. Admin. Code” means the current version of the Wisconsin Administrative Code, as amended from time to time, and all references to or incorporation of any other code or statutory provisions means the current version of such code or statute, as amended from time to time.
- (2) **GENDER, SINGULAR AND PLURAL.** Every word in this Code 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) **ACT 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.
- (5) **VERBS.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- (6) The word “state” means the State of Wisconsin, unless plainly inapplicable.

## **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 a 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 sections, subsections, sentences, clauses, phrases or portions 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.** Except as otherwise provided, any person 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:
  - (a) **First Offense.** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$5 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution may be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
  - (b) **Second Offense.** Any person 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 within one year shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs may be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 6 months.
- (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 Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(3) CITATION METHOD OF ENFORCEMENT.

(a) Statutory Authorization. (Am. #087-22) Pursuant to §66.119, Wis. Stats., which is hereby incorporated by reference and made a part of this section, the use and issuance of citations for violations of ordinances of the Village, including those for which a statutory counterpart exists, is hereby authorized.

(b) Contents of Citation. The citation shall contain the following:

1. Name and address of the alleged violator.
2. Factual allegations describing the alleged violation.
3. Time and place of the offense.
4. Number and section of the ordinance violated.
5. A designation of the offense in such a manner as can readily be understood by a person making a reasonable effort to do so.
6. Time and date in which the violator may appear in court.
7. A statement which informs the violator:
  - a. That a cash deposit based on the established schedule may be delivered or mailed to the Clerk of Municipal Court 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 at the specified time, an action may be commenced to collect the forfeiture.
  - d. 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 required statement has been read. Such statement shall be sent or brought with the cash deposit.

8. Deposits shall be made in cash, money order or certified check to the Clerk of Municipal Court who shall provide a receipt therefor.
- (c) Issuance of Citations. The Village Police Chief and all police officers employed by the Village may issue citations authorized under this section.
- (4) **GAMBLING DEVICES.** (Ct. #095-28) In addition to other penalties authorized by this Municipal Code, anything devised solely for gambling or found in actual use for gambling may be seized and, after a judicial determination that it was used solely for gambling or found in actual use for gambling, may be destroyed.

### **25.05 REPEAL OF GENERAL ORDINANCES.**

All ordinances heretofore adopted by the Village Board 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 Village 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 Village.
- (5) The lighting of streets and alleys.
- (6) The annexation of territory to the Village.
- (7) The naming and changing of names of streets, alleys, public grounds and parks.
- (8) The letting of contracts without bids.
- (9) The establishment of wards, ward boundaries and election precincts.
- (10) Tax and special assessment levies.
- (11) Releases of persons, firms or corporations from liability.

- (12) Construction of public works.
- (13) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (14) 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 Village.
- (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 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 “Municipal Code of the Village of Sturtevant” 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: Section 13.06, Municipal Code of the Village of Sturtevant).

**25.08 KEEPING CODE CURRENT; REVISOR'S AMENDMENTS.**

As each ordinance or resolution affecting the Municipal Code becomes effective, the Clerk shall forward such ordinance or resolution to the Revisor, who shall incorporate them into the Municipal 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 Village Board; and such rearranging, renumbering and editing shall not affect the validity of such ordinances and resolutions or the provisions of this Municipal Code affected thereby.

**25.09 WITHHOLDING OF LICENCES, PERMITS AND APPROVALS.**

No license, permit or approval of any kind that is required by this Code, including, without limitation by enumeration, any license, permit or approval that is required by Chapter 12 (Licenses and Permits), Chapter 14 (Building Code), Chapter 17 (Zoning Code) or Chapter 18 (Subdivision Code), shall be granted to any person who is then in violation of any provision of this code, or for any property that is then in violation of any provision of this code, except in order to correct such violation or as may be required by state law. No person shall be eligible to hold any license or permit from the village if such person is delinquent in the payment of any local taxes, forfeitures, charges, assessments, fees, special charges or other amounts payable to the village. No license or permit shall be issued for any premises for which taxes, forfeitures, charges, assessments, fees, special charges or other amounts are delinquent and unpaid, unless:

- (1) The delinquent amount is owed by the premises' owner;
- (2) The license or permit would be issued to the premises' tenant; and
- (3) The premises' tenant and owner have no immediate or extended family, business, or financial relationship with one another other than as landlord and tenant.

If a license or permit is revoked, or a license or permit application or renewal is denied, under this section, the licensee, permittee, or applicant shall be entitled to notice in writing and an opportunity to be heard by the Village Board. If such license or permit has procedures applicable to revocation or nonrenewal, e.g., alcohol beverage licenses, such provisions shall apply.