

CONSTRUCTION & GENERAL PROVISIONS

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25.01 PROCEDURE FOR CREATING OR CHANGING ORDINANCES. The following procedure shall be followed to create or amend an ordinance in the Village.

(1) Proposed Village ordinances should be:

- (a) prepared in writing.
- (b) carefully drafted, edited and revised, if possible, by the appropriate Village committee, the appropriate Village officers and finally the Board. If necessary, the Village Attorney should be asked by the Board to review, draft, edit, and comment upon the proposed ordinance.

(c) enacted in open session of the Board and in full compliance with the open meeting law. Two (2) readings of the ordinance at successive meetings shall be required unless a properly noticed public hearing was held to apprise the public that

an ordinance change was being contemplated by the Board. In the case of an ordinance noticed by a public hearing, the Board may dispense with the required second (2nd) reading. In the case of an emergency, this dual reading requirement may be waived by a two-thirds (2/3) vote of the Board, thus dispensing with the second (2nd) reading.

(d) enacted by a majority vote of a quorum of the Board present and voting at the time of the enactment of the ordinance. If certain Board members abstain from a vote, the record should note the abstention and the reasons for abstention, if any.

(e) enacted by a motion to enact, a second (2nd) to the motion, discussion on the ordinance, and then a roll call vote of the Board. Amendments to the ordinance

should be in written form and should be offered for enactment of the final ordinance.

(2) at the time of enactment, the ordinance should advisably contain:

(a) the title of the ordinance;

(b) an intent or proper clause describing the intent or purpose of the ordinance;

(c) a statutory authority clause describing the general or specific statutory authority for the Board to enact the ordinance;

(d) a definition section;

(e) the body of the document, including exceptions to coverage under the ordinance, including the procedural process to be followed under the ordinance and including any applicability provision that describe specific items covered by the ordinance;

(f) the enforcement and penalties provision;

(g) the effective date and the termination date, if any; and

(h) the date of publication or posting.

(3) The Village ordinance, once enacted,

(a) shall be signed by the President and signed, attested, certified, and dated by the Clerk.

(b) shall be published or posted by the Village pursuant to Wis. Stat. §61.50 or §66.0103.

(c) shall have the affidavit of publication or posting attached to it.

(d) shall be recorded in the Ordinance Record Book, pursuant to Wis. Stats. §889.04.

(4) The Village ordinance, once enacted, pursuant to Wis. Stats. §61.50,

(a) shall be effective the day after publication or the day after posting or at a later date, if the later date is expressly so provided in the ordinance.

(b) once enacted by the Board, if the ordinance imposes a forfeiture, shall be published and not posted pursuant to Wis. Stats. §61.50.

(c) The Village ordinance, once enacted, if the ordinance is posted, the Clerk shall sign an affidavit attesting that the item was posted as required by Wis. Stats. §61.50 and the affidavit shall state the date and places of posting. This affidavit shall be filed with other records under the jurisdiction of the Clerk.

(5) Failure to follow all of the forgoing steps in creating or amending an ordinance shall not render the ordinance invalid providing a good faith effort was made to comply with this ordinance when creating or changing an ordinance.

25.02 CONSTRUCTION OF ORDINANCES. In the construction of the ordinances of the Village, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance.

(1) **General Rule.** All words and phrases shall be construed and understood according to 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.

(2) **Person.** Unless plainly inapplicable, the word "person" extends and applies to natural persons, firms, corporations, associations, or partnerships or other bodies politic and corporate and to all entities capable of being sued.

(3) **Tense.** The use of any verb in the present tense shall include the future, when applicable.

(4) **Shall Have Been.** The words "shall have been" include past and future cases.

(5) **Acts by Agents.** When an ordinance requires an act to be done which may 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.

(6) Reasonable Time. In all cases where any ordinance requires any act to be done in reasonable time or notice or reasonable notice to be given, such reasonable time or notice shall be deemed to mean time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(7) Time, How Computed. When expressed in days, the time within which an act is to be done as provided in any ordinance or in any order issued pursuant to any ordinance shall be computed by excluding the first (1st) day and including the last, provided if the last day is Sunday it shall be excluded; and when any such time is expressed in hours, the whole of Sunday, from midnight (12 a.m.) to midnight (12 a.m.), shall be excluded.

(8) Week. The word "week" shall be construed to mean seven (7) days; but publication in a newspaper of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one (1) insertion in each week unless specifically stated to be for each day of the week or for more than one (1) day in each week; and all publications heretofore made in accordance with the terms of this subsection are hereby validated.

(9) Statutes. The reference to Wisconsin Statutes when used herein shall be to the statutes current and in effect and as amended after the date of adoption of this Municipal Code as of the recodification of 2008.

25.03 WHEN RULES OF CONSTRUCTION SHALL NOT APPLY. The rules of construction set forth in this chapter shall not be applied to any ordinance which contains express provision excluding such construction or when the

subject matter or context of such ordinance may be repugnant thereto.

25.04 EFFECT TO REPEAL. 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 expressly so provided.

25.05 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE. Whenever in this code any standard, 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 or her 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.

25.06 PENALTY; PENALTY WHERE NO PENALTY PROVIDED. In any case where there shall be a violation of any Village ordinance for which no penalty is provided, the person violating the same shall be subject to a forfeiture of not less than ten dollars (\$10) nor more than five hundred dollars (\$500) for each offense. In addition, upon failure to pay said forfeiture and costs, a person may be confined in the Brown County Jail for a period not to exceed ninety (90) days or until said forfeiture and costs are paid. Except as provided in the following subsections:

(1) In any case where any ordinance or section of an ordinance of the Village shall not provide a greater penalty for a second (2nd) or subsequent conviction for a violation thereof, any person violating the same who

shall previously have been convicted of a violation thereof shall be subject to a forfeiture of not less than ten dollars (\$10) nor more than one thousand dollars (\$1,000) for each offense; except where the penalty provided by any such ordinance or section for a first (1st) violation thereof shall be larger than the penalty herein provided, such larger penalty shall be applicable.

(2) No violation of any ordinance of the Village shall be or shall be construed to be a misdemeanor, nor shall imprisonment be imposed as a punishment for violation of any ordinance of the Village except for failure of the defendant to pay the forfeiture imposed by the court, any other provision of the general ordinances of the Village to be contrary notwithstanding.

25.07 OFFENSES COMMITTED AND PENALTIES INCURRED PREVIOUS TO REPEAL. No offense committed and no penalty of forfeiture incurred previous to the time when any of the ordinances aforesaid shall be affected by such repeal; provided when any punishment, forfeiture, or penalty shall have been mitigated by the provisions of these general ordinances, such provision shall apply to and control any judgment to be pronounced after these general ordinances shall take effect for any offense committed before that time.

25.08 PROSECUTIONS PENDING NOT AFFECTED. No prosecution for any offense, nor the levy of any penalty or forfeiture, pending at the time when any of the ordinances aforesaid shall be repealed shall be affected by repeal; but the right of action shall continue, and the offender shall be subject to the penalty as provided in such ordinances, and such prosecution shall proceed in all respects as if such ordinances had not been repealed; provided all such proceedings had after the time these general ordinances shall take effect shall be

conducted according to the provisions of these general ordinances and shall be in all respects subject to such provisions.

25.09 TITLE; EFFECTIVE DATE; CITATION. These ordinances shall be known as the "Code of Ordinances of the Village" and shall take effect from and after passage and publication as provided in Wis. Stats. §66.0103 and §61.50. All references thereto shall be cited by section number. Violations of non-traffic ordinances of the Village shall be enforced by the issuance of a municipal citation.

25.10 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 date/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, certified check, or money order based on a bond schedule may be made which shall be delivered or mailed to the Clerk of Municipal Court, prior to the time of the scheduled court appearance along with the citation.

(b) That if a deposit is made, no appearance in court is necessary.

(c) That if a cash deposit is made and the alleged violator does not appear in court, he or she will be deemed to have entered a plea of guilty.

(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 which may result in a SUSPENSION of the violator's driver's license for up to two (2) years and/or a warrant may be issued by the court for his or her arrest.

(e) That the alleged violator may contact the Court Clerk by mail if he or she wishes to enter a plea of NOT GUILTY. The letter must be received by the Court Clerk's office before the court date shown on the citation. The alleged violator will be notified by mail of the date and time of a pre-trial conference. If the alleged violator mails in a NOT GUILTY plea, a copy of the citation must be included.

(f) A direction that if the alleged violator elects to make a cash deposit, hereby admits the violation, hereby waives any further notice of trial required by law, hereby waives their appearance at any trial by court or jury, and authorizes the Sheriff, Deputy Sheriff, and/or Police Department to enter their appearance, and enter a plea of GUILTY and forfeit the enclosed amount to the court, the waiver and stipulation statement which accompanies the citation shall be signed to indicate that the waiver and stipulation statement has been read. Such statement shall be sent or brought with the cash deposit.

(g) Such other information as the Village deems necessary in accordance with Wis. Stats. §66.0113.

25.11 SCHEDULE OF DEPOSITS. The schedule of deposits for use with citations issued under this section shall be as adopted by the Board from time to time and such schedule shall be on file in the office of the Clerk.

25.12 FORM OF DEPOSITS. Deposits shall be in cash, checks, money order, or certified check to the Village or to the Clerk of Courts who shall provide a receipt therefore.

25.13 ISSUANCE OF CITATION.

(1) The Police Department may issue citations authorized under this section. The Board can designate specific persons to issue citations of a specific ordinance in the Enforcement section of the specific ordinance.

(2) The following Village officials may issue citations with respect to those specified sections of this code which are directly related to their official responsibility:

(a) Building, Electrical, and Plumbing Inspectors.

(b) Parks Director.

(c) Fire Chief.

(d) Fire Inspector.

(e) Zoning Administrator.

(f) Humane Officer.

(g) Director of Public Works.

(h) Engineer.

(i) Administrator.

(j) Other officials as specifically designated within the code.

25.14 PROCEDURE. Wis. Stats. §66.0114 relating to violator's options and procedure on default is adopted and incorporated herein by reference.

25.15 NON-EXCLUSIVITY.

(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 Village 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.

**25.16 KEEPING CODE CURRENT;
REVISER'S AMENDMENTS.**

(1) The Clerk shall certify one (1) copy of the Code as the Original General Code of the Village and shall file the same as part of the Village 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 (1) 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 Board, the Clerk, after recording such ordinance in the ordinance book, shall incorporate them into the general code. The Clerk shall make no substantive changes to such ordinances and resolutions but may renumber, rearrange, and edit them without first submitting them to the 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.

25.17 INTERPRETATION. The wording of this ordinance has been chosen because of brevity and to promote clarity. As to all references in this chapter, and as may be applicable:

(a) The masculine gender shall be deemed to include the feminine gender, and vice versa;

(b) The singular shall be deemed to include the plural, and vice versa;

(c) The term Village, used either as a noun or as an adjective, means the Village;

(d) Designation by title of any elected or appointed official, or employee, means such official or employee of the Village;

(e) The terms State and Wisconsin mean the State of Wisconsin; and

(f) The term County means Brown County, Wisconsin.

25.18 CONFLICT. If the provisions of different chapters of these ordinances 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 each chapter. If conflicting provisions be found in different sections of the same chapter, the provisions of the section which is last in numerical order shall prevail unless such construction be inconsistent with the meaning of such chapter.

25.19 CONSTITUTIONALITY. If any section, paragraph, sentence, clause, or phrase of these ordinances is declared unconstitutional or invalid for any reason, then, to the extent of meaningful severability, the remainder of such ordinances shall not be affected.

Village of Suamico

Chapter 25

*Ordinance 2009-05 Amending 25.13 Issuance of Citations
Adopted 3-16-09*