

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

25.01 - RULES OF CONSTRUCTION

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

- (1) **WISCONSIN STATUTES.** (Am. MCC '95) All references to "Wisconsin Statutes" or "Wis. Stats." means the current edition of the Wisconsin Statutes and includes the most recent 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 County 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. Except as otherwise provided, any person who shall violate any provision of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
 - (a) First Offense. (Ord. No. 179, Am. #6, § 2, 3-7-95) 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, may be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days or drivers license suspension/revocation pursuant to State Statute.
 - (b) Second Offense. (Ord. No. 179, Am. #6, § 2, 3-7-95) 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 \$10 nor more than \$1,000 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 or drivers license suspension/revocation pursuant to State Statute.
- (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 County 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 County, 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.
- (4) CITATION. Violations of nontraffic ordinances of the County 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 County Board as a part of this section may be made which shall be delivered or mailed to the Clerk of Circuit Court at the Courthouse prior to the time of the scheduled court appearance.
 - (b) That if a cash 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 and submit it to the assessment of the forfeiture. However, 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. (Ord. No. 179, Am. #6, § 2, 3-7-95)
 - (d) That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the Court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgement against him/her. In the alternative, the County may commence an action against the alleged violator to collect the forfeiture and penalty assessments imposed by §165.85, Wis. Stats., up to the maximum permitted by law. (Ord. No. 179, Am. #6, § 2, 3-7-95)
 - (e) That if the violation is found by the Court to involve an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by State Statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the Court may summon the alleged violator into Court to determine if restitution shall be ordered under §800.093, Wis. Stats. (Ord. No. 179, Am. #6, § 2, 3-7-95)
- (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 par. 7. above has been read. Such statement shall be sent or brought with the cash deposit.

- (9) Such other information as the County 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 County Board from time to time and such schedule shall be on file in the office of the Sheriff and in the office of the Clerk.
- (c) Form of Deposits. Deposits shall be in cash, money order or certified check to the County Sheriff's Department, an officer of which shall provide a receipt therefor.
- (d) Issuance of Citation.
 - (1) *Law Enforcement Officer*. Any law enforcement officer may issue citations authorized under this section.
 - (2) *County Officials*. (Ord. No. 179, Am. #84, § 2, 6-15-11) The following County officials may issue citations with respect to those specified ordinances which are directly related to their official responsibilities:
 - Zoning/Environmental Health Office
 - Health Officer
 - Land Conservationist (with Land Conservation Committee approval)
- (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 Ordinances*. This section does not preclude the County 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 hereunder shall not preclude the County 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 previously adopted by the County Board which are in conflict with any provision of this Code of Ordinances are hereby repealed, except ordinances or parts of ordinances relating to the following subjects and not conflicting with any provision of this Code:

- (1) The issuance of corporate bonds and notes of the County 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 County.

- (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) The establishment of supervisory districts.
- (9) Tax and special assessment levies.
- (10) Releases of persons, firms or corporations from liability.
- (11) Construction of public works.
- (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 County 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 County.
- (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 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 "Code of Ordinances of Pepin County, Wisconsin," 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: §18.06, Code of Ordinances).

25.08 - KEEPING CODE CURRENT; REVISOR'S AMENDMENTS

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