

CHAPTER 25

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Revised 10/18/2011

CHAPTER 25

CONSTRUCTION AND EFFECT OF ORDINANCES

25.01 RULES OF CONSTRUCTION

(1) In the construction of this General Code of Ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the Ordinance:

(a) Acts of Agents: When a provision requires an act to be done which may be by law as well as be done by an agent as by the principal, such requirements shall be construed to include all such acts when done by an authorized agent.

(b) 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 provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.

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

(d) Wisconsin Statutes: All references to "Wisconsin Statutes" or "Wis. Stats.", wherever used in this Code, shall mean the Wisconsin Statutes for the years 1981 to 1982 and shall include the 1983 Acts.

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, phrase, or portion thereof. The County Board hereby declares that they would have passed this Code and each section, subsection, sentence, clause, phrase, or portion thereof, regardless 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

(1) 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 County 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 County Clerk's office hours, subject to such orders or regulations which the County Clerk may prescribe for their preservation.

25.04 PENALTY PROVISIONS

(1) **General Penalty.** Any person who shall violate any of the provisions of this Code for which a penalty for such violation has not been provided otherwise in the Chapter in which the provision is found, or in Appendix A of Chapter 25, which is incorporated herein by reference and made a part of this Chapter herein, shall, upon conviction of such violation, be subject to a penalty which shall be as follows:

(a) **First Offense Penalty:** \$100 together with the costs of prosecution and any statutory surcharges as established pursuant to § 814.61, Wis Stats, by the Wisconsin Legislature. Any person convicted of a violation, who shall default on payment of such forfeiture and costs of prosecution and statutory surcharges, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days.

(b) **Second Offense Penalty:** Any person found guilty of violating any ordinance or part of an ordinance of this Code who was previously convicted of a violation of the same ordinance within one (1) year and for which a penalty for such violation has not been provided in the Chapter in which the provision is found or in Appendix A to this Chapter shall, upon conviction thereof, forfeit \$250 for each such offense, together with costs of prosecution and statutory surcharges and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until such forfeiture and costs of prosecution and statutory surcharges are paid, but not exceeding 6 months.

(c) **Juvenile Offenses:** Notwithstanding any other Code provision, except for those offenses related to the possession or sale of alcohol and tobacco products, all forfeitures for violation of any Section of this Code wherein the individual violating the Code is 12 years of age or under, shall be \$55.00.

(d) **Court Costs and Surcharges**: Court costs, penalty surcharges, jail surcharges, crime lab and drug surcharges, court support surcharges, justice information surcharges, and any other surcharges adopted by the Wisconsin Legislature pursuant to § 814.61, Wis Stats, shall automatically take effect, as they relate to any violations of the General Code of Winnebago County, upon the effective date of said surcharges without any further action by the Winnebago County Board of Supervisors.

(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 Method of Enforcement**. Citations may be issued for violations of this General Code.

(a) The issuance of citations is expressly limited to the following County officials and employees except as otherwise herein stated, and the authority delegated to a County official or employee or city, village, or town law enforcement officer to issue such citations may only be granted or revoked by the County Board:

1. The County Zoning Administrator and such subordinates as he may delegate.
2. Any County law enforcement officer.
3. Landfill Superintendent and Scale Operator(s).
4. As to violations of Chapters 9 (Public Peace and Good Order) and Chapter 19 (Parks and Waters) of the Winnebago County General Code, by any duly appointed city, village, or town law enforcement officer of the municipality or town within Winnebago County wherein a violation of a Winnebago County ordinance occurs.
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 from time to time and on file in the Office of the County Clerk may be made which shall be delivered or mailed to the Clerk of Circuit Court Branch V 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 above has been read. Such statement shall be sent or brought with the cash deposit.

9. Such other information as the County deems necessary.

a. (Omitted)

b. Section 66.119(3), Wisconsin Statutes, relating to violators' options and procedure on default is adopted and incorporated herein by reference.

c. Adoption of this section does not preclude the County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matters.

10. The Director of the Land and Water Conservation Department and such subordinates as he may delegate for the purpose of enforcement of Chapter 13, Section 15.52, and Section 17.31 of this Code.

25.05 REPEAL OF GENERAL ORDINANCES

All Ordinances heretofore adopted by the County Board and which are not included in this Code in form or by reference, except all ordinances or parts thereof relating to the following, are hereby repealed subject to the provisions of Sect. 25.06 of this Code.

- (1) The issuance of bonds and notes of the County of whatever name or description.
- (2) Additions or deletions to Federal, State, and County highway systems.
- (3) Rights, licenses, or franchises, or the creation of any contract with the County.
- (4) The fixing of salaries of public officials and employees.
- (5) The naming and changing of names of highways, public grounds, buildings, and parks.
- (6) Tax and special assessment levies.
- (7) Construction of public works.
- (8) 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 ordinances or resolutions of the County Board shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time at which 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 shall be repealed or amended, except when any forfeiture or penalty shall have 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 shall be repealed or amended, by the right action shall continue and the offender shall be subject to penalty as provided in such ordinance, and such prosecution shall proceed, in all respects, as if such ordinance or ordinances had not been repealed, except all such proceedings had after the time this Code shall take effect shall be conducted according to the provisions of this Code.

25.07 TITLE, EFFECTIVE DATE, CITATION

(1) The Code of ordinances in book form entitled "General Code of the County of Winnebago, Wisconsin," a copy of which is on file in the Office of the County Clerk for public inspection, shall be and is hereby adopted as the general ordinances in and for the County of Winnebago, Wisconsin.

(2) This ordinance shall take effect the day after passage and publication in book form in the copy of the Code permanently on file and open to public inspection in the office of the County Clerk.

25.08 REVISION AND PERPETUATION OF CODE

As each ordinance or resolution affecting the General Code becomes effective, the County Clerk shall forward such ordinance or resolution to the Corporation Counsel who shall incorporate it into the General Code. The Corporation Counsel shall make no substantive changes to such ordinances and resolutions or the provisions of this General Code affected thereby.

APPENDIX A

PEACE AND ORDER (17+)

OFFENSE	FORFEITURE
Disorderly Conduct	\$125.00
Annoying Telephone Calls	\$100.00
Trespass to Land	\$100.00
Abandoned Vehicle	\$75.00
Issuing Worthless Checks	\$100.00
Retail Theft	\$125.00
Theft (under \$250.00)	\$125.00
Resisting and Obstructing	\$125.00
Nude Entertainment in Minor's Presence	\$125.00
Refusal to Pay for Taxi	\$125.00
Smoking in Government Buildings	\$100.00
Regulation of Pawnbrokers, Secondhand Article and Jewelry Dealers	(1 st Offense) \$50.00 (2 nd Offense) \$500.00
Littering	\$75.00
Possession of Marijuana	\$200.00
Possession of Drug Paraphernalia	\$125.00
Dogs at Large	\$75.00
Battery	\$125.00
Criminal Damage to Property	\$100.00
Obscenity (Pornography)	\$500.00
Juvenile Involved in Obscenity (Pornography)	\$1,100.00
Coin-Operated Moving Picture Houses	\$100.00
Obstructing Highway by Train	\$500.00
Sale/Gift Tobacco to Minors	\$100.00
Fail to Obtain Vaccination/ Comply with Quarantine Order	\$200.00

SNOWMOBILE VIOLATIONS

OFFENSE	FORFEITURE
Illegal Operation on/in Vicinity of Highway	\$50.00
FTY Right of Way to Person Not on Snowmobile	\$50.00
Snowmobile Races, Derbies/Routes	\$30.00
Operation by Youth Restricted	\$20.00
Driving Wild Animals	\$100.00
Permitting Incapable Person to Operate	\$40.00
Equipment Violations	\$30.00
48" Width Violation	\$30.00
Unreasonable Speed/Carelessness	\$50.00
Excessive Noise	\$30.00
Snowmobile Without Muffler	\$30.00
Trespassing	\$100.00
Absolute Sobriety	\$25.00
No Valid Registration	\$50.00
Give Permission to Operate Without Valid Registration	\$50.00
Sell Without Commercial Registration Certificate	\$30.00
Failure to Transfer Registration	\$30.00
Operate on Trail Without Trail Sticker	\$20.00
Failure to/Improper Display of Registration	\$20.00
Operate Without Possession Certificate	\$30.00
Failure to Change Address	\$30.00
Dealer's Failure to Collect Fee and Submit Application	\$50.00
Interfere With Trail Signs	\$150.00
Failure to Render Aid	\$40.00
Failure to Report Accident	\$40.00
Failure to Stop for Law Enforcement	\$100.00

ATV VIOLATIONS

OFFENSE	FORFEITURE
Operate ATV Without Valid Registration	\$50.00
Give Permission to Operate Without Valid Registration	\$50.00
Operate in Careless Manner	\$50.00
On Private Property Without Consent	\$100.00
Operate Without Headgear	\$10.00
Operate on Frozen Surface Within 100 Feet of Person/Shanty at Speed Exceeding 10 MPH	\$40.00
Illegal Operation on or in Vicinity of Highway	\$50.00
Absolute Sobriety	\$25.00
Equipment Violations	\$30.00
Failure to Report Accident	\$30.00
Failure to Stop for Law Enforcement	\$250.00

PARK ORDINANCE VIOLATIONS

OFFENSE	FORFEITURE
Vandalism to Park Property	\$75.00
Vandalism to Plants/Trees	\$75.00
Littering Restrooms	\$35.00
Theft of Personal Property	\$75.00
Metal Detectors in Park	\$75.00
Littering Bodies of Water	\$55.00
Littering Park Grounds	\$65.00
In Parks After Closing	\$45.00
Special Closed Areas	\$35.00
Food In Non-Picnic Areas	\$35.00
Failure to Put Out Fire	\$45.00
No Group Park Permit	\$95.00
Fire in Unauthorized Area	\$45.00
Unattended Fires	\$45.00
Violation of Posted Fire Notice	\$45.00
Pets With No Leash	\$35.00
Animals in Park Building or Beach	\$35.00
Animals Not Under Control	\$35.00
Expose or Offer for Sale	\$55.00
Announce/Advertise for Sale	\$55.00
Post Any Sign on Park Property	\$55.00
Fail to Obey Traffic Sign	\$45.00
Speed in Excess of 15 MPH	\$55.00
Operating Vehicle Off Roadway	\$55.00
No Boats on Park Swimming Lake	\$45.00
Violation of Swimming Buoy	\$200.00
No Firearms or Hunting	\$55.00
After Hours Parking	\$35.00

PARK ORDINANCE VIOLATIONS

OFFENSE	FORFEITURE
Vehicle Obstructing Any Road	\$35.00
Parking Outside Parking Areas	\$35.00
Violation of Parking Signs	\$35.00
Parking Regulations: Lake Poygan Landing	\$35.00
Abandoned Vehicle	\$75.00
Abandoned Boat	\$75.00
Unnecessary Noise in Park	\$65.00
Other Camping Violations	\$35.00
Camping in Unauthorized area	\$45.00
Mooring Boat Over 48 Hours	\$35.00
Failure to Pay Fees and Charges	\$35.00
Swimming in Unauthorized Area	\$35.00
Dress/Undress in Unauthorized Area	\$35.00
Violation of Swimming Area At Winnebago County Park	\$35.00
Food or Soap in Swim Area	\$35.00
Violation of Any Posted Swimming Rule	\$35.00
Violation of Prairie Preserves	\$45.00
Operation of Motor Vehicle on Snowmobile Trail During Snow Season	\$55.00
No Vehicle of Any Kind Shall be Operated on Trail During Offseason Except Emergency Vehicles	\$55.00
Operating Snowmobiles in Unauthorized Areas of County Park	\$55.00
Racing Snowmobiles in Park	\$45.00
Violation of Snowmobile Trail Signs	\$200.00
Off-Season Snowmobile Operation	\$45.00

UNDERAGE ALCOHOL OFFENSES
17-20 Years of Age

OFFENSE	# of Offense	FORFEITURE
Procuring	1 st	\$250.00
	2 nd	\$300.00
	3 rd	\$500.00
	4 th +	\$750.00
Consuming	1 st	\$100.00
	2 nd	\$200.00
	3 rd	\$300.00
	4 th +	\$500.00
ID Violations		\$225.00

UNDERAGE ALCOHOL OFFENSES
Under 17 Years of Age

OFFENSE	# of Offense	FORFEITURE
Procuring	1 st	\$250.00
	2 nd	\$300.00
	3 rd +	\$500.00
Consuming	1 st	\$30.00
	2 nd	\$60.00
	3 rd +	\$90.00
ID Violations	1 st	\$100.00
	2 nd	\$300.00
	3 rd +	\$500.00

OTHER ALCOHOL OFFENSES

OFFENSE	FORFEITURE
Sell/Furnish to Underage	\$200.00
Operator's License Violations	\$150.00
Closing Hour Violations	\$150.00
Permit/Failure to Prevent Underage Consumption on Premises Owned or Operated	\$100.00
Encourage or Contribute to a Violation of §125.07(3)(a), Wis Stats: Not With Parent, Guardian, or Spouse	\$100.00
Possess or Consume Alcohol on School Grounds or at School-Sponsored Activities	\$100.00

CHAPTER 25
HISTORY INDEX

25.01	Ordinance Adopted	3/18/1980
25.02	Ordinance Adopted	3/18/1980
25.03	Ordinance Adopted	3/18/1980
25.04	Ordinance Adopted	3/18/1980
	Rescinded & Recreated	7/17/1990
25.04(1)	Amended	10/18/2011
25.04(1)(a)	Amended	10/18/2011
25.04(1)(b)	Amended	10/18/2011
25.04(1)(c)	Created	10/18/2011
25.04(1)(d)	Created	10/18/2011
25.04(4)(a)(3)	Ordinance Created/Adopted	12/18/1984
25.04(4)(10)	Ordinance Created	9/23/1997
	Amended	11/12/2008
25.05	Ordinance Adopted	3/18/1980
25.06	Ordinance Adopted	3/18/1980
25.07	Ordinance Adopted	3/18/1980
25.08	Ordinance Adopted	3/18/1980
Appendix A	Created	10/18/2011