

CHAPTER 25
CONSTRUCTION AND EFFECT OF ORDINANCES

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

(1) WISCONSIN STATUTES: All references to “Wisconsin Statutes” or to “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 contain and express language excluding such construction, or when the subject matter or context of such provision may be repugnant there.

(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 requirements 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 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 cost of prosecution, shall 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 previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeiture not less than \$10 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall 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 Town from maintaining and 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.

25.05 REPEAL OF GENERAL ORDINANCES. All ordinances previously adopted by the Town Board are hereby repealed, except all ordinances or parts of ordinance relating to the following subject are 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, franchises or the creation of any contract with the Town.
- (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 wards, ward boundaries and election precincts.
- (9) Tax and special assessment levies.
- (10) Releases of persons, firm or corporations from liability.
- (11) Construction of public works.
- (12) Water, sewer and electric rates, rules and regulations, and sewer and water main construction.
- (13) 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 of 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 or 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 released 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 above 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 of 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 Conover, Wisconsin,” and shall take effect from and after passage and publication as provided in 660.35, Wis. Stats. All references thereto shall be cited by section number . (Example: 13.06, General Code of the Town of Conover).

25.071 FORM OF CITATION (Ord 9-20 & Ord 10-21 – 8/3/06) The citation shall contain the following

- (1) name and address of alleged violator
- (2) the factual allegations describing the alleged violation
- (3) the time and place of the offense
- (4) the section or Ordinance violated
- (5) a designation of the offense in a manner that can be readily understood by a person making a reasonable effort to do so
- (6) the time and date at which the alleged violator may appear in court

(7) a statement that in essence, inform the alleged violator of all of the following:

a. that the alleged violator may make a cash deposit of a specified amount to be mailed to or be delivered or mailed to the Vilas County Clerk of Court and receive a receipt for such cash deposit, prior to the time of the scheduled appearance.

b. that if a deposit is made, no appearance in court is necessary unless the defendant is subsequently summoned.

c. that, if the alleged violator makes a cash deposit and does not appear in court, he or she either will be deemed to have tendered a plea of no contest, and submitted to a forfeiture, plus costs, fees, and surcharges imposed under Chapter 814, not to exceed the amount of the deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.

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 warrant for the defendant's arrest or consider the non-appearance to be a plea of no contest and enter judgement, or the town may commence an action to collect the forfeitures, plus costs, fees, and surcharges imposed under Chapter 814.

e. 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 s4(7) above has been read. Such statement shall be sent to brought with the cash deposit.

f. a statement if the court finds that the violation involves an offense that prohibits conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in property damage or physical injury to a person other than the alleged violator, the court may summon the defendant into court to determine if restitution shall be ordered under Section 800.093.

g. such other information as the town deems necessary

25.073 SCHEDULE OF DEPOSITS (Exhibit A – Pages 1, 2, & 3)

- (1) Chapter 5 – Fire Protection
- (2) Chapter 7 – Traffic Code
- (3) Chapter 8 – Public Works
- (4) Chapter 9 – Peace and Order
- (5) Chapter 10 – Public Nuisances
- (6) Chapter 11 – Health and Welfare
- (7) Chapter 12 – Licenses and Permits
- (8) Chapter 14 – Building Code
- (9) Chapter 18 – Subdivision and Platting
- (10) Chapter 19 – Parks and Recreation
- (11) Chapter 20 – Lakes and Beaches