

## 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	General Provisions
25.08	Title; Effective Date; Citation
25.09	Keeping Code Current; Revisor's Amendments

## 25.01 RULES OF CONSTRUCTION.

(A) 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) **Wisconsin Statutes.** All references to “Wisconsin Statutes” or “Wis. Stats.” shall mean the Wisconsin Statutes for the year 2001-2002 and shall include any more recent session laws.
- (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 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, partnership 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 as 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.

(A) **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.

(B) **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, rules, 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.**

(A) **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:

(1) **First Offense.** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

(2) **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 (1) year shall, upon conviction thereof, forfeit not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars, 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 three (3) months.

(B) **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 any appropriate action to prevent or remove a violation of any provision of this Code.

(C) **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 heretofore adopted by the Town 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:

(A) The issuance of corporate bonds and notes of the Town of whatever name or

description.

- (B) The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.
- (C) The fixing of salaries of public officials and employees.
- (D) Rights, licenses or franchises or the creation of any contract with the Town.
- (E) The lighting of streets and alleys.
- (F) The naming and changing the names of streets, alleys, public grounds and parks.
- (G) The letting of contracts without bids.
- (H) The establishment of wards and ward boundaries.
- (I) Tax and special assessment levies.
- (J) Releases of persons, firms or corporations from liability.
- (K) Construction of public works.
- (L) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (M) 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:

(A) By implication be deemed to revive any ordinance not in force or existing at the time such repeal or amendment takes effect.

(B) 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 Town.

(C) 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.

(D) 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 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 GENERAL PROVISIONS.

(A) **Amendments.** Any additions or amendments to this Code are incorporated herein so that reference to the Town of Somers Code includes such additions and amendments.

(B) **Numbering of Sections.** Each section number of this Code shall consist of two (2) component parts separated by a period; the figure before the period refers to the chapter number and the figure after the period refers to the position of the section within the chapter.

(C) **Numbering Additions.** The decimal system shall be used for all additions or amendments to this Code. When a chapter or section is to be added the new chapter or section shall be given a decimal character.

(D) **Definitions.**

(1) Terms used in this Code, unless otherwise specifically defined, have the meanings prescribed by the Wisconsin Statutes for the same terms.

(2) The following terms shall have the meanings described:

(a) **Town.** Town of Somers, Wisconsin.

(b) **County.** Kenosha County.

(c) **State.** Wisconsin.

(d) **Town Board of Supervisors, Town Board or Board.** The Town Board of the Town of Somers, unless otherwise specifically stated.

(e) **Ordinances.** The ordinances of the Town of Somers and all amendments thereto, including this Code.

(f) **This Municipal Code.** The Municipal Code of the Town of Somers.

(g) **Wisconsin Administrative Code.** The Wisconsin Administrative Code as published and cited with latest applicable published provisions.

## **25.08 TITLE; EFFECTIVE DATE; CITATION.**

These ordinances shall be known as the "Municipal Code of the Town of Somers" 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: §13.06, Municipal Code of the Town of Somers).

## **25.09 KEEPING CODE CURRENT; REVISOR'S AMENDMENTS.**

As each ordinance or resolution affecting the Municipal Code becomes effective, the Town 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, arrange and edit them without first submitting them to the Town 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.