

CHAPTER 25

CONSTRUCTION AND EFFECT OF ORDINANCES

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25.01 RULES OF CONSTRUCTION. (1) In the construction of this Code of general ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

(a) Wisconsin Statutes. All references to "Wisconsin Statutes" or "Wis. Stats." shall mean the current edition of the Wisconsin Statutes.

(b) Gender, Singular and Plural. Every word in this Code and in any ordinance importing the masculine gender may extend and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided that 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 all natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.

(d) 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. The several sections, subsections, sentences, clauses or phrases of this code are declared to be severable. If any section, subsection, sentence, clause or phrase of this code or portion thereof is declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable such decision shall apply only to the specific section, subsection, sentence, clause or phrase or portion thereof directly specified in the decision and shall not effect the validity of all other provisions, sections, subsections, sentences, clauses, phrases or portions thereof of the code which will remain in full force and effect. Any other code or ordinance which terms are in conflict with the provisions of this code are hereby repealed as to those terms that conflict. The Village Board hereby declares that they 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 thereof 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. The clerk may establish fees for the sale of this code or any part thereof.

25.04 PENALTY. (1) GENERAL PENALTY. (A) STATE TRAFFIC LAWS AND ALL OTHER VIOLATIONS AS SET FORTH IN THIS CODE. Any forfeiture for violation of the State Statutes adopted by reference in this Code shall conform to the forfeiture permitted to be imposed for violation of such statutes as

set forth in the Uniform Deposit and Misdemeanor Bail Schedule of the Wisconsin Judicial Conference, including any variations of increases for subsequent offenses, which schedule is adopted by reference.

(B) LOCAL ORDINANCE VIOLATIONS AS SET FORTH IN THIS SECTION. 1. First violation.

Any adult violating the provisions of this Ordinance shall be subject to a forfeiture of not less than \$10.00 nor more than \$500.00 plus costs per each offense. Failure to pay any forfeiture hereunder shall subject any violator over the age of seventeen (17) years to be sentenced to the County Jail until said forfeiture is paid but not to exceed ninety (90) days.

2. Second and subsequent violations. Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one (1) year shall upon conviction thereof, forfeit not less than \$10.00 nor more than \$1,000.00 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 said forfeiture and costs of prosecution are paid, but not to exceed six (6) months.

(C) YOUTH PENALTIES. 1. For any person adjudged to have violated an ordinance relating to truancy or school drop out, the court is authorized to impose any of the dispositions listed in SS 938.342, Wis. Stats., in accordance with the provisions of those statutes, and said statutes are hereby adopted and incorporated herein. Any future amendments, revisions or modifications of the current or future statutes incorporated herein, are intended to be made part of this Ordinance in order to secure uniform state-wide regulations of peace and good order of the State.

2. For any juvenile adjudged to have violated any ordinance other than truancy or school drop out, the court is authorized to impose any of the dispositions listed in SS 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes, and said statutes are hereby adopted and incorporated herein, are intended to be made part of this Ordinance in order to secure uniform state-wide regulation of peace and good order of the State.

3. For any juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court imposed under SS 938.343 or 938.344, Wis. Stats., the court is authorized to impose any of the sanctions listed in SS 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes, and said statutes are hereby adopted and incorporated herein. Any future amendments, revisions or modifications of the current or future statutes incorporated herein, are intended to be made part of this Ordinance in order to secure uniform state-wide regulation of peace and good order of the State.

4. Any other juvenile shall be referred to the proper authorities as provided in the applicable Wisconsin statutes.

(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 Village 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 the court for violation of any ordinance of the Village, 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 said forfeiture and costs.

(4) ENFORCEMENT. (a) Enforcement procedure. The statutory provisions of SS 66.0109, 66.0113, 66.0114, and 345.20 to 345.53, Wisconsin Statutes, are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future

statute incorporated herein by reference is required or prohibited by this Code. Any future amendments, additions, revisions or modifications of the statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation and enforcement of traffic and municipal Ordinance violations.

(b) Form of Citation. The Village hereby adopts for use the Wisconsin Uniform Municipal Citation, form MOS 1, consisting of a 3-part citation, a sample of which is on file in the office of the Village Clerk and adopted by reference as though fully set forth herein.

(c) Deposit. 1. Any person arrested for a violation of this Chapter may make a deposit of money as directed by the arresting officer at the Village Hall Office or at the office of the Clerk of Court or by mailing the deposit to such places. The arresting officer or the person receiving the deposit shall comply with SS 345.26, Wisconsin Statutes. The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:

a. If he fails to appear in court at the time fixed in the citation, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture plus costs not to exceed the amount of the deposit; or

b. If he fails to appear in court at the time fixed in the citation, and if the court does not accept the deposit as a forfeiture, he will be summoned into court to answer the complaint.

2. The amount of the deposit shall be in accordance with the deposit schedule established by the Wisconsin Judicial Conference, per Wisconsin Statutes Section 345.26(2), except as to municipal ordinance violations for which a deposit schedule is established per Wisconsin Statutes Section 800.03(3) and as set forth in this Code or in a resolution adopted by the Village Board and shall include the penalty assessment established under SS 757.05, Wisconsin Statutes, and costs. If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted under this Chapter.

3. The arresting officer or the person receiving the deposit shall issue the arrested person a receipt therefor as required by Section 345.26(3)(b), Wisconsin Statutes.

(d) Issuance of Citation. 1. Law Enforcement Officer. Any law enforcement officer may issue citations authorized under this section.

2. Village Officials. The following Village officials and their designated agents may issue citations with respect to those specified sections which are directly related to their official responsibilities:

- a. All Police officers
- b. Fire Chiefs, Fire Inspector or other designated official
- c. Building Inspector
- d. Plumbing Inspector
- e. Electrical Inspector
- f. Dog Catcher
- g. Any Village Trustee or Village President
- h. Village Administrator
- i. Zoning Administrator

(e) Stipulation of no contest. Any person charged with a violation of this Chapter except SS 346.62(1) and 346.63(1) may make a stipulation of no contest pursuant to SS 345.27, Wisconsin Statutes,

which shall be received at the Village Hall Office or the office of the Clerk of Court within ten (10) days of the date of the alleged violation. Such person shall, at the time of entering into the stipulation, make the deposit required under Sub. (7)(b) if he has not already done so. A person who has mailed or filed a stipulation under this Section may, however, appear in court on the appearance date and may be relieved from the stipulation for cause shown as required in SS 345.37, Wisconsin Statutes.

(f) Nonexclusivity. 1. Other Ordinance. Adoption of this Code does not preclude the Village of Sussex from adopting any other Ordinance or providing for the enforcement of any other law or Ordinance relating to the same or other matter.

2. Other Remedies. The issuance of a citation hereunder shall not preclude the Village of Sussex 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.

(5) STATE FORFEITURE STATUTES. The Village hereby adopts the document titled "Revised Uniform State Traffic Deposit Schedule and Juvenile Drinking Violation Deposit Schedule and Uniform Misdemeanor Bail Schedule" adopted by Wisconsin Judicial Conference or any future amendments thereto as the deposit schedule for the sections of the Municipal Code affected by the Schedule except as otherwise provided in the Municipal Code.

25.05 REPEAL OF GENERAL ORDINANCES. (1) All ordinances heretofore adopted by the Board of the Village 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 Village 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 Village.
- (e) The lighting of streets and alleys.
- (f) The annexation of territory to the Village.
- (g) The naming and changing of names of streets, alleys, public grounds and parks.
- (h) The letting of contracts without bids.
- (i) The establishment of wards, ward boundaries and election precincts.
- (j) Tax and special assessment levies.
- (k) Release of persons, firms or corporations from liability.
- (l) Construction of any public works.
- (m) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (n) Budget ordinances, resolutions and actions.
- (o) The Zoning ordinance which is reenacted with all amendments thereto.
- (p) The establishing of positions and job descriptions and classifications.

(2) SAVING OF ORDINANCES INADVERTENTLY EXCLUDED. Any Ordinances or Code Sections not addressed specifically in this Code are incorporated herein until repealed specifically by the Village Board.

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 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 Village.

(3) Affect any offense committed or penalty or forfeiture incurred, previous to the time when any ordinance shall be repealed or amended, except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgement 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, 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 ordinance or ordinances had not been repealed, except that 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. These ordinances shall be known as the "Municipal Code of the Village of Sussex" and shall take effect from and after passage and publication as provided in SS 66.035, Wis. Stats. All references thereto shall be cited by section number (example: Sec. 13.06, Municipal Code of the Village of Sussex).