

## CHAPTER 25

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## **25.01 RULES OF CONSTRUCTION.**

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”, “Wis. Stats.”, or “Stats.”, shall mean the Wisconsin Statutes currently in effect.
- (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 or 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 any provision of this Code requires or prohibits any act by a person, such requirement or prohibition shall apply equally to an agent of the person. A person shall be deemed to have violated a provision of this Code whenever he directly commits an act, or fails to do any required act, in violation of this Code; or intentionally assists in the commission or omission of an act in violation of this Code.

## **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 shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Council 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 DOCUMENTS INCORPORATED HEREIN TO BE FILED.**

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, or other appropriate official, shall file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted.

### **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 \$5.00 nor more than \$500, 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 90 days.
  - (b) 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 year shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$500 for 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 City 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 City, 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) **UNIFORM MUNICIPAL CITATION.** (Cr. #53)
  - (a) The citation shall contain the following:
    1. The name and address of the alleged violator.
    2. The factual allegations describing the alleged violation.

3. The time and place of the offense.
  4. The section of the ordinance violated.
  5. A designation of the offense in such a manner as can be readily understood by the 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 violator:
    - a. That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time.
    - b. That if the alleged violator makes such a deposit, he or she need not appear in court unless later summoned.
    - c. That if the alleged violator makes a cash deposit and does not appear in court, either he will be deemed to have entered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by s. 165.87, Stats., 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 the alleged violator does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture and the penalty assessment imposed by s. 165.87, Stats.
  8. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he read the statement required under sub. (7) and shall send the signed statement with the cash deposit.
  9. Such other information as the City deems necessary.
- (b) Schedule of Deposits. Cash deposits are permitted for use with citations issued for violation of the following sections of the Municipal Code. The deposit shall include the forfeiture, court costs, fees, and surcharges imposed by Chapter 814, Stats. Deposits for traffic, alcohol beverages,

harassment, tobacco and drug paraphernalia shall be as established by the Revised Uniform State Traffic Deposit Schedule.

<u>CHAPTER/SECTION</u>	<u>SUBJECT</u>	<u>FORFEITURE</u>
4.04	Assisting escape	\$ 389.50
Chapter 6	Emergency government	263.50
Chapter 7	Traffic Code	Uniform Schedule
Chapter 8	Streets	169.00
9.01	Disorderly conduct	263.50
9.01	Disorderly conduct, Second Offense	389.50
9.015	Public Intoxication	263.50
9.02	Disturbing the Peace	263.50
9.03	Open Alcohol Containers	169.00
9.04	Firearms or Fireworks	200.50
9.05	Missiles	200.50
9.06	Obstruction of Streets	263.50
9.07	False Alarms	389.50
9.08	Obstructing an Officer	389.50
9.09	Harassment, First Offense	263.50
9.09	Harassment, Second Offense	389.50
9.10	Unlawful Use of Telephone	263.50
9.101	Cell Device Abuse	263.50
9.11	Loitering	263.50
9.12	Nude Dancing	263.50
9.13	Shoplifting	389.50
9.131	Theft	389.50
9.14	Worthless Checks	389.50
9.15	Damage of Property	389.50
9.16	Trespass to Pool	169.00
9.17	Boat Landing	263.50
9.18	Trespassing	389.50
9.19	Library Offenses	169.00
9.20	Theft /Library	452.50
9.21	Littering, First Offense	263.50
9.21	Littering, Second Offense	389.50
9.22	Abandoned appliances	263.50
9.23	Cisterns/Wells	263.50
9.24	Outdoor Fires	200.50
9.241	Chronic Nuisance, First Offense	452.50
9.241	Chronic Nuisance, Second Offense	2,667.50
9.25	Animal at Large	200.50
9.251	Barking Dog	200.50
9.26	Cruelty to Animal	515.50
9.27	Animal Feces	169.00
9.28	Curfew	200.50

9.29	Smoking at School	200.50
9.30	Minor/Tobacco	200.50
9.31	Truancy	200.50
9.32	Paraphernalia	389.50
9.32	Possess THC, 16 or Older	389.50
9.32	Possess THC, 12-15	50.00
Chapter 10	Nuisances	263.50
Chapter 11	Health & Sanitation	389.50
Chapter 12	Licenses, Nonalcohol	263.50
12	Licenses, Alcohol	Uniform Schedule
12	Alcohol Licenses, Unscheduled	263.50
Chapter 13	Utilities	389.50
Chapter 14	Building Code	389.50
Chapter 15	Park	200.50
Chapter 16	Subdivision Regulations	389.50
Chapter 17	Zoning Regulations, First Offense	263.50
17	Zoning Regulations, Second Offense	389.50
17	Zoning Regulations, Third or Subsequent Offense	515.50
Chapter 18	Shoreland Zoning	263.50
Chapter 19	Floodplain Zoning	263.50
Chapter 20	CATV	389.50
Chapter 21	Recycling, First Offense	200.50
21	Recycling, Second Offense	389.50
21	Recycling, Third and Subsequent Offense	515.50
Chapter 22	Fair Housing, First Offense	767.50
22	Fair Housing, Second Offense	1,397.50
Chapter 23	Historic Preservation	169.00

Deposits shall be made in cash, money order or certified check and may be paid or delivered to the Clerk of Circuit Court, P. O. Box 110, Lancaster, Wisconsin 53813, or to the Police Department, 1006 Wisconsin Avenue, Boscobel, Wisconsin, 53805, along with a copy the citation. The Clerk or Police Department shall provide a receipt for any deposits taken by them.

(c) Issuance of Citation.

1. Law Enforcement Officer. Any law enforcement officer may issue citations authorized under this section.
2. City Officials. The following City officials or their designated subordinate may issue citations with respect to those specified sections which are directly related to their official responsibilities:
  - a. Police
  - b. Health Officer
  - c. Building Inspector
  - d. Zoning Administrator

- (d) Procedure. Subsection 66.119(3), Wis. Stats., relating to violator's options and procedure on default, is hereby adopted and incorporated by reference.
- (e) Nonexclusivity.
  - 1. **Other Ordinances.** Adoption of this subsection does not preclude the Council from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matters.
  - 2. **Other Remedies.** The issuance of a citation hereunder shall not preclude the City 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 contained in any Code previously adopted by the Council which concern the same subject matters as the provisions contained in this Code are hereby repealed. Any ordinance or part of an ordinance relating to the following subjects and not in conflict with the provisions of this Code are not repealed hereby:

The issuance of corporate bonds and notes of the City of whatever name or description.

The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.

The fixing of salaries of public officials and employees.

Rights, licenses or franchises or the creation of any contract with the City.

The lighting of streets and alleys.

The annexation of territory to the City.

The naming and changing of names of streets, alleys, public grounds and parks.

The letting of contracts without bids.

The establishment of aldermanic districts, aldermanic district boundaries and election precincts.

Tax and special assessment levies.

Release of persons, firms or corporations from liability.

Construction of any public works.

Water, sewer and electric rates, rules and regulations and sewer and water main construction.

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 Council 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 City.
- (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 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, 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 City of Boscobel” and shall take effect from and after passage and publication as provided in Section 66.035, Wis. Stats. All references thereto shall be cited by section number (example: Section 13.06, Municipal Code of the City of Boscobel).

#### **25.08 KEEPING CODE CURRENT: REVISOR’S AMENDMENTS.**

The City Attorney shall be the revisor of the Municipal Code. As each ordinance or resolution affecting the Municipal Code becomes effective, the Clerk shall forward such ordinance or resolution to the revisor, who shall incorporate it into the Municipal Code. The

revisor shall make no substantive changes to any such ordinances or resolutions, but may by renumbering, rearrange or edit them without first submitting them to the Common Council; and such renumbering, rearranging or editing shall not affect the validity of such ordinances or the provisions of this Municipal Code.