

## CHAPTER 25 CONSTRUCTION AND EFFECT

(Renum. and recr. during codification 2001 by LGRS)

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**25.01 TITLE; CITATION; EFFECTIVE DATE.** These ordinances shall be known as the " Code of Ordinances for the Village of Brownsville, Wisconsin" 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: §25.01, Code of Ordinances, Village of Brownsville, Wisconsin]. (Recr. fr. §§1.01.020 and 1.12.020)

**25.02 DEFINITIONS.** (Recr. and rn. fr. §1.04.010) The following words and phrases set forth in this chapter whenever used in the ordinances of the village of Brownsville, Wisconsin, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

- (1) "Board" means the village board of the village of Brownsville, "All its members" or "all board members" means the total number of board members holding office.
- (2) Whenever in the ordinances of the village of reference is made to the village "clerk" or village "treasurer" it means the village "clerk/treasurer."
- (3) "City" and "town" each mean the village of Wisconsin, or the area within the territorial limits of the village of Brownsville, Wisconsin, and such territory outside of the village over which the village has jurisdiction or control by virtue of any constitutional or statutory provision.
- (4) "County" means the county of Dodge.
- (5) "Law" denotes applicable federal law, the Constitution and statutes of the state of Wisconsin, the ordinances of the village of Brownsville and, when appropriate, any and all rules and regulations which may be promulgated there under.
- (6) "May" is permissive.
- (7) "Month" means a calendar month.
- (8) "Must" and "shall" are each mandatory.
- (9) "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in which cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

(10) "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

(11) "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

(12) "Personal property" includes money, goods, chattels, things in action and evidences of debt.

(13) "Preceding" and "following" means next before the next after, respectively.

(14) "Property" includes real and personal property.

(15) "Real property" includes lands, tenements and hereditaments.

(16) "Sidewalk" means that portion of the street between the curblines and the adjacent property line intended for the use of pedestrians.

(17) "State" means the state of Wisconsin.

(18) "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this village that have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

(19) "Tyrant" and "occupant" applied to a building or land, include any person who occupies the whole or part of such building or land, whether alone or with others.

(20) "Written" includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

(21) "Year" means a calendar year.

**25.03 RULES OF CONSTRUCTION.** (Am. and recr. fr. §1.04.080) In the construction of this Code of Ordinances for the Village of Brownsville, Wisconsin 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 and Annotations for 1997-98, December, 1, 1998, and 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 contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto. (Recr. and rn. fr. § 1.04.040)

(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 clearly 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 constructed to include all such acts when done by an authorized agent. (Recr. and rn. fr. §1.04.050)

(5) **CODIFICATION AUTHORITY.** This code consists of selected charter, regulatory and penal ordinances and certain of the administrative ordinances of the Village of Brownsville, Wisconsin, codified pursuant to the provisions of §66.035 Wis. Stats. (Recr. and rn. fr. §1.01.030)

**25.04 CONFLICTS 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. (Recr. fr. §101.060)

(2) **SEPARABILITY OF CODE PROVISIONS. (Am LGRS 2001)** If any section, subsection, paragraph, subdivision, sentence, clause or phrase of this 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, paragraph, subdivision, sentence, clause or phrase or portion thereof. The Village Board hereby declares that it would have passed this Code and each section, subsection, paragraph, subdivision, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, paragraphs,

subdivisions, sentences, clauses, phrases or portions may be declared invalid or unconstitutional

**25.05 CLERK/TREASURER TO FILE DOCUMENTS INCORPORATED BY REFERENCE.** (Am. LGRS 2001) Wherever 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/Treasurer shall file, deposit and keep in his/her 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/Treasurer's office hours, subject to such orders or regulations that the Clerk/Treasurer may prescribe for their preservation.

**25.06 PENALTY PROVISIONS.** (Am. LGRS 2001) (1) GENERAL PENALTY. Except as otherwise provided, any person who shall violate any of the provision 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 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 any 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 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 to occur 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. (Amends penalty provision provided for in Ord. 1996-3.).

(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 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 such forfeiture and costs. (See also §§23.50(3), 66.114, 66.115 and 165.87(2)(a), Wis. Stats.).

(4) CITATION METHOD OF ENFORCEMENT. (a) Authorization. Violations of ordinances of the Village of Brownsville, Wisconsin shall be enforced by the issuance of a citation pursuant to authority granted under §66.119, Wis. Stats., the Village elects to use this citation method of enforcement of ordinances including those for which statutory counterpart exists. (Rn. and recr. fr. §1.24.010)

(b) Issuance of Citation. (Recr. fr. §1.24.040) 1. Law Enforcement Officer. Any law enforcement officer may issue citations authorized under this section.

2. Village Officials. Those Village officials as designated by the Village Board as Village agents may issue citations under this section if so authorized by the Village Board. Any such designations and authorizations shall be filed with the Village Clerk/Treasurer and shall be kept on file in the Village office thereof.

3. Absence or Disability. In the absence or disability of any of such officers, the Village President shall designate the individual(s) who shall perform the duties of the absent or disabled official.

(c) Citation Contents. (Recr. fr. § 1.24.020) The citation shall contain at least the following information as required by §800.02, Wis. Stats.

1. The name and address of the alleged violator;
2. 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 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 this chapter may be made which shall be delivered or mailed to the clerk or county court 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(s) required hereunder have been read. Such statement(s) shall be sent or brought with the cash deposit;

9. Such other information as the Village deems necessary;

(d) Schedule of Deposits. The schedule of cash deposits for use with citations issued under this section shall be as adopted from time to time and as shall be on file in the Office of the Village Clerk/Treasurer. Deposits shall be in cash, money order or check made payable to the Village of Brownsville Clerk/Treasurer who shall provide a receipt therefore. (Rn. recr. fr. § 1.24.030)

(e) Procedure. \_\_\_\_ Sec. 66.119(3), Wis. Stats., relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(f) Nonexclusivity.\_\_(Recr. fr. § 1.24.060) 1. Other Ordinance. This section shall not preclude the Village Board from adopting any other ordinance or providing for the enforcement of any law or ordinance relating to the same or another matter.

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

(g) Enforcement. Notwithstanding any other provision of this Code to the contrary, the Village Board may designate any Village officer to enforce any provision of this Village Code..

25.07 REPEAL OF GENERAL ORDINANCES. (Am. LGRS 2001) All ordinances heretofore adopted by the Village Board which are in conflict with the provisions of this Code 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:

- (1) The issuance of corporate bonds, notes and obligations of the Village.
- (2) The establishment of grades, curb and ditch lines and widths of sidewalks or roadways in the public highways.  
The fixing of salaries of the public officials and employees of the Village.
- (4) Rights, licenses or franchises granted by the Village or pursuant to its authority.
- (5) The creation of any contract with the Village or any of its lawfully authorized boards, committees, commissions, departments, or agencies.

parks.

- (8) Release of persons, firms or corporations from liability.
- (9) Tax and special assessment levies.
- (6) The lighting of highways, roadways and streets.
- (7) The naming and changing of names for public highways, grounds and
- (10) Construction of public works.
- (11) Budget ordinances, resolutions and actions.

25.08 EFFECT OF REPEALS. (Recr. fr. §1.04.090) The repeal or amendment of any section or provision of this Code or of any other ordinance, by law or resolution of the Village Board shall not:



(1) By implication be deemed to revive any ordinance not in force or existing at the time 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 specifically reserved by the Village.

(3) 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 provision(s) of any ordinance, such provision(s) shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed prior to that time.

(4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture which is pending at the time when any ordinance aforesaid is repealed or amended; but the right of action(s) shall continue and the offender shall be subject to the penalty as provided in such ordinance(s), and such prosecution shall proceed, in all respects, as if such ordinance(s) 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.

**25.09 KEEPING CODE CURRENT; AMENDMENTS.** (Am LGRS 2001) As each ordinance or resolution affecting this Code of Ordinances becomes effective, the Village Clerk/Treasurer shall incorporate same into the Code. However, the Village Clerk/Treasurer may elect to forward said resolutions or ordinances to a Revisor. The Revisor shall make no substantive changes to such ordinances and resolutions but may renumber, rearrange and edit same without first submitting them to the Village Board; and, such rearranging, renumbering and editing shall not affect the validity thereof or the other provisions of this Code of Ordinances affected thereby.