

CHAPTER 25

CONSTRUCTION AND EFFECT OF ORDINANCES

- 25.01 Rules of Construction
- 25.02 Conflict and Separability
- 25.03 Check to File Documents Incorporated by Reference
- 25.04 Penalty Provisions
- 25.05 Repeal Provisions
- 25.06 Repeal of General Ordinances
- 25.07 Title; Effective Date; Citation
- 25.08 Keeping Code Current; Revisor's Amendments

CONSTRUCTION AND EFFECT OF ORDINANCES 25.01

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

- (1) **WISCONSIN STATUTES.** (Am. MSC '93; MCC '95) All references to "Wisconsin Statutes" or "Weis. 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; providing 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.
- (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 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 OF 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 phase or portion thereof. The Board hereby declares that it would have passed this Code and each section, subsection, sentence, clause or phase or portion may be declared invalid or unconstitutional.

11/13/95

25.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE.

Whenever in this Code any standard, code, rule, regulations or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as of fully set forth herein and the Clerk shall file, deposit, and keep in his office a copy of the Code , standard, rules, 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 Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

CONSTRUCTION AND EFFECT OF ORDINANCES 25.01

25.04 PENALTY PROVISIONS. (rep. & Recr. #216)

- (1) For any adult adjudged to have violated the provisions of any municipal ordinance, the municipal court is authorized to impose the following penalties:
 - (a) First Offense – Penalty. Any person who shall violate any provisions of this Code shall, upon conviction thereof, forfeit not less than \$5.00 nor more than \$500.00 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 – Penalty. 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 year shall be upon conviction thereof, forfeit not less than \$1000 nor more than \$500.00 for each offense, together with 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 of prosecution are paid, but not exceeding 6 months.
- (2) For any person adjudged to have violated an ordinance relating to truancy or school drop out, the municipal court is authorized to impose any of the dispositions listed on §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. Any future amendments, revisions or modifications of the current or future states 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.
- (3) For any juvenile adjudged to have violated any ordinance other than truancy or school drop out, the municipal court is authorized to impose any of the dispositions listed in §938.17(20, 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes, and said statutes are hereby adopted and incorporated herein. The court is also authorized to require payment for alcohol and other drug abuse services in accordance with §938.361, Wis. Stats., and said statute is 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 if this Ordinance in order to secure uniform state-wide regulations of peace and good order of the State.

CONSTRUCTION AND EFFECT OF ORDINANCES 25.04

- (4) For any juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court imposed under §938.343 or 938.344, Wis. Stats., the municipal court is authorized to impose any of the sanctions listed in §938.333(6)(d), and 895.035Wis. 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.
- (5) CONTINUED VIOLATIONS. Each violation and each day a violation contuse or occurs shall constitute a separate offense. Nothing in this code shall preclude the Village from maintained any appropriate action to prevent or remove a violation of any provision of this Code.

11/11/96

25.05 REPEAL OF GENERAL ORDINANCES.

All ordinances heretofore adopted by the Village 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:

- (1) The issuance of corporate bonds and notes of the Village of whatever name or description.
- (2) The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.
- (3) Rights, licenses or franchise or the creation of any contract with the Village.
- (4) The lighting of streets and alleys.
- (5) The annexation of territory to the Village.
- (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 election precincts.
- (9) Tax and special assessment levies.
- (10) Release of persons, firms, or corporations from liability.
- (11) Construction of any public works.
- (12) Water, sewer and electric rates, rules and regulations and sewer and water main construction'
- (13) Budget ordinances, resolutions and actions.

CONSTRUCTION AND EFFECT OF ORDINANCES 25.06

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 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 or repealing such obligation or privilege has been reserved by the Village. 1/1/76
- (3) Affect any offense committed or penalty or forfeiture incurred, previous to the time when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinances 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, except 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 Dousman" 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 Village of Dousman).

25.08 KEEPING CODE CURRENT; REVISOR'S AMENDMENTS.

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 the same into the Municipal Code. The Revisor shall make no substantive changes to such ordinances and resolutions but may renumber, rearrange and edit them without first submitting them to the Village 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.

A CHARTER ORDINANCE

RELATING TO THE NUMBER AND TERMS OF VILLAGE TRUSTEES.

The Village Board of the Village of Dousman, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1. The Village of Dousman hereby elects not to be governed by those portions of ss. 61.20 and 61.32 of the Wisconsin Statutes in conflict with the provisions of this ordinance.

SECTION 2. It is hereby provided that the number of trustees of the Village Board of the Village of Dousman, shall be four (4) in addition to the Village President. Three trustees, one of which may be the Village President, shall constitute a quorum.

SECTION 3. At the first village election following the adoption of this charter ordinance, two (2) trustees shall be elected for a term of two (2) years and one (1) trustee for a one (1) year term. Thereafter two (2) trustees shall be elected at each regular village election for a two year term. This section shall not effect the term of the Village President.

SECTION 4. This is a charter ordinance and shall take effect sixty (60) days after its passage and publication, unless within such sixty days a referendum petition shall be filed as provided by s. 66.01 of the Wisconsin Statutes, in which this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

The above ordinance was passed by the Village Board of the Village of Dousman on the 8th day of December, 1958.

Countersigned:

/s/ Gladys Miller
Gladys Miller, Clerk

/s/ Dewey Cory
Dewey Cory, President

A CHARTER ORDINANCE

RELATING TO THE SELECTION AND TENURE OF VILLAGE CLERK.

The Village Board of the Village of Dousman, Waukesha County, do ordain as follows:

SECTION 1. Pursuant to sections 61.195, 61.197 and 66.01 of the Wisconsin Statutes, the Village of Dousman hereby elects not to be governed by those portions of sections 61.19 and 61.23 of the statutes which relate to the selection and tenure of the Village Clerk, and which are in conflict with this ordinance.

SECTION 2. Hereafter, instead of being elected, the Clerk of the Village of Dousman shall be appointed by the Village President, subject to confirmation by a majority vote of the members elect of the Village Board. The president shall not have a vote on such confirmation.

SECTION 3. There is a charter ordinance and shall take effect 60 days after its passage and publication, unless within such 60 days a referendum petition shall be filed as provided by Section 66.01 of the Wisconsin Statutes, in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of electors voting thereon.

The above ordinance was passed by the Village board of the Village of Dousman on the 14th of January, 1963.

/s/ Margaret Kokan
Margaret A. Kokan, Clerk

/s/ Dewey Cory
Dewey Cory, President

A CHARTER ORDINANCE

RELATING TO THE SELECTION AND TENURE OF THE VILLAGE TREASURER.

The Village Board of the Village of Dousman, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1. Pursuant to Sections 61.195, 61.197 and 66.01 of the Wisconsin Statutes, the Village of Dousman hereby elects not to be governed by those portions of sections 61.19 and 61.23 of the Statutes which relate to the selection and tenure of the Village Treasurer and which are in conflict with this ordinance.

SECTION 2. Hereafter, instead of being elected, the treasurer of the Village of Dousman shall be appointed by the Village President, subject to confirmation by a majority vote of the members elect of the Village Board. The Village President shall not have a vote on such confirmation.

SECTION 3. This is a charter ordinance and shall take effect 60 days after its passage and publication, unless within such 60 days a referendum petition shall be filed as provided by section 66.01 of the Wisconsin Statutes, in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

The above ordinance was passed by the Village Board of the Village of Dousman on the 11th of January, 1971.

/s/ Margaret A. Kokan
Margaret A. Kokan, Clerk

/s/ Lawrence Wolf
Lawrence Wolf, President

A CHARTER ORDINANCE

RELATING TO THE SELECTION AND TENURE OF THE VILLAGE ASSESSOR.

The Village Board of the Village of Dousman, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1. Pursuant to sections 61.195, 61.197 and 66.01 of the Wisconsin Statutes, the Village of Dousman hereby elects not to be governed by those portions of section 61.19 and 61.23 of the Statutes which relate to the selection and tenure of the Village Assessor, and which are in conflict with this ordinance.

SECTION 2. Hereafter, instead of being elected, the assessor of the Village of Dousman shall be appointed by the Village President, subject to confirmation by a majority vote of the members elect of the Village Board. The President shall not have a vote on such confirmations.

SECTION 3. This is a charter ordinance and shall take effect 60 days after its passage and publication, unless within such 60 days a referendum petition shall be filed as provided by section 66.01 of the Wisconsin Statutes, in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

The above ordinance was passes by the Village Board of the Village of Dousman on the 11th day of January, 1971.

/s/ Margaret A. Kokan
Margaret A. Kokan, Clerk

/s/ Lawrence Wolf
Lawrence Wolf, President

A CHARTER ORDINANCE CREATING SECTION 1.09 OF THE MUNICIPAL CODE,
VILLAGE OF DOUSMAN, WAUKESHA COUNTY, WISCONSIN:

GENERAL GOVERNMENT 1.08

1.08 VOTER REGISTRATION. (Cr. 7/12/76)

- (1) REQUIRED.
- (2) CLERK TO IMPLEMENT.

1.09 NON-PARTISAN PRIMARY FOR VILLAGE OFFICERS. (Cr. #102(

- (1) APPLICABLE STATUTE. Candidates for elective Village offices shall be nominated by a non-partisan primary conducted pursuant to §8.05(4) and §8.11(1)(a) and (b), Wis. Stats.
- (2) NOMINATION PAPERS.
 - (a) Nomination papers shall be signed by not less than 15 electors. The number of signatures required shall be not less than 3% of the number of electors voting therein for Governor at the last preceding general election, 15 electors. Nomination papers shall be filed with the Village Clerk not less than 20 days before each primary not later than 5:00pm of that day.
 - (b) Each person for whom nominations papers are filed shall submit to the Village Clerk with his nomination papers, or before 2:00pm on the day following the last day for filing nomination papers, a declaration that he will qualify for the office if nominated and elected.
- (3) NO OTHER METHOD ALLOWED. No additional candidates may be nominated for such offices by the methods provided by §8.05(1), Wis. Stats.
- (4) DATE AND NOTICE OF PRIMARY. A Village primary shall be held the third Tuesday in February, pursuant to §5.02(2), Wis. Stats. The Village Clerk shall prepare over her name and official seal a notice of the primary, listing the Village offices for which candidates are to be nominated at the primary, specifying the place where the primary will be held and the hours the polls will be opened and closed. This notice shall be published once. Copies on heavy paper shall be posted in 3 public places not more than 20 nor less than 10 days before the primary.
- (5) BALLOT. Section §5.58(1), Wis. Stats., shall be applicable for the Village Primary. The names of those for whom nominations papers were properly filed shall be printed on the primary ballot under the designation of the office for which he is named listing his given and surname. Space shall be provided under each office to permit the voter to write in another name for that office.

GENERAL GOVERNMENT 1.09(5)

- (6) PRIMARY ELECTION MAY BE WAIVED. Whenever a Village Primary is held and the number of candidates placed in nomination for any Village office does not exceed 2 times the number of persons to be elected to that office, no primary election shall be held for that office. The names of the candidates shall be printed upon the official ballot in April. If the preceding should be true for all offices to be filled in a given election, the Village Primary election for that year would be dispense with, and the names of all candidates would be printed upon the official ballot in April.

Dated this 9th day of April, 1979.

/s/ Kathleen Ahrens
Kathleen Ahrens, Clerk

/s/ Joseph E. Denk, Sr.
Joseph E. Denk, Sr., President

PUBLISHED ON: April 19, 1979

EFFECTIVE DATE: April 19, 1979

4/19/79