

CHAPTER 25
GENERAL PROVISIONS

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25.01 RULES OF CONSTRUCTION. 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 ordinances:

(1) STATUTES AND ADMINISTRATIVE CODE (Rep & Recr. Ord. #2393 – 4/2/01).

(a) The terms "Wisconsin Statutes," "Wis. Stats.," or "Stats.," shall mean the current edition of the Wisconsin Statutes including any amendments thereto.

(b) The terms "Wisconsin Administrative Code," "Wis. Admin. Code" or "Admin. Code" shall mean the current edition of the Wisconsin Administrative Code including any amendments thereto.

(c) If a provision of the Wisconsin Statutes or Wisconsin Administrative Code is renumbered, any reference to that provision shall be construed to be to the provision as renumbered.

(2) 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.

(3) PERSON. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.

(4) ACTS BY 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 requisition shall be construed to include all such acts when done by an authorized agent.

25.02 CONFLICT AND SEPARABILITY.

(1) CONFLICT OF CODE 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 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, sentence, clause or phrase or portion thereof. The Mayor and Council of the City of West Bend hereby declare

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, other than the Wisconsin Statutes or other sections of this Code, are adopted by reference, they shall be deemed incorporated in this Code as if fully set forth herein and the City Clerk is hereby directed and required to 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. (Rep. & Recr. Ord. # 2152 – 4/4/94).

(1) **GENERAL PENALTY.** Except as provided in sub. (2) or as otherwise specifically provided by law or this Code, any person who violates any provision of this Code or any rule or regulation adopted or issued pursuant hereto or any provision of any code adopted herein by reference, upon conviction of such violation, shall be subject to a penalty as follows:

(a) **First Offense.** (Am. Ord. #2686 – 4/4/11). A forfeiture of not less than \$5 nor more than \$500 in addition to any applicable fees, assessments and restitution and the costs of prosecution and, in the event of non-payment of any of the foregoing amounts, imprisonment in the county jail until the forfeiture, fees, assessments, restitution and costs are paid, except that the amount owed is reduced at the rate of \$50 for each day of imprisonment and the maximum period of imprisonment is 90 days.

(b) **Second and Subsequent Offenses.** (Am. Ord. #2686 – 4/4/11). For any person who previously has been convicted of a violation of the same provision, rule or regulation, a forfeiture of not less than \$25 nor more than \$500 in addition to any applicable fees, assessments and restitution and the costs of prosecution and, in the event of nonpayment of any of the foregoing amounts, imprisonment in the county jail until the forfeiture, fees, assessments, restitution and costs are paid, except that the amount owed is reduced at the rate of \$50 for each day of imprisonment and the maximum period of imprisonment is 90 days.

(c) **Civil Remedy.** In the event of nonpayment of any forfeiture, fees, assessments, restitution and costs and in lieu of imprisonment under pars. (a) and (b) above, the City may enforce the judgment in the same manner as for a judgment in an ordinary civil action.

(2) (Am. Ord. #2258 – 9/16/96). JUVENILE PENALTY.

(a) Definition. "Juvenile" means a person who is 12 years of age or older but less than 17 years of age.

(b) Penalty. Any juvenile who violates any provision of this Code or any rule or regulation adopted or issued pursuant hereto or any provision of any code adopted herein by reference, upon conviction of such violation, shall be subject to imposition of any of the dispositions set forth in secs. 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those sections. Any juvenile who violates a condition of a dispositional order under secs. 938.343 or 938.344, Wis. Stats., upon adjudication of such violation, shall be subject to imposition of any of the sanctions set forth in sec. 938.355(6)(d), Wis. Stats., in accordance with the provisions of that section.

(3) SEPARATE OFFENSES. Each violation and each day a violation occurs or exists constitutes a separate offense and is punishable as such.

(4) NON-EXCLUSIVITY. Nothing in this section shall preclude the City from maintaining any appropriate action to prevent or remove any violation of any provision of this Code.

(5) SERVICE FEES. (Cr. Ord. #2631 – 7/21/08; Rep. & Recr. Ord. #2670 – 3/15/2010).

(a) Pursuant to the provisions of Section 814.70, 814.705 and 814.71 of Wis. Stats., the City's Police Department shall charge a warrant service fee of \$35 when the Department serves a warrant or commitment order upon a person. The person served with the warrant or commitment order shall be responsible for the payment of the warrant or commitment order service fee. The service fee may be collected at the time of service or as a court cost through the court.

(b) The Police Department shall charge a separate fee for each warrant or commitment order served on a person.

(c) If the warrant or commitment order service fees are collected by the court, the fees shall be forwarded by the court to the City Treasurer.

25.05 REPEAL OF GENERAL ORDINANCES. All ordinances heretofore adopted by the Council of the City of West Bend 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 City of West Bend of whatever name or description.

- (2) The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.
- (3) The fixing of salaries of public officials and employees.
- (4) Rights, licenses or franchises or the creation of any contract with the City of West Bend.
- (5) The lighting of streets and alleys.
- (6) The annexation of territory to the City of West Bend.
- (7) The naming and changing of names of streets, alleys, public grounds and parks.
- (8) The letting of contracts without bids.
- (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.

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 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 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 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, and shall be, in all respects, subject to the provisions of this Code.

25.07 TITLE: EFFECTIVE DATE: CITATION. These ordinances shall be known as the "Municipal Code of West Bend, Wisconsin" and shall take effect from and after passage and publication as provided in §66.0103, Wis. Stats. All references thereto shall be cited by section number (example: sec. 8.04(1), Municipal Code of West Bend, Wisconsin).

25.08 KEEPING CODE CURRENT. (Rep. & Recr. Ord. #2058 – 2/3/92). (Am. Ord. #2398 – 6/11/01). As each ordinance or resolution affecting this Code becomes effective, the City Clerk shall incorporate the same into the Code. The Clerk shall make no substantive changes to such ordinances and resolutions, but may renumber, rearrange and edit them without first submitting them to the Council; and such rearranging, renumbering and editing shall not affect the validity of such ordinances and resolutions or the provisions of this Code affected thereby. When statute or administrative code provisions referred to in this Code are renumbered, the Clerk may change the references to correspond to the new numbers as editing under this section.

25.09 CITATIONS FOR CERTAIN ORDINANCE VIOLATIONS (Rep. & Recr. Ord. #2057 – 1/28/92).

(1) **ADOPTION.** Pursuant to sec. 66.0113, Wis. Stats., the City hereby adopts and authorizes the use of a citation to be issued for violations of its ordinances, including ordinances for which a statutory counterpart exists.

(2) **CONTENT.** The citation shall contain substantially the information set forth in sec. 800.02(2), Wis. Stats., as amended.

(3) **ISSUANCE.** (Amend. Ord. #2485 – 5/19/03). The citation shall be signed by a peace officer, community service officer or endorsed by the City Attorney or, if applicable, signed by a conservation warden. Only officials herein designated are granted the authority to issue citations.

(4) **DEPOSITS.**

(a) Citations issued under this section shall provide for a cash deposit consisting of the forfeiture imposed by sec. 25.04 or other provisions of this Code, any penalty, jail, or other assessment required by state law, and court costs allowed under §814.65(1), Wis. Stats. Assessments shall be levied on forfeitures before adding costs and shall be levied on all forfeitures except those imposed for ordinance violations exempted by

state law including non-moving traffic violations. Deposits including assessments and court costs for children issued citations shall not exceed any maximum penalties prescribed by ch. 48, Wis. Stats.

(b) Officials issuing a citation shall indicate thereon the deposit amount in lieu of a court appearance, if applicable. The amount shall be determined in conformity with the Wisconsin Judicial Conference Revised Deposit Schedules and the West Bend Municipal Ordinance Bond Schedule, which hereby are adopted by reference.

(c) Deposits shall be made by cash, check, or money order to the Clerk of the Municipal Court who shall furnish a receipt therefor.

(5) NON-EXCLUSIVITY. The adoption and authorization for use of a citation under this section shall not preclude the City from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or any other matter. The issuance of a citation under this section shall not preclude the proceeding under any other ordinance or law relating to the same or any other matter. The proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this section.