

CHAPTER XX

CONSTRUCTION AND EFFECT OF ORDINANCES

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20.01 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 Wisconsin Statutes for 1981 as thereafter amended.

(b) Gender: Singular and Plural. Every word in this Code and 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 to and be applied to several persons and things as well as to one person or thing; provided that these rules of construction shall not be applied to any provision which shall contain 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 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 a principal, such requirements shall be construed to include all such acts when done by an authorized agent.

20.02 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 represent and 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, phrase or portion thereof. The Village Board hereby declares that they would have passed this Code in each section, sub-section, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

20.03 CLERK-TREASURER 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-Treasurer 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-Treasurer's office hours, subject to such orders or regulations which the Clerk-Treasurer may prescribe for their preservation.

20.04 PENALTY PROVISIONS. (1) **GENERAL PENALTY.** Unless otherwise provided in this Code, 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 - penalty.** Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, forfeit not less than \$1.00, nor more than \$200.00, 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 said 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, upon conviction thereof, forfeit not less than \$10.00, nor more than \$200.00 for each such offense, together with the costs of prosecution and, in and costs, shall be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid, but not to exceed 6 months.

(2) **CONTINUED VIOLATIONS.** Each violation and each day a violation continues or 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.

20.05 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:

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

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

The rights, licenses or franchises or the creation of any contract with the Village.

The fixing of salaries or public officials and employees.

The lighting of streets and alleys.

The annexation of territory to the Village.

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

The letting of contracts without bids.

Tax and special assessment levies.

Release of persons, firms or corporations from liability.

Construction of any public works water, sewer and electric rates, rules, regulations and the water main construction.

Budget ordinances, resolutions and actions.

20.06 EFFECT OF REPEALS. A repeal or amendment of any section or provision of this Code or of any other ordinance or resolution of the Village Board shall not: (1) By implication be deemed to revive any ordinance not in effect 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 obligations 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 when any forfeiture or penalty shall have been mitigated by the provisions of this 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 in the same manner 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.

20.07 TITLE: EFFECTIVE DATE: CITATION. These ordinances shall be known as the "Municipal code of the Village of Elkhart Lake," and shall take effect from and after passage and publication as provided in sec. 66.035 of the Wisconsin Statutes. All reference thereto shall be cited by section number (Example: sec. 6.06 Municipal Code of the village of Elkhart Lake).

20.08 KEEPING CODE CURRENT, REVISOR'S AMENDMENTS. As each ordinance or resolution affecting the Municipal Code becomes effective, the Village 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.