

## **CHAPTER 25**

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## CONSTRUCTION AND EFFECT OF ORDINANCES 25.01

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 ordinance:

(1) WISCONSIN STATUTES. (Am. MSC '85) All references to "Wisconsin Statutes" or "Wis. Stats.," shall mean the Wisconsin Statutes for the years 1983-84 and shall include the 1985-87 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.

(3) PERSON. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and 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 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 phrase or portion thereof. The Board hereby declares 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 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 is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein; and the Clerk 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's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

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25.04 PENALTY PROVISIONS.

(1) GENERAL PENALTY. 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 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--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 \$500 for each such 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) CONTINUED VIOLATIONS. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the County from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(3) EXECUTION AGAINST DEFENDANT'S PROPERTY. Whenever a person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the County, 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) ISSUANCE OF CITATIONS. (Rep. & Rec #1-89)

(a) Method. Pursuant to Sec. 66.119, Wis. Stats., the County of La Crosse adopts and authorizes the use of a citation to be issued for violations of ordinances, including ordinances for which a statutory counterpart exists.

(b) Form. The citation shall contain the following:

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.

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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 section may be made which shall be delivered or mailed to the Treasurer 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 required under para. 7. above has been read. Such statement shall be sent or brought with the cash deposit.

9. Such other information as the County deems necessary.

(c) Schedule of Deposits. The following schedule of cash deposits is established for use with citations issued under this section:

Ordinance:	Offense Deposits:
Dog Control Ordinance	\$50 minimum; \$200 maximum
Environmental Health or Public Health/Welfare	\$50 minimum; \$200 maximum
Park Regulations	\$15
Possession of Marijuana – S. 9.16	\$100 plus statutory costs
Possession of Drug Paraphernalia – S. 9.17	\$100 plus statutory costs
Sanitary Landfill Ordinance	\$15
Sanitation Code	\$50 minimum; \$200 maximum
Shoreland Zoning	\$50
Subdivision Code	\$50

Deposit shall be made in cash, money order or certified check to the Treasurer of the County who shall provide a receipt therefore.

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(d) Who May Issue.

1. Any law enforcement officer in the county may issue citations for enforcement of any ordinance authorized under this Chapter. "Law enforcement officer" means any person employed by La Crosse County or any city, village, or town within La Crosse County for the purpose of preventing and detecting crime and enforcing state laws or local ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

2. County Officials. (Am. #5-92) The following County officials may issue citations which are directly related to their official responsibilities.

- a. Land Use Coordinator.
- b. Engineering Technician (Zoning Department).
- c. Registered Sanitarian.
- d. Environmental Director.
- e. Superintendent of County Parks.
- f. Humane Officer.
- g. Solid Waste Manager.
- h. Vector Control Officer.
- i. County Conservationist.
- j. Soil Conservationist.
- k. Urban Erosion Technician.

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

(f) Nonexclusivity.

1. Adoption of this chapter does not preclude the County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matters.

2. The issuance of a citation hereunder shall not preclude the County 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.

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25.05 REPEAL OF GENERAL ORDINANCES. All ordinances heretofore adopted by the County Board are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and non-conflicting with any of the provisions of this Code:

- (1) The issuance of corporate bonds and notes of the County of whatever name or description.
- (2) The establishment of grades, curb lines and widths of sidewalks for 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 County.
- (5) The lighting of streets and alleys.
- (6) (Reserved)
- (7) The naming and changing of names of streets, alleys, public grounds and parks.
- (8) The letting of contracts without bids.
- (9) The establishment of supervisory districts, supervisory district boundaries and election precincts.
- (10) Tax and special assessment levies.
- (11) Release of persons, firms or corporations from liability.
- (12) Construction of any public works.
- (13) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (14) 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 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.

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(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 County.

(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 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 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 "General Code of the County of La Crosse" and shall take effect from and after passage and publication as provided in ss. 66.035, Wis. Stats. All references thereto shall be cited by section number (example: ss. 13.06, General Code of the County of La Crosse).