

## CHAPTER 10

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**10.01 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) Wisconsin Statutes. The term “Wisconsin Statutes” or “Wis. Stats.,” wherever used in this Code, shall mean the Wisconsin Statutes for the year 2023-2024.

(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.

#### 10.02 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 Village President and the Village Board of the Village of Boaz 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 thereof may be declared invalid or unconstitutional.

**10.03 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 Village 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.

#### **10.04 PENALTY PROVISIONS**

(1) General Penalty. Except as provided in sub. (2) below, or whenever a different penalty is specifically set forth 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 \$5 nor more than \$200, 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 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 said forfeiture and costs of prosecution are paid, but not to exceed 6 months.
- (c) **SCHEDULE OF PENALTIES.** To ensure uniformity and equal treatment of all persons who violate any provision of this Code, the deposit amounts set forth in the Revised Uniform State Traffic Deposit Schedule, as the same is amended from time to time, together with costs and surcharges, shall be the forfeitures imposed under this Code where the schedule states a deposit amount for a violation of statutory counterparts to the provisions of this code. The following Schedule of Deposits for Code Violations shall be the

used to establish the deposit amount for forfeitures for other violations of this code.

**VILLAGE OF BOAZ SCHEDULE OF PENALTIES FOR CODE VIOLATIONS**

(Add all court costs and surcharges to amounts listed)

| <u>DESCRIPTION</u>   | <u>FIRST OFFENSE WITHIN<br/>12 MONTHS</u> | <u>SECOND AND OFFENSE<br/>SUBSEQUENT OFFENSE<br/>WITHIN 12 MONTHS</u> |
|--|---|---|
| Any offense for which the specified forfeiture is not less than \$1.00 and not more than \$50.00 | \$20.00                                   | \$40.00   |
| Any offense for which the specified forfeiture is at least \$1.00 and not more than \$200.00     | \$75.00                                   | \$150.00  |
| Any offense for which the specified forfeiture is at least \$1.00 and not more than \$500.00     | \$200.00                                  | \$375.00  |
| Any offense for which the specified forfeiture is at least \$501.00                              | \$501.00                                  | maximum permitted   |

(2) Penalty For Minors. In the event proceedings are commenced against children aged 16 or older for violations of ch. 3 of this code, or children 14 years of age or older for other violations of this code, except ch. 3, the provisions of ss. 48.17(2), 48.237, 48.37, 48.343 and 48.344, Wis. Stats., shall be applicable.

(3) Continued Violations. Each violation and each day a violation continues or occurs 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.

(4) 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.

#### **10.05 CLERK TO FILE ORDINANCES: SUPPLEMENTAL SHEETS; CORRECTION OF NON-SUBSTANTIVE ERRORS**

(1) The Village Clerk shall certify one copy of this Code as the original Municipal Code of the Village of Boaz. Such copy shall be retained in its original form. In addition, the Clerk shall retain in his or her office at least one copy of the Municipal Code in current form in which shall be inserted all supplemental sheets as hereinafter provided.

(2) Whenever any ordinance amending, repealing, revising or creating any action of this Code is adopted by the Village Board, the Clerk after recording such ordinance in the ordinance book, shall cause copies to such ordinance to be reproduced on supplemental sheets in proper form for insertion in the municipal code and shall insert such ordinances in all copies of this Code in his possession except the aforementioned original copy. The Clerk shall make such supplemental sheets available at cost to all persons requesting the same.

(3) The Clerk may make non-substantive changes necessary to accommodate page numbering and section numbering and may correct typographical errors but no other changes shall be made without Village Board approval.

**10.06 REPEAL OF GENERAL ORDINANCES.** All ordinances heretofore adopted by the Village Board of the Village of Boaz 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) The fixing of salaries of public officials and employees.

(4) Rights, licenses or franchises or the creation of any contract with the Village.

(5) The lighting of streets and alleys.

(6) The annexation of territory to the Village.

- (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 from liability.
- (11) Construction of any public works.
- (12) Sewer and water rules and regulations, and sewer and water main construction.
- (13) Budget ordinances, resolutions and actions.

**10.07 EFFECT OF REPEALS.** The 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 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 Village.

(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.

**10.08 TITLE: EFFECTIVE DATE: CITATION.** These ordinances shall be known as the “Municipal Code of Boaz, Wisconsin” and shall take effect from and after passage and publication as provided in s. 66.0103, Wis. Stats. All references thereto shall be cited by section number (example: sec. 8.04(1), Municipal Code of Boaz, Wisconsin).