

ORDINANCE NO. 2009-2

AN ORDINANCE REGARDING CONSTRUCTION AND EFFECT OF ORDINANCES

The Village of Potter does ordain as follows:

SECTION 1 – 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. **THE TERM WI STATS.** Wherever used in this code, shall mean the WI Stats. for the latest year as revised and the term WI Administrative Code wherever used in this Code shall mean the latest date as revised. Any future amendments, revisions, or modifications of the statutes or administrative code incorporated herein are intended to be made part of this Code.
2. **GENDER: SINGULAR AND PLURAL.** Every word in the 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 person, 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 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.

SECTION 2 – CONFLICT 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 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 Village Board of the Village of Potter 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.

SECTION 3 – 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 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 Village Clerk's office hours, subject to such orders or regulations which the Village Clerk may prescribe for their preservation.

SECTION 4 – PENALTY PROVISIONS

1. GENERAL PENALTY. Except where a penalty is provided elsewhere in this Code, any person who shall violate any provision 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 penalty shall, upon conviction thereof, forfeit not less than Ten Dollars (\$10.00) nor more than Two Hundred Fifty Dollars (\$250.00) together with the costs of prosecution. Any person who defaults in the payment of such forfeiture or costs shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding ninety (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 One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each such offense, together with costs of prosecution. Any person who defaults in the payment of such forfeiture or costs shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding six (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 Village from maintaining any appropriate action to prevent or remove a violation of any provision of this code.
3. OTHER REMEDIES.
 - a. The Village shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs or prosecution above.
 - b. Execution against defendant's property. Whenever any person fails to pay a forfeiture and cost of prosecution upon the order of any court 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.
4. RESTITUTION. Any violation of a provision of this Code similar to conduct prohibited by State Statute resulting in damage to property or physical injury to a person shall require restitution to be made upon conviction thereof.
5. STATUTORY EQUIVALENT ORDINANCES. Notwithstanding other provisions of this Code of Ordinances, when a violation of these Wisconsin Statutes, the Village official charging under these ordinances may use the Wisconsin Judicial Conference uniform deposit

schedule forfeiture amount, including all court costs and assessments, listed for the violation.

6. OTHER SANCTIONS. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities privileges of the defendant, order the defendant to submit to assessment and rehabilitation programs or to attend traffic safety school in addition to payment of a monetary penalty in lieu of imprisonment.

SECTION 5 – TITLE EFFECTIVE DATE: CITATION

These ordinances shall be known as the “Municipal Code of the Village of Potter” and shall take effect from and after passage and publication as provided in Section 66.035, WI Stats. All references thereto shall be cited by section number.

SECTION 6 – ENFORCEMENT OF ORDINANCES

1. CITATION METHOD. The Village of Potter hereby elects to use the citation method of enforcement of ordinances. All Village law enforcement officers, Village personnel and other personnel charged with the responsibility of enforce the provision of this Code of Ordinances are hereby authorized pursuant to Section 66.119(1)(a), Wisconsin Statutes, to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.
2. INFORMATION CONTAINED IN CITATION. The citation shall contain the following:
 - a. The name and address of the alleged violator.
 - b. Factual allegations describing the alleged violation.
 - c. The time and place of the offense.
 - d. The section of the ordinance violated.
 - e. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
 - f. The time at which the alleged violator may appear in court.
 - g. A statement which in essence informs the alleged violator:
 - i. That a cash deposit based on the schedule of deposits established by this ordinance may be made which shall be delivered or mailed to the Village of Potter Court prior to the time of the scheduled court appearance.
 - ii. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
 - iii. 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.

- iv. That if no cash deposit is made and the alleged violator does not appear may be commenced to collect the forfeiture.
 - v. A direction that if the alleged violator elects to make cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Subsection (a) above has been read. Such statement shall be sent or brought with the cash deposit.
 - vi. Such other information as the Village deems necessary.
3. FORM OF CITATION. The form of the citation to be used shall be the Wisconsin Uniform Citation, or any form that is substantially similar thereto.
4. SCHEDULE OF DEPOSITS.
- a. The cash deposit for violation of an ordinance that adopts a Wisconsin Statute shall be equal to the cash deposit established by the Wisconsin Judicial Conference uniform deposit schedule for violation of that Statute, plus all court cost and assessment.
 - b. The cash deposit for all other ordinance violations shall be equal to forty percent (40%) of the maximum forfeiture for that violation, plus all court costs and assessments.
5. ISSUANCE OF CITATION
- a. LAW ENFORCEMENT OFFICER. Any law enforcement officer may issue citations authorized under this Chapter, including any law enforcement agencies or officers that are under contract with the Village to provide law enforcement services.
 - b. VILLAGE OFFICIALS. The following Village officials may issue citations with respect to those specified ordinances which are directly related to their official responsibilities:
 - i. Any law enforcement officer
 - ii. Fire Chief or Fire Inspector
 - iii. Building Inspector, Plumbing Inspector, Electrical Inspector, and HVAC Inspector
 - iv. Street and Weed Commissioner
 - v. Public works Director
6. PROCEDURE. Section 66.119(3), Wisconsin Statutes, relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.
7. NON-EXCLUSIVITY.
- a. OTHER ORDINANCE. Adoption of this Ordinance does not preclude the Village of Potter Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter

- b. OTHER REMEDIES. The issuance of a citation hereunder shall not preclude the Village or any authorized officer from proceeding under any other ordinance, regulation, or order.

SECTION 7 – EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as required by law.

Ordinance No. 2009-2 introduced and its adoption moved by Amy Zweber; and seconded by Rob Schoen.

Upon a roll call of votes, thereon, the results were as follows:

Votes Cast	<u>3</u>
Votes Aye	<u>3</u>
Votes Nay	<u>0</u>

The President declared Ordinance No. 2009-2 adopted, approved and signed the same this 14th day of April, 2009.

DOUGLAS LAU, President

COUNTERSIGNED:

DENNIS GRUETT, Village Clerk/Treasurer