

CHAPTER 13

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13.01 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 Montfort 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.

13.02 MAINTENANCE OF CODE.

(1) The Clerk shall certify one copy of this Code as the original Municipal Code and shall file the same as part of the Village Ordinance Book. 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 Board of Supervisors, 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 and scrivener's errors but no other changes shall be made without Village Board approval.

13.03 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.

13.04 PUBLIC RECORDS

(1) Designation of Legal Custodian of the Records of the Village. The Village Board hereby designates the Village Clerk as the official legal custodian of the public records of the Village. It shall be the responsibility of the Village Clerk to carry out all duties and responsibilities imposed upon the Village and the legal custodian by the Wisconsin Public Records and Property Law, as set forth in ss. 19.31 to 19.39, Wis. Stats. The Village of Montfort adopts the Wisconsin Municipal Records Schedule for the retention and destruction of Village records. The Village Clerk shall be responsible for the timely response to any request for access to the public records, the release of the public records of the Village, the conditions under which records may be inspected and the collection of costs for the location and reproduction of such records.

(2) Designation of Deputy Legal Custodian. The Village President is hereby designated as deputy legal custodian to act as legal custodian in the absence of the Village Clerk.

(3) Notice to all Employees. It is directed that all employees of the Village be informed, in writing, of the designation of the legal custodian and the deputy legal custodian of the public records of the Village. Employees shall be further informed of the duties of the official legal custodian and shall also be made aware of the other requirements and provisions of this section.

(4) Powers and Duties of the Official Legal Custodian. All requests for the release, inspection and/or reproduction of public records of the Village shall be directed or referred to the Village Clerk who is hereby vested with full legal power to make all necessary decisions relative to the release, inspection and reproduction of public records and is further granted all authority necessary to carry out all duties and responsibilities required by either the Wisconsin Public Records and Property Law or this section. The Village Clerk shall establish hours when persons shall have access to records maintained in the Village Office. The Village Clerk shall prepare

and post a notice to the public regarding access to public records, pursuant to ss. 19.34, Wis. Stats.

(5) Fee Schedule Regarding the Costs of Locating and/or Reproducing Records and Property of the Village. The cost of photocopying and computer runs shall be set forth in the official fee schedule on file at the Village office plus mailing and research costs. The cost of downloading records to a computer disk, cassette or CD is shall be set forth in the official fee schedule on file at the Village office per disk, plus mailing and research costs. The cost for downloading data files or poll lists to a disk shall be set forth in the official fee schedule on file at the Village office. It is intended that this fee schedule shall cover the payment of the actual, necessary and direct costs incurred in locating a document or in providing any person with a reproduction of any of the records of the Village. Prepayment of fees is required if the fee exceeds \$5.00.

(6) Preservation of Records. The records of the Village shall be retained and preserved by the legal custodian, as required by all applicable laws, and no records shall be destroyed without the prior written approval of the legal custodian. Further, no record of the Village shall be destroyed after the receipt of a request for such record until after the request is granted or until any dispute concerning the request has been completely and finally resolved.

(7) Destruction of Obsolete Public Records.

(a) General Records Schedule Adopted. The Village of Montfort hereby adopts, by reference, the Wisconsin Municipal Records Schedule (hereinafter, "Records Schedule"), pertaining to the retention and destruction of public records, and approved by the State of Wisconsin Public Records Board (hereinafter, "Records Board") on August 27, 2018. A copy of the Records Schedule will be kept on file in the Village Clerk's office located at 102 E. Park Street and made available for public viewing during regular office hours.

(b) Utility Records. The Village of Montfort hereby adopts, by reference, the Wisconsin Public Service Commission Record Schedule per attachment A, Docket 05-US-114, pertaining to the retention and destruction of public utility records The Village Clerk may destroy the records of any municipal utility of which he or she is legal custodian and which are considered obsolete per the PSC Record Schedule.

(c) Other Records. In the event the Village creates a record not contemplated by the Records Schedule, the Village may, subject to the Records Board's prior approval, either adopt an applicable records retention schedule set forth by the Records Board, if available, or create its own retention schedule pertaining to the record.

(d) Notice Required. Prior to the destruction of any public record described above, at least 60 days' notice shall be given to the State Historical Society.

(e) Limitation. This section shall not be construed to authorize the destruction of any public records after a period less than prescribed by statute or State administrative regulation.

(f) In the event the Village Clerk determines to tape record meetings for his use in preparing minutes of such meetings, the tape recording may be destroyed no sooner than 90 days after the written minutes have been approved and published.

13.05 MUNICIPAL CITATIONS

(1) Violations of ordinances of the Village shall be enforced by the issuance of a Municipal citation.

(2) The Municipal Citation shall contain the following information:

(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 Code 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 upon the deposit schedule established by the Village Board as a part of this section may be made and which, if made, shall be delivered or mailed to the Clerk of the Circuit Court for Grant County, Wisconsin, at the Courthouse in the City of Lancaster, Wisconsin, or the Clerk of the Circuit Court for Iowa County, Wisconsin, at the Courthouse in the City of Dodgeville, Wisconsin, whichever applies, 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 in court at the time specified, an action may be commenced to collect the forfeiture or the alleged violator may be found in default and judgment may be rendered against him for the amount of the forfeiture set forth.

(h) 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 par. (g) above has been read. Such statement shall be sent or brought with the cash deposit.

(i) Such other information as the Village deems necessary.

(3) The Village Board hereby adopts for use the Wisconsin Uniform Municipal Citation, Form MOSI, consisting of a 3-part citation, a sample of which is on file in the office of the Village Clerk and which is adopted by reference as though fully set forth herein.

(4) The schedule of cash deposits for use with citations issued under this section shall be as adopted by the Village Board from time to time and such schedule shall be on file in the office of the Village Clerk. There is hereby adopted by reference as though fully set forth herein a schedule of deposits, a copy of which is attached hereto and made a part hereof. Deposits shall be in cash, money order or certified check to the Village Clerk, an authorized law enforcement officer or the Clerks of Court for Grant and Iowa Counties, Wisconsin, who shall provide a receipt therefor.

(5) Any law enforcement officer contracted by the Village is hereby authorized to issue citations under this section.

(6) Section 66.0113, Wis. Stats., is hereby adopted and incorporated herein by reference.

(7) This section does not preclude the Village Board from adopting any other ordinance or providing for the enforcement of any law or ordinance relating to the same or other matter. The issuance of a citation hereunder shall not preclude the Village of Montfort or any authorized officer thereof from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

13.06 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 MONTFORT SCHEDULE OF PENALTIES FOR CODE VIOLATIONS
(Add all court costs and surcharges to amounts listed)**

<u>DESCRIPTION</u>	<u>FIRST OFFENSE WITHIN 12 MONTHS</u>	<u>SECOND AND OFFENSE SUBSEQUENT OFFENSE 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 \$50.00 and not more than \$200.00	\$50.00	\$100.00
Any offense for which the specified forfeiture is at least \$200.00 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
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(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.

13.07 FEES

(1) The fees referred to in all sections of the Municipal Code shall be established by the Village Board of the Village of Montfort by resolution and may from time to time be modified by Village Board action. The current fee schedule resolution established by the Village of Montfort shall be available for review in the Village Clerk/Treasurer's Office.

(2) Payment. All fees are due and payable at or prior to the date on which an application or request for a license, permit or service is sought. Fees for services provided without an application or request for such service being made are due and payable 20 days after the date of invoice.

(3) Other Means of Collection. Nothing in this section shall be construed to prevent the Village from collecting outstanding amounts owed by any other means of collection authorized by law including, but not limited to, assessment of special charges, small claims or other civil actions and the imposition of forfeitures.

(4) Effect. In the event the fees provided in this ordinance conflict with fees provided under any other ordinance in the municipal code, the current resolution shall control.

13.08 REPEAL OF GENERAL ORDINANCES.

All ordinances heretofore adopted by the Village Board of the Village of Montfort 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.

13.09 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.

13.10 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 2017-2018.

(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.

13.11 TITLE: EFFECTIVE DATE: CITATION.

These ordinances shall be known as the “Municipal Code of Montfort, 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 Montfort, Wisconsin).