

ORDINANCE NO. 313

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE VILLAGE OF CAMPBELLSPORT, WISCONSIN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE VILLAGE BOARD OF CAMPBELLSPORT, FOND DU LAC COUNTY, WISCONSIN, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The Code entitled "Municipal Code of the Village of Campbellsport, Wisconsin," published by Municipal Code Corporation, consisting of chapters 1 through 35, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before June 9, 2008, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished as follows:

(a) *General penalty.* Except as otherwise provided, any person who shall violate any of the provisions of this Code or any rule or regulation adopted or issued in pursuance thereof, or any provision of any code adopted by reference in this Code, shall, upon conviction of such violation, be subject to a penalty,

which shall be as follows:

(1) *First offense.* Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$1,000.00, 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 such forfeiture and costs are paid, but not exceeding 90 days.

(2) *Second offense.* Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$25.00 nor more than \$1,000.00 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 such forfeiture and costs are paid, but not exceeding six months.

(b) *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.

(c) *Execution against defendant's property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any 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 such forfeiture and costs.

(d) *Citation method of enforcement.*

(1) *Statutory authorization.* Pursuant to Wis. Stats. § 66.0113, the village elects to use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists.

(2) *Contents of citation.* The citation shall contain the following:

a. Name and address of the alleged violator.

b. Factual allegations describing the alleged violation.

- c. Time and place of the offense.
- d. Number and section of the ordinance violated.
- e. A designation of the offense in such a manner as can readily be understood by a person making a reasonable effort to do so.
- f. Time and date in which the violator may appear in court.
- g. A statement that in essence informs the violator:
 - 1. That a cash deposit based on an established schedule set from time to time by the village board on file in the clerk's office may be delivered or mailed to the clerk of municipal court prior to the time of the scheduled court appearance.
 - 2. That if a deposit is made no appearance in court is necessary unless he is subsequently summoned.
 - 3. If the alleged violator makes a cash deposit and fails to appear in court, the citation may serve as the initial pleading and the violator shall be considered to have tendered a plea of no contest and submitted to a forfeiture, the penalty assessment imposed by Wis. Stats. ch. 814, the jail assessment imposed by Wis. Stats. § 302.46(1), and any applicable domestic abuse assessment imposed by Wis. Stats. § 973.055(1), not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly or reject the plea. If the court finds the violation meets the conditions in Wis. Stats. § 800.093(1), the court may summon the alleged violator into court to determine if restitution shall be ordered under Wis. Stats. § 800.093. If the court accepts the plea of no contest, the defendant may move within ten days after the date set for the appearance to withdraw the plea of no contest, open the judgment and enter a plea of not guilty if the defendant shows to the satisfaction of the court that

the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If the plea of no contest is accepted and not subsequently changed to a plea of not guilty, no costs or fees may be taxed against the violator, but a penalty assessment, a jail assessment and, if applicable, a domestic abuse assessment shall be assessed. If the court rejects the plea of no contest, an action for collection of the forfeiture, penalty assessment, jail assessment and any applicable domestic abuse assessment may be commenced. The village may commence action under Wis. Stats. § 66.0114(1). The citation may be used as the complaint in the action for the collection of the forfeiture, penalty assessment, jail assessment and any applicable domestic abuse assessment.

4. If the alleged violator does not make a cash deposit and fails to appear in court at the time specified in the citation, the court may issue a summons or warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment accordingly if service was completed as provided under subsection 5., or the village may commence an action for collection of the forfeiture, penalty assessment and jail assessment and any applicable domestic abuse assessment. The village may commence action under Wis. Stats. § 66.0114(1). The citation may be used as the complaint in the action for the collection of the forfeiture, penalty assessment and jail assessment and any applicable domestic abuse assessment. If the court considers the nonappearance to be a plea of no contest and enters judgment accordingly, the court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow the defendant not less than 20 days from the date of the judgment to pay any forfeiture, penalty assessment and jail assessment and any applicable domestic abuse assessment imposed. If the defendant moves to open the judgment within six months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect, the court

shall reopen the judgment, accept a not guilty plea and set a trial date.

5. A direction that if the alleged violator elects to make a cash deposit, the statement that accompanies the citation shall be signed to indicate that the required statement has been read. Such statement shall be sent or brought with the cash deposit.
 - h. Deposits shall be made in cash, money order or certified check to the clerk of municipal court, who shall provide a receipt therefor.
- (3) *Issuance of citations.* Any village law enforcement officer is authorized to issue citations for violations of those ordinances they are empowered to enforce.
 - (4) *Procedure.* Wis. Stats. § 66.0113(3), relating to a violator's options and procedures on default, is adopted and incorporated by reference in this section.
 - (5) *Nonexclusivity.*
 - a. *Other ordinance.* Adoption of this subsection does not preclude the village 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 under this section shall not preclude the village board 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.
 - (e) *Forfeiture bonds for municipal citations.* The chief of police is authorized to establish bond amounts for violations of this Code, for which municipal citations are written. The forfeitures shall be not less than \$10.00 nor more than \$1,000.00, plus costs and assessments. The establishment of these bond amounts shall be done administratively by the chief of police and shall not require any further action by the village board.

(f) *Juveniles.*

(1) *Definitions.* The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Juvenile means a person who is 12 years of age or older, but less than 17 years of age.

(2) *Penalty.* Any juvenile who violates any provision of this Code or any rule or regulation adopted or issued pursuant hereto or any provision of any code adopted herein by reference, upon conviction of such violation, shall be subject to imposition of any of the dispositions set forth in Wis. Stats. §§ 938.343 and 938.344, in accordance with the provisions of those sections. Any juvenile who violates a condition of a dispositional order under Wis. Stats. §§ 938.343 or 938.344, upon adjudication of such violation, shall be subject to imposition of any of the sanctions set forth in Wis. Stats. § 938.355(6)(d).

Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the village may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the village to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after June 9, 2008, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective upon publication.

Passed and adopted by the Village Board this 10th day of November, 2008.

Patrick D. Twohig, Village President

ATTEST:

Diane Lemke, Village Clerk/Treasurer

Motion by Tr. Schellhaass, seconded by Tr. Schickert

Roll Call Vote: "Ayes" 6 "Noes" 0 "Abs." 0

Published _____

Ordinance313coderecodification

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the Village Board, held on the 10th day of November, 2008.

Village Clerk/Treasurer