

25.01 RULES OF CONSTRUCTION

In the construction of these general ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

(1) **Wisconsin Statutes**

The term "Wisconsin Statutes" wherever used in this ordinance code shall mean the Wisconsin Statutes for the years 1991 - 1992 and as amended, and shall include the 1993-94 biennial session.

(2) **Gender, Singular and Plural**

Every word in these ordinances 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 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 politics and all entities of any kind capable of being sued unless plainly inapplicable.

(4) **May and Shall**

"May" is discretionary; "shall" is mandatory.

(5) **Acts of Agents**

When a provision requires an act to be done which may as well be done by an agent as by the principal, such requirements shall be construed to include all such acts when done by an authorized agent.

(6) **Undefined Terms**

In interpreting any term in the ordinances when the term is not defined in the section in question or in the definition section, the ordinary meaning of the term will apply unless the context clearly indicates a different meaning is intended.

25.02 CONFLICT AND SEPARABILITY

(1) Conflict of provisions

If provisions of the different chapters of this ordinance code conflict with or intervene 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) Severability/Separability

If any section, subsection, sentence, clause or phrase of the ordinance 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 effect the validity of the other section, subsection, sentence, clause or phrase or portion of each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one (1) 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 ordinance code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this ordinance code as if fully set forth herein and the Town Clerk shall file, deposit and keep in his or her office a copy of the ordinance 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 Town Clerk's office hours, subject to such orders or regulations which the Town Clerk may prescribe for their preservation.

25.04 PENALTY PROVISIONS

(1) General Penalty

Any person who shall violate any of the provisions of this ordinance code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows unless otherwise noted below or elsewhere in the ordinance code:

(a) First Offense

Any person who shall violate any provision of this ordinance code shall, upon conviction thereof, forfeit not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), together with

the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County of Kenosha jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

(b) 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 (1) year shall, upon conviction thereof, forfeit not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) 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 of Kenosha jail until such forfeiture and costs are paid, but not exceeding six (6) months.

(2) Continued Violations

Each violation and/or each day a violation or occurrence continues shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provisions of this Code.

(3) Execution Against Defendant's Property

Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any competent court for violation of any ordinance of the Town, 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.

25.05 REPEAL OF GENERAL ORDINANCES

All general ordinances heretofore adopted by the Town Board 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 Town 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 Town.
- (5) The lighting of streets and alleys.
- (6) The naming and changing of names of streets, alleys, public grounds and parks.
- (7) The letting of contracts without bids.
- (8) Tax and special assessment levies.
- (9) Releases of persons, firms or corporations from liability.
- (10) Construction of public works.
- (11) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (12) Budget ordinances, resolutions and actions.

25.06 EFFECT OF REPEALS

The repeal or amendment of any section or provision of this ordinance code or of any other ordinances or resolutions of the Town Board shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time 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 Town.
- (3) Affect any offense committed, or penalty or forfeiture incurred, previous to the time when any ordinance is repealed or amended; except when any forfeiture or penalty has 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 is repealed or amended; but the right of action shall continue and the offender shall be subject to the

penalty as provided in such ordinance, and such prosecution shall proceed, in all respects, as if such ordinance had not been repealed; except all such proceedings had after the time this ordinance code takes effect shall be conducted according to the provisions of this Code.

25.07 BUSINESSES WHICH ARE PROHIBITED

(1) If any use, activity, business or operation proposed to be operated in the Town is not specifically named in any licensing or permit ordinance of the Town, the lack of such mention shall not be deemed to prohibit the operation of such use, activity, business or operation. If there is not a Town ordinance requiring a license or permit for a particular use, activity, business or operation, the use, activity, business or operation may operate without a License or permit until such time as a licensing or permit ordinance covering such use, activity, business or operation is passed.

(2) Descriptions of uses, activities, businesses or operations or categories of uses, activities, businesses or operations in licensing or permit ordinances shall be broadly interpreted in determining whether a particular, use, activity, business or operation is covered by a licensing or permit ordinance.

25.08 GUARANTEE/WARRANTEE

(1) Nothing in this ordinance code shall be interpreted as guaranteeing or warranting that any method, construction, product, service, building or anything whatsoever is safe, free from defects or suited for the purpose for which it is intended.

(2) No issuance of a license or permit, approval, inspection or other action by any Town officer, employee or agent shall constitute a warranty or guarantee that any method, construction, product, building, service or anything whatsoever is safe, free from defects or suited for the purpose for which it is intended.

25.09 KEEPING CODE CURRENT

The Town Clerk shall certify one copy of the ordinance code as the original Code of Ordinances of the Town and shall file the same as part of the Town Ordinance Book. Such copy shall be retained in its original form. In addition, the Town Clerk shall retain in his or her office at least one copy of the Code of Ordinances in current form with all supplemental sheets, for general viewing by the public.

25.10 CITATIONS FOR CERTAIN ORDINANCE VIOLATIONS

(1) Statutory Authority

Pursuant to Sec. 66.119, (1991-1992) Wis. Stats., the Town Board hereby elects to use the citation method of enforcement of Town ordinances described herein, including ordinances for which a statutory counterpart exists.

(2) Form of Citation

The citation issued by the Town shall contain the following:

- (a) The name and address of the alleged violator;
- (b) The 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 a 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;

1. That a cash deposit based on the schedule established by this ordinance may be made which shall be delivered or mailed to the Clerk of 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 or she is subsequently summoned.

3. That if a cash deposit is made and the alleged violator does not appear in court, he or she 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 or her to appear in court to answer the complaint.

4. 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.

- (h) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed by the alleged violator to indicate that the statement required under (g) above has been read. Such statement shall accompany the cash deposit;
- (i) Form to be in triplicate.
- (j) Such other information as the Town deems necessary.

(3) **Schedule of Deposits**

The following schedule of cash deposits is established for use with citations issued under this ordinance.

<u>ORDINANCE TITLE</u>	<u>OFFENSE</u>	<u>DEPOSITS & COSTS</u>
Mobile Home Ordinance No. 12.05(4)	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Licensing of Dogs No. 12.05(2)	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Restrictions on cats No. 12.05(2)(e)1.	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Cats and Dogs No. 1.50(5)(d)1.	Violation	\$25.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Rabies Shots No. 12.05(2)(e)2.	Violation	\$50.00 forfeiture plus penalty assessment and prosecution costs
Stray Dogs No. 12.05(2)(e)3.	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and

		prosecution costs
Cruelty to Animals No. 12.05(2) (e) 4.	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Defecation No. 12.05(2) (e) 6.	Violation	\$25.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Dog Kennels No. 12.05(3)	Violation	First Offense - \$25.00 forfeiture plus penalty assessment, jail assessment and prosecution costs Second Offense - \$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Other Animals and Fowl No. 11.07	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Public Nuisances No. 10.00	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Burning of Refuse No. 11.06	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Motor Vehicle Use No.1. 50 (5) (d) 4.	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Prohibited Parking No. 7.04(3)	Violation	\$25.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Building Permits No. 14.01	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and

		prosecution costs
State Uniform Dwelling Code No. 14.03	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Satellite Earth Stations No.1 4.04	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Highway Openings Regulated No. 8.03	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Obstruction of Ditches and Culverts No. 8.05	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Possession of Alcohol and Drugs No. 1.50(5) (d)3.	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Litter and Discharge No. 1.50(5) (d)5.	Violation	\$50.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Bottles No. 1.50(5) (d)6.	Violation	\$25.00 forfeiture plus penalty assessment, jail assessment and prosecution costs
Hours/Days of Operations No. 1.50(5) (d)8.	Violation	\$25.00 forfeiture plus penalty assessment, jail assessment and prosecution costs

A penalty assessment of 20% or the percentage as required by law, shall be added to the costs listed above.

Deposits shall be made in cash; money order, personal check or certified check to the Clerk of Court who shall provide a receipt therefore.

(4) **Issuance of Citation**

The following officials may issue citations with respect to ordinances which are directly related to the official responsibilities of the officials.

<u>Ordinance Title</u>	<u>Enforcement Official</u>
Mobile Home Ordinance No. 12.04	Enforcement Officer Town Board Member Building Inspector
Restrictions on cats No. 12.05(2)(e)1.	Enforcement Officer Town Board Member
Cats and Dogs No. 1.50(5)(d)1.	Enforcement Officer Town Board Member President Park Commission
Rabies Shot No. 12.05(2)(e)2.	Enforcement Officer Town Board Member
Stray Dogs No. 12.05(2)(e)3.	Enforcement Officer Town Board Member
Defecation No. 12.05(2)(e)6.	Enforcement Officer Town Board Member
Dog Kennels No. 12.05(3)	Enforcement Officer Town Board Member
Other Animals and Fowl No. 11.07	Enforcement Officer Town Board Member
Public Nuisances No. 10.00	Enforcement Officer Town Board Member Building Inspector
Burning of Refuse No. 11.06	Enforcement Officer Fire Department Chief Town Board Member
Ice Racing No. 20.14	Enforcement Officer Town Board Member
Motor Vehicle Use No. 1.50(5)(d)4.	Enforcement Officer Town Board Member President Park Commission
Prohibited Parking No. 7.04(3)	Enforcement Officer Town Board Member

Building Permits No. 14.01	Building Inspector Town Board Member
State Uniform Dwelling Code Adopted No. 14.03	Building Inspector Town Board Member
Satellite Earth Stations No.1 4.04	Building Inspector Enforcement Officer Town Board Member
Snowmobiles (Except where prohibited in Chapter 350, (1991-1992) Wis. Stats.) No. 7.05	Enforcement Officer Town Board Member
Highway Openings Regulated No. 8.03	Building Inspector Enforcement Officer Town Board Member
Obstruction of Ditches and Culverts No. 8.05	Enforcement Officer Town Board Member Building Inspector
Driveways and Culverts No. 8.06	Enforcement Officer Town Board Member Building Inspector
Possession of Alcohol and Drugs No. 1.50(5) (d)3.	Enforcement Officer Town Board Member President Park Commission
Litter and Discharge No. 1.50(5) (d)5.	Enforcement Officer Town Board Member President Park Commission
Bottles No. 1.50(5) (d)6.	Enforcement Officer Town Board Member President Park Commission
Hours/Days of Operations No. 1.50(5) (d)8.	Enforcement Officer Town Board Member President Park Commission

(5) **Procedure**

Sec. 66.119(3), (1991-1992) Wis. Stats., relating to violator's options and procedures on default is hereby adopted and incorporated into this ordinance code by reference.

(6) **Non-Exclusivity**

(a) Other Ordinance

Adoption of this ordinance does not preclude the Town 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 herein shall not preclude the Town Board or any authorized official from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation, order.

25.11 TITLE; EFFECTIVE DATE; CITATION

These ordinances shall be known as the "Town of Randall Ordinance Code" and shall take effect from and after passage and publication as, provided in Sec. 66.035, (1991-1992) Wis. Stats. All references thereto shall be cited by section number (i.e. Section ____ Town of Randall Ordinance Code).