

Village of Sister Bay Code of Ordinances

Chapter 18

Business Regulation

Table of Contents

ARTICLE I – ROOM TAX	1
Sec. 18.1 Definitions	1
Sec. 18.2 Creation of Tourism Zone.....	2
Sec. 18.3 Imposition of Room Tax.....	2
Sec. 18.4 Lodging Establishments to be Licensed	4
Sec. 18.5 Creation of a Commission	5
Sec. 18.6 Distribution of Room Taxes Collected	5
Sec. 18.7 Tourism Entity	5
Sec. 18.8 Tracking and Reporting Room Tax Revenue Expenditures.....	5
Sec. 18.9 Effective Date	5
Secs. 18.10 – 18.30 Reserved	7
ARTICLE II - DIRECT SALES.....	8
Sec. 18.31 Direct sales prohibited.....	8
Sec. 18.32 Definitions.....	8
Sec. 18.33 Exemptions.....	8
Sec. 18.34 Permits.....	9
Sec. 18.35 Penalties.....	9
Sec. 18.36 Enforcement.....	9

Village of Sister Bay Code of Ordinances

ARTICLE I - ROOM TAX

(Created Ordinance 123-121206.)

Sec. 18.1 Definitions

In this chapter, the following shall apply:

Commission has the meaning defined in Wisconsin Statutes §66.00615(a). If two or more municipalities in a zone impose a room tax under section (a), the municipalities shall enter into a contract under Wis. Stats. §66.0301 to create a Commission under §66.0301(2). Each municipality in a single zone that imposes a room tax shall levy the same percentage of tax. If the municipalities are unable to agree on the percentage of tax for the zone, the commission shall set the percentage.

Gross receipts has the meaning as defined in Wis. Stats. §76.48(d): A Gross receipts means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.

Hotel and motel have the meaning as defined in Wis. Stats. §77.52(2)(a)1. "Hotel and motel" means a building or a group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins, commercial indoor lodging facilities and any other building or group of building in which accommodations are available to the public, except accommodations rented for a continuous period of more than thirty (30) consecutive days and accommodations furnished by any hospitals, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

Municipality means the Village of Sister Bay, Wisconsin.

Payor means the person or entity who owes the tax imposed by this article.

Room tax means the tax imposed pursuant to this chapter.

Tourism has the meaning as defined in Wis. Stats. §66.0615(1)(e): Tourism means any travel for recreational, business or educational purposes.

Transient has the meaning as defined in Wis. Stats. §77.52(2)(a)1: Transient means any person residing for a continuous period of less than thirty (30) consecutive days in a hotel, motel, or other furnished accommodations available to the public.

Tourism Entity has the meaning as defined in Wis. Stats. §66.0615. A nonprofit organization that provides staff, development or promotional services for the tourism industry in the municipality, and as one of its primary purposes the generation of paid overnight stays. The tourism entity must have a governing board comprised of over fifty (50%) percent representation from the area's restaurants, drinking places, gift/souvenir shops, hotels, motels, bed and breakfasts, tourist rooming houses, public golf courses, amusement parks or other tourist attractions; twenty-five (25%) percent or more of the total board must be owner's or operators of room tax paying lodging establishments.

Tourism promotion and development has the meaning as defined in Wis. Stats. §66.0615(1)(fm): "Tourism promotion and development" means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a room tax may be imposed, that are owned by different persons and located within the municipality; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

1. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motor coach groups.

Village of Sister Bay Code of Ordinances

Sec. 18.2 Creation of Tourism Zone

Sec. 18.3 Imposition of Room Tax

1 2. Transient tourist informational ser- 54
2 vices. 55
3 3. Tangible municipal development, 56
4 including a convention center. 57
5 58
6 Tourism Zone has the meaning as defined in Wis. 59
7 Stats. §66.0615: "Tourism Zone" means an 60
8 area made up of two or more municipali- 61
9 ties that, those municipalities agree, is a 62
10 single destination as perceived by the trav- 63
11 eling public. 64
 65
12 **Sec. 18.2 Creation of Tourism Zone** 66
13 Pursuant to Wis. Stats. §66.0615, the Village of 67
14 Sister Bay will join the Door County Tourism Zone 68
15 for the purpose of promoting the County as a sin- 69
16 gle destination. 70
 71
17 **Sec. 18.3 Imposition of Room Tax** 72
18 (a) Tax Imposed. 73
19 Pursuant to Wis. Stats. §66.0615, a tax is 74
20 hereby imposed on the privilege and ser- 75
21 vices of furnishing, at retail, of rooms or 76
22 lodging to transients by hotel keepers, mot- 77
23 el operators and other persons furnishing 78
24 accommodations that are available to the 79
25 public, irrespective of whether member- 80
26 ship is required for the use of the accom- 81
27 modations. Such tax shall be at the rate of 82
28 5.5% percent of the gross receipts from 83
29 such retail furnishing of rooms or lodgings. 84
30 Such tax shall not be subject to the selec- 85
31 tive sales tax imposed by Wis. Stats. §77.52 86
32 (2)(a)1, and may not be imposed upon 87
33 sales to the Federal Government and per- 88
34 sons listed under Wis. Stats. §77.54 (9a). 89
35 90
36 (b) Taxation Effective Date. 91
37 The effective date of the Room Tax shall be 92
38 May 1, 2007. (Amended Ordinance 124- 93
39 032707.) 94
40 95
41 (c) Room Tax Payment Frequency. 96
42 Room Tax should be paid by the lodging 97
43 property on a monthly basis. It should be 98
44 paid by the end of the month following the 99
45 month in which it was collected unless the 100
46 end of the month falls on a Saturday or 101
47 Sunday, which would make it due on Mon- 102
48 day. 103
49 (1) If the municipality collects the 104
50 Room Tax directly from each lodg- 105
51 ing property on a monthly basis, 106
52 they must then put together a 107
53 monthly report showing the total 108
 109

amount of Room Tax collected from
each property and submit that along
with a check for seventy percent
(70%) of the total collected to the
Commission by the fifteenth of the
month following collection or ap-
proximately forty-five (45) days after
the end of the month from which
the Room Tax was collected. The
municipality shall also submit copies
of each lodging property's Monthly
Room Tax return as specified in Sec-
tion 18.3(e).

(2) The Room Tax is owed to the local
municipality which imposed the tax,
but for convenience, the municipal-
ity can direct that all checks be sent
directly to the Commission. If the
Room Tax checks for all properties in
a municipality are sent directly to
the Commission, the Commission
will send one check by the fifteenth
of each month to the municipality
for thirty percent (30%) of all Room
Tax collected the previous month
along with a report showing the
amount of Room Tax collected from
each lodging property. In the latter
case, the Commission does all the
paper work as part of their monitor-
ing.

(d) Room Tax Responsibility.
The correct amount of Room Tax shall ac-
company each lodging property's monthly
tax return and be made payable to the mu-
nicipality, or if the municipality prefers, to
the Door County Tourism Zone Commis-
sion. If any person liable for any amount of
tax under this agreement sells out their
business or otherwise quits the business,
their successors or assigns shall withhold
sufficient of the purchase price to cover
such amount until the former owner pro-
duces a receipt from the Municipal Treas-
urer that it has been paid or a certificate
stating that no amount is due. If any person
subject to the tax imposed by this agree-
ment fails to withhold such amount of tax
from the purchase price as required, they
shall become personally liable for the
payment of the amount required to be
withheld by them.

Village of Sister Bay Code of Ordinances

- 1 (e) Monthly Room Tax Return. 57
2 The Monthly Room Tax Return filed with 58
3 the room tax payment by the lodging 59
4 property shall contain the following infor- 60
5 mation: Name of the business, physical 61
6 address, postal address, municipality lo- 62
7 cated within, name of the designated per- 63
8 son filling out the return, month and year 64
9 the return is for, total available rental units 65
10 during the month (number of rental units 66
11 in the facility multiplied by the days in the 67
12 month or days they were open), number of 68
13 rooms or units rented, total lodging sales 69
14 for the month, room tax to be paid, (which 70
15 should equal total lodging sales multiplied 71
16 by the 5.5% Room Tax), and the signature 72
17 of the person filling out this return, attest- 73
18 ing to the accuracy. This information will 74
19 allow the municipality or Commission to 75
20 judge the accuracy of the return, and, for 76
21 the Commission, with all returns in total, to 77
22 judge the effectiveness of the tourism 78
23 promotion. The Commission shall estab- 79
24 lish the form of the monthly tax return as 80
25 either a paper and/or electronic docu- 81
26 ment. 82
27
28 (f) Delinquent Room Tax. 83
29 Delinquent Room Tax returns shall be sub- 84
30 ject to a twenty-five dollar (\$25) late filing 85
31 fee. The tax imposed pursuant to this 86
32 chapter shall become delinquent if not 87
33 paid by the due date of the return. A forfei- 88
34 ture of twenty-five percent (25%) of the 89
35 room tax due or five thousand dollars 90
36 (\$5,000.00) whichever is less, of the tax 91
37 imposed, is hereby established and due 92
38 and owing in the event that the room tax is 93
39 not paid within thirty (30) days after the 94
40 due date of the return. To prevent payment 95
41 omissions, within ten (10) days of a past 96
42 due Room Tax payment, the Municipal 97
43 Treasurer or Clerk or the Commission, if 98
44 they were to receive the check, should 99
45 send a written past due statement to the 100
46 designated person or agent at the late pay- 101
47 ing lodging business. In addition to this for- 102
48 feiture, all unpaid taxes under this chapter 103
49 shall bear interest at the rate of twelve per- 104
50 cent (12%) per annum from the due date of 105
51 the return until received and deposited by 106
52 the Municipal Treasurer or the Commis- 107
53 sion. Whenever the Municipal Treasurer or 108
54 the Commission has probable cause to be- 109
55 lieve that the correct amount of room tax 110
56 has not been assessed or that the tax return 111
112
- is not correct, or that the tax has not been paid, the Municipal Treasurer or the Commission is authorized to examine and inspect the books, records, memoranda and property of any person in order to verify the tax liability of that person or another person. The Municipal Treasurer or Commission shall make an estimate of the amount of tax owed. Based on this estimate, the Municipal Treasurer or the Commission shall add a penalty of ten percent (10%) thereof. If a person files a false or fraudulent return with the intent of either case to defeat or evade the tax imposed by this chapter, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties. If any past due tax, interest or penalties are due at the beginning of a calendar year, a new annual room tax-lodging permit will not be issued by the Clerk of the municipality unless satisfactory financial arrangements have been made with the Municipal Treasurer and Commission to satisfy payment.
- (g) Confidentiality of Reports.
All Room Tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Commission and the municipality are deemed confidential pursuant to Wis. Stats. §66.0615(3), except they may divulge their contents to the following, and no others:
(1) The person who filed the return.
(2) Officers, employees or agents of the Municipal Treasurer and the Commission.
(3) Other persons for the use in the discharge of duties imposed by law, or in the discharge of the duties of their office (unless otherwise prohibited by law), or by order of a Court.
- (h) Exemptions in 2007.
The following exemptions shall automatically expire on December 31, 2007. For 2007, there may be exemptions to the collection of the Room Tax subject to audit. Any person or business otherwise required to file a return and make a payment under this Agreement, will be allowed an exemption from the requirement to collect and pay Room Tax for any signed contract dated prior to the adoption of the Agreement in which the contract guarantees the

Village of Sister Bay Code of Ordinances

1 lodging rates and the applicable taxes. This
2 also applies to any gift certificate purchase
3 before the adoption of this Agreement,
4 which is not for a fixed dollar amount, but,
5 instead, for the amount paid, guarantees a
6 particular lodging rate and the applicable
7 taxes. This exemption does not apply to
8 reservations made before the adoption of
9 this agreement, which are not binding con-
10 tracts. The Commission shall establish pro-
11 visions for the proper reporting of these
12 exemptions.

13 Sec. 18.4 Lodging Establishments to be 14 Licensed

15 (a) License Required. Any party supplying
16 transient lodging in the Village of Sister Bay
17 shall obtain and maintain a permit from
18 the Village Clerk permitting the rental of
19 accommodations. No accommodations
20 shall be rented or available for rental for a
21 period of less than thirty (30) days by any
22 party not possessing a lodging permit is-
23 sued by the Village.

24
25 (b) Permit Application. Any party furnishing
26 lodging accommodations to transient
27 guests in the Village shall annually file, on
28 or before the end of the year, with the Vil-
29 lage Clerk, an application to operate each
30 place of business subject to this chapter.
31 There shall be no cost for the filing of the
32 application for the permit. The application
33 form shall include, at minimum, the fol-
34 lowing information:

- 35
36 (1) The name of the business under
37 which the person, partnership or
38 corporation transacts business or in-
39 tends to transact business. (This
40 name shall agree with that used for
41 Sales Tax Permits.)
- 42 (2) The name of the agent for the busi-
43 ness or other person designated as
44 responsible to remit the Room Tax,
45 and means to contact this person,
46 including email address, postal ad-
47 dress, telephone number, fax num-
48 ber and cell phone number.
- 49 (3) The physical and mailing address of
50 the business.
- 51 (4) Number of rental units at the loca-
52 tion for each month of the year dur-
53 ing which the business is operating.
- 54 (5) The signature of the person desig-
55 nated in item b. above.

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(c) Permit Review and Issuance. The Village
Clerk may accept the application, review it
for accuracy and issue the permit. A copy
of all applications should be submitted by
the Village Clerk, before the end of Janu-
ary, to the Commission that is responsible
for monitoring the collection of Room
Taxes. The permit shall not be assignable.
The permit shall only be valid for the per-
son named on the application as being re-
sponsible to remit the Room Tax. In cases
where that person should change or the
ownership should change during the life of
the permit, the application and issuance of
a new permit shall be necessary.

(d) Penalty for Failure to Obtain and Maintain a
Permit for the Rental of Accommodations.
Any party in violation of the terms of this
chapter by failing to obtain or maintain a
lodging permit, when such permit is re-
quired, shall be subject to a forfeiture of
not less than \$20 nor more than \$100 for
each violation. Each room or unit separa-
tely rented or offered for rent, and each
day of such rental or offer for rental of such
unit shall be a separate violation. In addi-
tion, injunctive relief is hereby authorized
to discontinue violation of this chapter.
Any party deemed to have violated any of
the provisions of this chapter shall be obli-
gated to pay the costs of prosecution, in
addition to actual attorney fees expended
in the course of said enforcement.

(e) (Amended Ordinance 132-081407.)

(f) Tourism Zone Commission. Authority is
hereby delegated to the Door County
Tourism Zone Commission to act as agent
of this municipality in the enforcement of
this chapter as amended, for violation of
the requirement of obtaining and main-
taining a lodging permit when such lodging
permit is required. The Door County Tour-
ism Zone Commission shall have and may
exercise the full authority which would
otherwise be available to this municipality
in the enforcement of this chapter, includ-
ing the ability to seek enforcement and
penalties for failure to comply with the sec-
tion requiring a lodging permit. (Amended
Ordinance 132-081407.)

Village of Sister Bay Code of Ordinances

1 **Sec. 18.5 Creation of a Commission**

2 (a) Commission Purpose. The municipalities
3 shall enter into a contract under Wis. Stats.
4 § 66.0615 to create a Commission under
5 the Intergovernmental Cooperation provi-
6 sions of Wis. Stats. §66.0301(2). The Com-
7 mission shall contract with a Tourism Entity
8 for the promotion of the destination with a
9 minimum of 70% of the room taxes col-
10 lected.

11 (b) Commission Membership. The
12 Commission created by a Tourism Zone
13 Agreement under Wis. Stats. §66.0615
14 shall consist of the following members:

15 (1) Two (2) members from each mu-
16 nicipality in which annual tax collec-
17 tions exceed \$300,000.

18 (2) One (1) member from each munici-
19 pality in which annual tax collec-
20 tions are \$300,000 or less.

21 (3) Two additional members, who rep-
22 resent the Wisconsin hotel and motel
23 industry, shall be appointed to
24 the Commission by the Chairperson
25 of the Commission. Those individu-
26 als shall serve for a one-year term at
27 the pleasure of the Chairperson,
28 and may be reappointed. These
29 members shall not be members of
30 the Board of Directors or employ-
31 ees of the Tourism Entity.

32
33 (c) Commission Member Appointment Proc-
34 ess and Term of Office. Members of the
35 Commission shall be appointed by the
36 principal elected official in the municipal-
37 ity and shall be confirmed by a majority
38 vote of the members of the municipality's
39 governing body who are present when the
40 vote is taken. Commissioners shall serve a
41 one-year term, at the pleasure of the ap-
42 pointing official and may be reappointed.
43 If a member of the Commission resigns or
44 is removed for cause, the municipal body
45 that appointed the member may appoint
46 another person to fulfill the unexpired
47 term. If the subject member was ap-
48 pointed by the Chairperson, they may ap-
49 point another person to fill the unexpired
50 term. Members of the Commission shall
51 receive no pay, but may be reimbursed for
52 their travel expense.

53
54 (d) Applicability of State Open Meetings Law.
55 While membership on the Commission is
56 provided for each municipality in the Zone

57 Agreement, all membership positions need
58 not be filled if a municipality does not see
59 a need. A member community that does
60 not appoint a representative shall not
61 count towards the determination of a quo-
62 rum. The Commission shall be subject to
63 the provisions of the Wisconsin Open
64 Meetings and Open Records laws as
65 amended.

66
67 (e) Role of Commission. The Commission shall
68 perform such tasks as are specified in the
69 Tourism Zone Agreement.

70 **Sec. 18.6 Distribution of Room Taxes**
71 **Collected**

72 Upon receipt of the room taxes that are collected,
73 the municipality shall distribute a minimum of
74 seventy (70%) percent of the room taxes to the
75 Tourism Zone Commission. The municipality shall
76 retain thirty (30%) percent of the room taxes or
77 less for such purposes as the Village Board of
78 Trustees shall determine. All municipalities will
79 still receive their monthly, quarterly and annual
80 reports if Room Tax checks are sent directly to the
81 Commission.

82 **Sec. 18.7 Tourism Entity**

83 The Commission shall contract with a Tourism En-
84 tity who shall spend the room taxes on tourism
85 promotion and development. The Tourism Entity
86 shall not use any of the room tax revenue to con-
87 struct or develop a lodging facility.

88 **Sec. 18.8 Tracking and Reporting Room**
89 **Tax Revenue Expenditures**

90 The Tourism Entity shall track the use of Room Tax
91 revenues and expenditures and state its impact
92 on generating paid over night stays in the com-
93 munity. The Tourism Entity shall permit and allow
94 inspections of its records pertaining to the use of
95 the room tax funds upon request of the Tourism
96 Commission at reasonable times. The Tourism En-
97 tity shall provide a written report as determined
98 by the Tourism Commission, no less than annu-
99 ally, and such report shall be available to the mu-
100 nicipality and public upon request.

101 **Sec. 18.9 Effective Date**

102 This chapter shall be effective on its passage and
103 publication with the following condition that at
104 least two (2) of the municipalities listed below
105 adopt the Room Tax and Tourism Zone Agree-
106 ment in substantially the same form prior to May
107 1, 2007.

Village of Sister Bay Code of Ordinances

Sec. 18.9 Effective Date

Secs. 18.10 - 18.30 Reserved

- 1 Town of Washington
- 2 Town of Liberty Grove
- 3 Town of Baileys Harbor
- 4 Town of Gibraltar
- 5 Town of Egg Harbor
- 6 Village of Egg Harbor
- 7 Village of Ephraim
- 8 City of Sturgeon Bay
- 9 (Amended Ordinance 124-032707.)

Village of Sister Bay Code of Ordinances

Secs. 18.10 - 18.30 Reserved

Secs. 18.10 - 18.30 Reserved

1 **Secs. 18.10 - 18.30 Reserved**

2

Village of Sister Bay Code of Ordinances

Sec. 18.31 Direct sales prohibited.

Sec. 18.33 Exemptions.

ARTICLE II - DIRECT SALES

Sec. 18.31 Direct sales prohibited.

Pursuant to Wis. Stats. § 61.34(1), no person other than a permanent merchant shall engage in direct sales within the Village except as set forth in this article.

Sec. 18.32 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable organization means any bona fide benevolent philanthropic, patriotic or eleemosynary person, partnership, association or corporation.

Direct seller means any person who sells goods, or takes sales orders for the later delivery of goods, at any location, other than the permanent business place or residence of such person, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of good includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

Goods means personal property of any kind, and shall include goods provided incidental to services offered or sold.

Permanent merchant means a direct seller who, for at least one year prior to the consideration of the application of this article to such merchant, (i) has continuously operated an established place of business in this village, or (ii) has continuously resided in this village, and now does business from his residence, which business is allowed by Chapter 66.

Person means and includes any individual, firm, corporation, association, partnership or cooperative and any director, owner, officer, employee or agent thereof.

Cross references: Definitions generally, § 1.2.

Sec. 18.33 Exemptions.

The following shall be exempt from all provisions of this article:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling food at wholesale to dealers in such goods;
- (c) Any person selling agricultural products which such person has grown.
- (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in his regular course of business.
- (e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, such person;
- (f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;
- (h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction pursuant to law;
- (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of that organization, provided that:
 - (1) There is first submitted to the Clerk-Treasurer proof that such charitable organization is registered under Wis. Stats. § 440.42, unless such charitable organization is exempt from that statute's registration requirements, in which case it shall be required to show that it is a bona fide charitable organization; and,
 - (2) The charitable organization first obtains a permit from the village.

Village of Sister Bay Code of Ordinances

1
2 (j) Any person who claims to be a permanent
3 merchant, but against whom a complaint
4 has been made to the clerk-treasurer that
5 such person is a transient merchant, pro-
6 vided that there is submitted to the clerk-
7 treasurer proof that such person has leased
8 for at least one year, or purchased, the
9 premises from which he is conducting
10 business, or proof that such person has
11 conducted such business in this village for
12 at least one year prior to the date such
13 complaint was made.

14 **Sec. 18.34 Permits.**

- 15 (a) Any permit required under this article shall
16 be obtained from the clerk-treasurer,
17 which permit shall be executed by the vil-
18 lage president and clerk-treasurer, or in
19 case of either's absence, a designee by the
20 Village Board.
21
22 (b) Before any permit is issued by the village,
23 the applicant for such permit shall submit a
24 written application to the clerk-treasurer
25 and pay the fee required by the village ac-
26 cording to the village's most recent fee
27 schedule approved by the Village Board.
28
29 (c) No permit issued under this article may be
30 transferred to another person.

31 **Sec. 18.35 Penalties.**

- 32 (a) Any person violating this article may be re-
33 quired to forfeit not less than \$500.00 nor
34 more than \$750.00 for the first offense,
35 and not less than \$1,000.00 nor more than
36 \$1,250.00 for the second or subsequent
37 conviction within a year.
38
39 (b) A separate offense shall be deemed com-
40 mitted on each day during or on which a
41 violation occurs or continues.

42 **Sec. 18.36 Enforcement.**

- 43 (a) This article may be enforced by the issu-
44 ance of a citation to any violator of this ar-
45 ticle by any sheriff or deputy sheriff of the
46 county, or any state officer with police
47 powers or any other duly appointed law
48 enforcement officers of the Village.
49
50 (b) In the alternative, any forfeitures imposed
51 by this article may be sued for and recov-
52 ered pursuant to Wis. Stats. Ch. 778 in the
53 name of the Village.