

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Mineral Point shall be designated as the Municipal Code of Mineral Point or this code and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY or MUNICIPALITY. The City of Mineral Point, Wisconsin.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision and adoption of new titles, chapters or sections.

COUNCIL. The Common Council of the City of Mineral Point, Wisconsin.

COUNTY. Iowa County, Wisconsin.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *SWEAR* and *SWORN* shall be equivalent to the words *AFFIRM* and *AFFIRMED*.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT. An officer, office, employee, commission or department of this municipality, unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms *PERSON* or *WHOEVER* as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

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PRECEDING or **FOLLOWING**. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or **SUBSCRIPTION**. Includes a mark when the person cannot write.

STATE. The State of Wisconsin.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

WIS. STATS or **WISCONSIN STATUTES**. All references to **WISCONSIN STATUTES** or **WIS. STATS** shall mean the most current body of state statutes as enacted by the Wisconsin legislature. Any future amendments, revisions or modifications of the statutes of the state are hereby incorporated herein and are intended to be made part of this code.
(1989 Code, § 25.01)

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(A) **AND** or **OR**. Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of that act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this municipality exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intent, that spelling shall be corrected and that word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and/or federal laws, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of that act or the giving of that notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of that chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:
(Wis. Stats. § 19.21)

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see Wis. Stats. §§ 19.21 et seq.

§ 10.19 CLERK-TREASURER 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 Clerk-Treasurer shall file, deposit and keep in his or her 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-Treasurer's office hours, subject to such orders or regulations which the Clerk-Treasurer may prescribe for their preservation.

(1989 Code, § 25.03)

§ 10.99 GENERAL PENALTY.

(A) *Generally.*

(1) (a) Any person who violates any provision of this code of ordinances for which no other specific penalty has been provided shall be subject to a forfeiture of not less than \$50, nor more than \$500, plus costs and fees.

(b) Each day a violation continues shall constitute a separate violation.

(2) Any person who violates any provision of this code of ordinances for which a state statute requires that the penalty for violation shall conform to the penalty provided by statute, shall be subject to the penalty provided under the applicable state statute.

(3) Any person who shall fail to pay a forfeiture for violation of any provision of this code of ordinances shall be subject to imprisonment until the forfeiture shall be paid, but not exceeding 90 days or until otherwise discharged pursuant to law.

(4) In addition to any of the above provisions of this section, any person who violates any provision of this code of ordinances may be ordered to perform community service in lieu of a forfeiture, and may be ordered to make restitution as provided by state law.

(B) *Citation method of enforcement.* Pursuant to Wis. Stats. § 66.0113, the city hereby elects to use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists.

(1) *Information required.* The municipal citation shall contain the following information:

- (a) Name and address of the alleged violator;
- (b) Factual allegations describing the alleged violation;
- (c) Time and place of the offense;
- (d) Section of the code violated;
- (e) Designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so;
- (f) Time at which the alleged violator may appear in court;
- (g) A statement which in essence informs the alleged violator:

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1. That a cash deposit based on the schedule established by the Common Council as a part of this section may be made which shall 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 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; and

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 to indicate that the statement required under division (B)(1)(g) above has been read. This statement shall be sent or brought with the cash deposit; and

(l) Such other information as the city deems necessary.

(2) *Form of citation.* The city adopts Wis. Stats. § 66.0113 setting for a citation, a sample of which is on file in the office of the City Clerk-Treasurer and adopted by reference as though fully set forth herein.

(3) *Schedule of deposits.* The schedule of cash deposits for use with citations issued under this section shall be as adopted by the Common Council from time to time, and the schedule shall be on file in the office of the Chief of Police and in the office of the City Clerk-Treasurer.

(4) *Form of deposits.* Deposits shall be in cash, money order or certified check to the City Clerk-Treasurer or to the Clerk of Municipal Court, who shall provide a receipt therefor.

(5) *Issuance of citation.* Any law enforcement officer or Zoning Administrator may issue citations authorized under this section.

(6) *Procedure.* Wis. Stats. § 66.0113, relative to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(7) *Nonexclusivity.*

(a) *Other ordinance.* This section does not preclude the Common Council from adopting any other ordinance or providing for the enforcement of any law or ordinance relating to the same or other matters.

(b) *Other remedies.* The issuance of a citation hereunder shall not preclude the city 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.

(1989 Code, § 25.04) (Am. Ord. 457, passed - -)

Statutory reference:

Circuit court to render judgment, see Wis. Stats. § 66.0114' 1)(c)

Community work service in lieu of forfeiture, see Wis. Stats. § 800.095

Fees in forfeiture actions, see Wis. Stats. § 814.63

Restitution in addition to forfeiture, see Wis. Stats. § 800.093