

Chapter 1
GENERAL PROVISIONS

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Sec. 1.100. Title; effective date; citation.

These ordinances shall be known as the "Municipal Code of the Town of Wausau" and shall take effect from and after passage and publication as required by statute. All references shall be cited by section number. For references to the provisions of Chapters of this Code, the section of this Code shall be cited together with the specific citation of the applicable Wisconsin Statute (example: Section 1.100, Municipal Code of the Town of Wausau).

Sec. 1.101. Definitions and rules of construction.

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

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

Acts of agent. When a provision requires an act to be done that may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

And/or. The term "and" may be read as "or," and the term "or" may be read "and" where the sense requires it.

Computation of time.

1. The time within which an act is to be done or proceeding had or taken shall be computed by excluding the first day and including the last; and when any such time is expressed in hours the whole of Sunday and of any legal holiday, from midnight to midnight, shall be excluded.
2. If the last day within which an act is to be done or proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.
3. When the last day within which a proceeding is to be had or taken or an act done that consists of any payment to or the service upon or filing with any officer, agent, agency, department or division of the state or of the county, or a city, village, town, school district or other division of the state, of any money, return, statement, report, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or upon which such service is to be made or with which such return, statement, report notice or other document is required to be filed, do not include any office hours on such Saturday, such proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or legal holiday.
4. Regardless of whether the time limited in any ordinance for the taking of any proceeding or the doing of any act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.
5. The term "legal holiday" as used in this section means any statewide legal holiday provided in Wis. Stats. § 895.20. When an act is permitted to be done by the use of the postal service, and the last day within the time prescribed by law for performing such act falls on a legal public holiday under federal law, or other holiday designated by the president such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this definition.

State law reference—similar provisions, Wis. Stats. § 990.001(4).

County. The term "county" means the County of Marathon, Wisconsin.

Includes. "Includes" does not limit a term to a specified example.

Officers and employees generally. Whenever any officer or employee is referred to by title, such as "Town Clerk" or "health officer," such reference shall be construed as if followed by the words "of the Town of Wausau, Wisconsin."

Owner. The term "owner," as applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. The term "person" extends and applies to natural persons, firms, corporation, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.

Personal property. The term "personal property" includes every species of property except real property.

Premises. The term "premises" as applied to real property, includes real estate, structures and hereditaments.

Property. The term "property" shall include real, personal and mixed property.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Reasonable time or notice. In all cases when an enactment shall require any act to be done in a "reasonable time" or a "reasonable notice" is to be given to any person, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt execution of such duty or compliance with such notice.

Regulations and Code. Whenever in this Code reference is made to any "regulations" or "code" of any government or board, bureau, commission or agency, such terms shall mean the regulations in effect on the effective date of this Code, unless the context clearly provides otherwise.

Singular and plural; male and female. Every word in this Code and in any ordinance importing the masculine gender may stand 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 that shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.

Street. The term "street" shall include any highway, road, lane or cul du sac in the town dedicated or devoted to public use.

Tenant; occupant. The terms "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or part of such building or land, either alone or with others.

Town board, board. The terms "town board" and "board" mean the Board of Supervisors of the Town of Wausau, Wisconsin.

Wis. Admin. Code. The abbreviation "Wis. Admin. Code" shall mean the official Wisconsin Administrative Code, as amended.

Wisconsin Statutes. Whenever in this Code reference is made to the "Wisconsin Statutes" or "state statutes" or "state law" or "laws of the state," such term shall mean the Wisconsin Statutes, as amended, unless the context clearly provides otherwise.

Sec. 1.102. Titles, chapters, sections.

1. *Reference to this Code.* All references to titles, chapters, articles, sections, subsections or paragraphs refer to this Code of Ordinances unless otherwise indicated.
2. *Conflicting provisions.* If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail to all matters and questions arising out of the subject matter of such chapter.

Sec. 1.103. Catchlines of sections; history notes, references, editor's notes.

1. The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.
2. The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history.
3. Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.
4. Editor's notes and other references appearing after sections throughout this Code are not intended to have any legal effect but are merely intended to assist the user of the Code.

Sec. 1.104. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the town relating to the same subject matter, shall be construed as restatements and continuations of the Code and not as new enactments.

Sec. 1.105. Repeal of ordinances.

All ordinances adopted by the town board prior to the effective date of this Code and inconsistent with any of the provisions of this Code are repealed, except those ordinances and parts mentioned in section 1.107.

Sec. 1.106. Repeal of repealed acts.

No act or part of any act repealed by subsequent act of the town board shall be deemed to be revived by the repeal of such repealed act, nor shall any ordinance or part of any ordinance heretofore repealed be considered re-ordained or reenacted by virtue of the provisions of section 1.105.

Sec. 1.107. Certain ordinances not affected by Code.

1. Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance:
 - a. Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness;
 - b. Authorizing or approving any contract, deed or agreement.
 - c. Granting any right or franchise;

- d. Making or approving any appropriation or budget;
 - e. Providing for salaries or other employee benefits not codified in this code;
 - f. Levying, imposing or otherwise relating to taxes not codified in this code;
 - g. Adopting or amending the comprehensive plan and regarding zoning and platting and sub-divisions;
 - h. Dedicating, accepting or vacating any plat or sub-division;
 - i. Dedicating, establishing, naming, locating, relocating, opening, paving, grading, widening, repairing or vacating any street;
 - j. Establishing the grade of any street or sidewalk;
 - k. Levying or imposing any special assessments;
 - l. De-annexing property or excluding property from the town;
 - m. Regarding water wells, water and sewer services;
 - n. That is temporary, although general in effect;
 - o. That is special, although permanent in effect;
 - p. The purpose of which has been accomplished; and
 - q. Reserved.
2. The ordinances designated in subsection (1) of this section continue in full force and effect to the same extent as if published at length in this Code.

Sec. 1.108. Code does not affect prior offenses or rights.

- 1. Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- 2. The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any town ordinance on the effective date of this Code.

Sec. 1.109. Enforcement of ordinance; general penalty.

1. *Established.* Unless another penalty is expressly provided in this Code or in any ordinance of the town, any person who shall violate any of the provisions of this Code shall upon conviction of such violation be subject to a forfeiture, which shall be-as-follows:

a. *First offense.* For the first offense, a forfeiture of not less than \$50.00 nor more than \$100.00 plus costs, fees and surcharges imposed under Wis. Stat. Ch. 814, 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 ninety (90) days.

b. *Second offense.* Any person found guilty of violating any ordinance or provision of this Code who shall previously have been convicted of a violation of the same ordinance or provision shall, upon conviction, forfeit not less than \$100.00 nor more than \$1,000.00 for each such offense, plus costs, fees and surcharges imposed under

Wis. Stat. ch. 814 and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs of prosecution are paid, but not to exceed six months.

c. In addition to any penalties as set forth herein, the town may institute the appropriate legal action or proceedings to enjoin a violation of this code or seek abatement or removal.

d. Each day that a violation continues to exist shall constitute a separate offense.

2. *Execution against defendant's property.*

a. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of a court for violation of this Code or 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.

b. The imposition of forfeiture does not prevent revocation or suspension of a license, permit or franchise.

3. *Enforcement of Town Ordinances.*

a. *Enforcement.* In addition to civil actions for violation of town ordinances authorized by Wis. Stat. § 66.0114, the town hereby adopts and authorizes use of the citation method of enforcement of ordinances. Any town board members and any town personnel responsible for enforcing the provisions of this Code, who are so directed by the town board, are hereby authorized to issue citations for violations of this Code, including ordinances for which a statutory counterpart exists.

b. *Contents of Citation.* The citation shall contain the following:

- (1) The name and address of the alleged violator;
- (2) The birth date of the alleged violator;
- (3) The factual allegations describing the alleged violation;
- (4) The time and place of the alleged violation;
- (5) The number of the ordinance violated;

(6) A designation of the offense in a manner that can be readily understood by a person making a reasonable effort to do so;

(7) The time at which the alleged violator may appear in court;

(8) A statement that in essence informs the alleged violator of all of the following:

(a) That a cash deposit may be made, which deposit shall be mailed or delivered to the Marathon County Clerk of Circuit Court prior to the time of the initial court appearance;

(b) That, if a deposit is made, no appearance in court is necessary unless the court subsequently summons the alleged violator;

(c) That, if a cash deposit is made and alleged violator does not appear in court, he or she will be deemed to have entered a plea of no contest and submitted to forfeiture, plus costs, fees and surcharges imposed under Wis. Stats. ch. 814 not to exceed the amount of the deposit or, if the court does not accept the plea of no contest, a summons and complaint may be issued to commence an action to collect the the forfeiture plus costs, fees and surcharges imposed under Wis. Stats. ch. 814;

(d) That, if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the alleged violator's arrest or consider the nonappearance to be a plea of no contest and enter judgment or the town may commence an action to collect forfeiture plus costs, fees and surcharges imposed under Wis. Stats. ch. 814;

(e) That, if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under Wis. Stats. § 800.093;

(f) 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 statement required under subsection 8 of this section has been read and such statement shall be sent or brought with the cash statement; and

(g) Such other information as the town deems necessary.

4. *Form of citation.* The form of the citation to be used by the town is on file in the town clerk's office and is adopted by reference as fully set forth in this section.

5. *Schedule of deposits.* The schedule of cash deposits may be established for use with citations issued under this section of the Code by adoption of a resolution by the town board according to penalty provisions of this Code or the Wisconsin Statutes, whichever is applicable. In the absence of a scheduled or statutorily mandated deposit amount for a particular violation, the deposit amount shall be \$100.00 plus applicable costs, fees and surcharges imposed under Wis. Stat. ch. 814. Deposits shall be made in cash, money order or certified check made payable to the Marathon County Clerk of Court.

6. *Adoption of Wis. Stats. § 66.0113.* Wisconsin Stats. § 66.0113 and any amendments thereto relating to violator's options and procedure on default is hereby adopted and incorporated herein by reference.

7. *Statute of Limitations.* Pursuant to Wis. Stats. § 893.93(2)(b), any action to recover a forfeiture or penalty imposed by ordinance or regulation, when no other limitation is prescribed by law, shall be commenced within two (2) years of the violation. In those situations in which there occurs a continuing violation in existence for more than two (2) years prior to the issuance of the citation and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day a violation occurs more than two (2) years prior to the issuance of the citation; a penalty may be imposed, however, for each day of the violation occurring within a two (2) year period prior to the issuance of the citation.

State law references—Citation procedure, Wis. Stats. §§ 66.0113 and 778.05; actions for violations of ordinances, Wis. Stats. § 66.0114; penalty for violation of ordinances, Wis. Stats. § 66.0109; bond generally, Wis. Stats. § 66.0111; outstanding unpaid forfeitures, Wis. Stats. § 66.0115; actions for violations of municipal ordinances, Wis. Stats. § 66.0114; fees of municipal courts, Wis. Stats. § 814.65; collection of forfeitures generally, Wis. Stats. § 778.10, § 815.01 and § 815.05.

Sec. 1.110. Reserved.

Sec. 1.111. Supplementation of code.

When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

1. Arrange the material into appropriate organizational units.
2. Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
3. Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
4. Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
5. Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections" and also inserting section numbers to indicate the sections of the code affected.
6. Make other non-substantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1.112. Fees and charges.

All fees and charges required by the town are set by the town board from time to time and none of the provisions of this Code or the ordinance adopting this Code shall affect such fees and charges.