

## **ADOPTING ORDINANCE**

An Ordinance Adopting and Enacting a New Code of Ordinances for the City of Menasha, Wisconsin; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein, Except as Herein Expressly Provided; Providing for the Manner of Amending Such Code of Ordinances; Providing a Penalty for the Violation Thereof; and Providing When This Ordinance Shall Become Effective.

The Common Council of the City of Menasha, Wisconsin, Does Ordain as Follows:

### **SECTION 1**

The Code of Ordinances is hereby adopted and enacted as the "Code of Ordinances of the City of Menasha, Wisconsin," and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent Ordinances of the City passed on or before April 18, 1989 to the extent provided in Section 2 hereof.

### **SECTION 2**

All provisions of the Code shall be in full force and effect from and after July 21, 1989, and all Ordinances of a general and permanent nature of the City of Menasha, enacted on final passage on or before April 18, 1989, and not included in such Code or recognized and continued in force by reference therein are hereby repealed from the Code after July 21, 1989, except as hereinafter provided.

### **SECTION 3**

- (a) The repeal provided for in Section 2 hereof shall not affect the following, except that some of the following provisions existing at the time of adoption may be amended by this recodification:
- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
  - (2) Any ordinance or resolution promising or guaranteeing the payment of money for the City, or any contract or obligations assumed by the City;
  - (3) The administrative Ordinances or resolutions of the City not in conflict or inconsistent with the provisions of the Code;
  - (4) Any appropriation ordinance or resolution;
  - (5) Any right or franchise granted by the Common Council to any person, firm or corporation, specifically cable television;
  - (6) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;
  - (7) Any ordinance or resolution establishing the prescribing of street grades of any streets in the City;
  - (8) Any ordinance providing for local improvement or assessing taxes or special assessments therefor;
  - (9) Any ordinance or resolution dedicating or accepting any plat or subdivision in the City;
  - (10) Any ordinance annexing property to the City;

- (11) Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving or removal of buildings or other structures, except that these ordinances have been amended as part of this recodification;
  - (12) Zoning ordinances; one- and two-family dwelling building code; and any other building codes except that these ordinances have been amended as part of this recodification.
  - (13) The issuance of corporate bonds and notes of the City of whatever name or description.
  - (14) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (b) Nor shall the repeal be construed to revive any ordinance or part of an ordinance that has been repealed by a subsequent ordinance which is repealed by this ordinance.

#### **SECTION 4**

A copy of the Code shall be kept on file in the office of the City Clerk, preserved in loose-leaf form, or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk or someone authorized by the Clerk, to insert in their designated places all amendments, ordinances or resolutions which indicate the intention of the Common Council to make the same a part of the Code when the same have been printed or reprinted in page form, and to extract from the Code all provisions which may be repealed from time to time by the Common Council. This copy of the Code shall be available for all persons desiring to examine it.

#### **SECTION 5**

All ordinances or parts in conflict herewith are, to the extent of such conflict, hereby repealed.

#### **SECTION 6**

This ordinance shall become effective on July 21, 1989.

Passed, Approved and Adopted by the Common Council on This 18th Day of April, 1989, Pursuant to Section 66.035, Wis. Stats.

ATTEST:

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Mayor

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City Clerk

## CHAPTER 1

### Use and Construction of Code of Ordinances

#### SEC. 1-1-1 TITLE OF CODE; CITATION.

These collected Ordinances shall be known and referred to as the "Code of Ordinances, City of Menasha, Wisconsin." References to the Code of Ordinances, City of Menasha, Wisconsin, shall be cited as follows: "Sec. 2-1-1, Code of Ordinances, City of Menasha, Wisconsin."

#### SEC. 1-1-2 PRINCIPLES OF CONSTRUCTION.

The following rules or meanings shall be applied in the construction and interpretation of ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the plain meaning or intent of the ordinances:

- (a) **ACTS BY AGENTS.** When an ordinance requires an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.
- (b) **CODE AND CODE OF ORDINANCES.** The words "Codes," "Municipal Code" and "Code of Ordinances" when used in any section of this Code shall refer to this Code of Ordinances of the City of Menasha unless the context of the section clearly indicates otherwise.
- (c) **COMPUTATION OF TIME.** In computing any period of time prescribed or allowed by these Ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Section, "legal holiday" means any statewide legal holiday specified by state law and any other City holiday designated by the Common Council.
- (d) **FINE.** The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.
- (e) **GENDER.** Every word in these Ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa.
- (f) **GENERAL RULE.** All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Ordinances.
- (g) **JOINT AUTHORITY.** All words purporting to give a joint authority to three (3) or more City officers or employees shall be construed as giving such authority to a majority of such officers or other persons.
- (h) **PERSON.** The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.
- (i) **REPEAL.** When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.
- (j) **SINGULAR AND PLURAL.** Every word in these Ordinances referring to the singular

number only shall also be construed to apply to several persons or things, and every word in these Ordinances referred to a plural number shall also be construed to apply to one (1) person or thing.

- (k) **TENSE.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- (l) **WISCONSIN STATUTES.** The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the Wisconsin Statutes for the year 1985-86, as amended.
- (m) **WISCONSIN ADMINISTRATIVE CODE.** The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.

State Law Reference: Legal holidays, Sec. 256.17, Wis. Stats.

### **SEC. 1-1-3 CONFLICT OF PROVISIONS.**

- (a) If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.
- (b) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

### **SEC. 1-1-4 SEPARABILITY OF PROVISIONS.**

If any provision of this Code of Ordinances 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 affect the validity of any other provisions of these Ordinances.

### **SEC. 1-1-5 EFFECTIVE DATE OF ORDINANCES.**

- (a) **CODE.** The Code of Ordinances, City of Menasha, Wisconsin, shall take effect from and after passage and publication as provided by state law.
- (b) **SUBSEQUENT ORDINANCES.** All Ordinances passed by the Common Council subsequent to the adoption of the code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication.

State Law Reference: Municipal Code, Sec. 66.035, Wis. Stats.

**SEC. 1-1-6**

**REPEAL OF GENERAL ORDINANCES.**

- (a) **ORDINANCES REPEALED.** All general Ordinances heretofore adopted by the Common Council are hereby repealed. This shall not include any Ordinances or parts of Ordinances or resolutions relating to the following subjects and not conflicting with the provisions of this Code, except that some of the following provisions may be amended by this Code of Ordinances:
- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
  - (2) Any ordinance or resolution promising or guaranteeing the payment of money for the City, or any contract or obligations assumed by the City;
  - (3) The administrative Ordinances or resolutions of the City not in conflict or inconsistent with the provisions of the Code;
  - (4) Any appropriation ordinance or resolution;
  - (5) Any right or franchise granted by the Common Council to any person, firm or corporation;
  - (6) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;
  - (7) Any ordinance or resolution establishing or prescribing the street grades of any streets in the City;
  - (8) Any ordinance or resolution providing for local improvements or assessing taxes or special assessments therefor;
  - (9) Any ordinance or resolution dedicating or accepting any plat or subdivision in the City;
  - (10) Any ordinance annexing property to the City;
  - (11) Any ordinance or resolution regulating the erection, alteration, repair, maintenance, demolition, moving or removal of buildings or other structures;
  - (12) Zoning ordinances; dwelling building code; and other building code ordinances;
  - (13) The issuance of corporate bonds and notes of the City of whatever name or description;
  - (14) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (b) **EFFECT OF REPEALS.** The repeal or amendment of any provision of this Code or of any other ordinance or resolution of the Common Council shall not:
- (1) Affect any rights, privileges, obligations or liabilities which were acquired or incurred or which had accrued under the repealed or amended provision, unless the City has expressly reserved the right to revoke such right, privilege, obligation or liability;
  - (2) Affect any offense, penalty or forfeiture, or prosecution for any offense, or levy of any penalty or forfeiture which has arisen prior to the repeal or amendment of the relevant provision of any ordinance or resolution. The preceding sentence shall not preclude the application of a lesser penalty or forfeiture if the new amending or repealing provision contains such a lesser penalty or forfeiture. the procedure for prosecution of any violations of Ordinances repealed or amended shall be conducted according to the procedure set forth in the new amending or repealing provision or other procedure currently in effect.

**SEC. 1-1-7**

**GENERAL PENALTY.**

- (a) **GENERAL PENALTY.** Except where a penalty is provided elsewhere in this Code, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) 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 Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days. However, no penalty for a violation of any of the ordinances of the City of Menasha shall be less than the statutory forfeitures provided by state law. The suspension or revocation of any license or certificate or other privilege conferred by the City shall not be regarded as a penalty for the purposes of this Code.
- (b) **JUDGMENT TO INCLUDE COSTS AND SENTENCE.** Whenever a forfeiture is imposed as punishment of any offense or when a penalty or forfeiture is recovered for doing any act or neglecting to do any act by virtue of any of the provisions of this Code, the judgment shall also include the costs of prosecution and shall provide for imprisonment in the county jail for the designated period for default in the payment of such fine, penalty, forfeiture or costs. All judgments shall be thus rendered whether the provisions under which a prosecution or proceeding is had shall specifically so direct or not.
- (c) **CONTINUED VIOLATIONS.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the City from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- (d) **OTHER REMEDIES.**
  - (1) The City shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.
  - (2) 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 City, 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 said forfeiture and costs.

**SEC. 1-1-8**

**CLERK TO MAINTAIN COPIES OF DOCUMENTS INCORPORATED BY REFERENCE.**

Whenever any standard code, rule, regulation, statute 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 City Clerk shall maintain in his office a copy of any such material as adopted and as amended from time to time. Materials on file at the City Clerk's office shall be considered public records open to reasonable examination by any person during the office hours of the City Clerk subject to such restrictions on examination as the Clerk imposes for the preservation of the material.