

CHAPTER 1. CODE OF ORDINANCES GENERAL PROVISIONS

TABLE OF CONTENTS

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USE AND CONSTRUCTION OF CODE OF ORDINANCES..... 1-2
SEC. 1.01 TITLE OF CODE; CITATION..... 1-2
SEC. 1.02 PRINCIPLES OF CONSTRUCTION..... 1-2
SEC. 1.03 CONFLICT OF PROVISIONS..... 1-2
SEC. 1.04 SEPARABILITY OF PROVISIONS..... 1-2
SEC. 1.05 EFFECTIVE DATE OF ORDINANCES. 1-3
SEC. 1.06 REPEAL OF GENERAL ORDINANCES. 1-3
SEC. 1.07 GENERAL PENALTY..... 1-3
SEC. 1.08 CITY CLERK TO MAINTAIN COPIES OF DOCUMENTS INCORPORATED BY REFERENCE.
..... 1-4
ENFORCEMENT OF ORDINANCES; ISSUANCE OF CITATIONS..... 1-5
SEC. 1.20 METHOD OF ENFORCEMENT. 1-5
SEC. 1.21 INFORMATION CONTAINED IN CITATION..... 1-5
SEC. 1.22 FORM OF CITATION..... 1-5
SEC. 1.23 SCHEDULE OF DEPOSITS. 1-5
SEC. 1.24 PROCEDURE. 1-5
SEC. 1.25 NONEXCLUSIVITY..... 1-6
SEC. 1.26 AUTHORIZATION - USE OF CITATIONS. 1-6

USE AND CONSTRUCTION OF CODE OF ORDINANCES

SEC. 1.01 TITLE OF CODE; CITATION.

These collected ordinances shall be known and referred to as the "Code of Ordinances, City of Oak Creek, Wisconsin." References to the Code of Ordinances, City of Oak Creek, Wisconsin, shall be cited as follows: "Section _____, Code of Ordinances, City of Oak Creek, Wisconsin."

SEC. 1.02 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) **City.** "City" shall refer to the City of Oak Creek, Milwaukee County, and Wisconsin.
- (c) **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 Oak Creek unless the context of the section clearly indicates otherwise.
- (d) **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.
- (e) **Fine.** The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.
- (f) **Gender.** Every word in these ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa; the masculine gender is used solely in the interest of brevity.
- (g) **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.

- (h) **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 of other persons.
- (i) **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.
- (j) **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.
- (k) **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.
- (l) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- (m) **Wisconsin Statutes.** The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these ordinances, the Wisconsin Statutes for the year 1995-96, as amended.
- (n) **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. 1.03 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.
- (c) If the provisions of the City or departmental rules conflict with any provision of this Code, the provision of this Code shall control. Nothing in this Code shall circumvent the provision of any labor contract between the City and its employees.

SEC. 1.04 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. 1.05 EFFECTIVE DATE OF ORDINANCES.

- (a) **Code.** The Code of Ordinances, City of Oak Creek, 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. 1.06 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) Charter ordinances.
 - (14) The issuance of corporate bonds and notes of the City of whatever name or description.
 - (15) Water and sewer 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. 1.07 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, forfeit not more than One Thousand Dollars (\$1,000.00), together with the costs of prosecution.
- (b) **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.
- (c) **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) Whenever any person fails to pay a 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. 1.08 CITY 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. 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 City Clerk imposes for the preservation of the material.

ENFORCEMENT OF ORDINANCES; ISSUANCE OF CITATIONS

SEC. 1.20 METHOD OF ENFORCEMENT.

The City of Oak Creek hereby elects to use the citation method of enforcement of ordinances. All City law enforcement officers and other City personnel charged with the responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to Sec. 66.0113, Wis. Stats., to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

Ordinance #2616 A 1/18/11 Sec. 1.20

SEC. 1.21 INFORMATION CONTAINED IN CITATION.

The citation shall contain the following:

- (a) The full name, including middle initial, date of birth, and address of the alleged violator.
- (b) Factual allegations describing the alleged violation.
- (c) The date, time and place of the offense.
- (d) The section of the ordinance violated.
- (e) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
- (f) The date and time at which the alleged violator may appear in court or shall appear in court, if a court appearance is mandatory.
- (g) A statement which in essence informs the alleged violator:
 - (1) That a cash deposit based on the schedule established by this Chapter 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 the alleged violator does not make a cash deposit and does not appear in court at the time specified the court may issue a summons or a warrant for the defendant's arrest or consider the non appearance to be a plea of no contest and enter judgment under Wis. Stats. Sec. 66.0113(3)(d) or may commence an action against the alleged violator to collect the forfeiture, plus costs, fees and surcharges imposed under Chapter 814 Wis. Stats.
 - (3) That if the alleged violator makes such a deposit, no appearance in court is necessary unless he/she is subsequently summoned, provided that a court appearance is necessary if the citation indicates mandatory court appearance.
 - (4) That if the alleged violator makes a cash deposit and does not appear in court, he/she either will be deemed to have tendered a plea

of no contest and submitted to a forfeiture, plus costs, fees and surcharges imposed under Ch. 814, not to exceed the amount of the deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.

- (5) 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 Sec. 800.093 Wis. Stats.

- (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 Subsection (g) above has been read. Cash deposits shall be made to the Oak Creek Municipal Court Clerk of Court and receipts shall be given for cash deposits.
- (i) Such other information as the City deems necessary.

Ordinance #2616 A 1/18/11 Sec. 1.21

SEC. 1.22 FORM OF CITATION.

The form of the citation to be used by the City of Oak Creek is on file in the City Clerk's office and is adopted by reference as though fully set forth herein.

SEC. 1.23 SCHEDULE OF DEPOSITS.

- (a) The schedule of cash deposits shall be established for use with citations issued under this Chapter by the Common Council according to the penalty provision of this Code; and by the Revised Uniform Traffic Deposit Schedule, Alcohol Beverages, Harassment, Safety, Tobacco, and Drug Paraphernalia Violations Deposit Schedule, Uniform Misdemeanor Bail Schedule and Trespass to Land Deposit Schedule as adopted by the Wisconsin Judicial Conference.
- (b) Deposits shall be made in cash, money order, check, or valid bail bond card to the Clerk of Municipal Court who shall provide a receipt therefor. A law enforcement officer may, at his/her discretion, accept a personal recognizance bond in lieu of cash, money order, check or valid bail bond card.

SEC. 1.24 PROCEDURE.

Section 66.0113, relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

Ordinance #2616 A 1/18/11Sec. 1.24

SEC. 1.25 NONEXCLUSIVITY.

- (a) **Other Ordinance.** Adoption of this Chapter does not preclude the Common Council 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 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.

SEC. 1.26 AUTHORIZATION - USE OF CITATIONS.

Pursuant to Sec. 800.02(2)(a), Wis. Stats., the Common Council of the City of Oak Creek does hereby adopt the use of citations for enforcement of its ordinances and such citations may be issued by those officials designated as follows:

- (a) Police Officers.
- (b) Fire Inspectors.
- (c) Community Public Health Officer and City Health Officers.
- (d) Sanitarian.
- (e) Building Commissioner.
- (f) Building Inspectors.
- (g) Electrical Inspectors.
- (h) Plumbing Inspectors.
- (i) Construction Division Engineer.
- (j) Engineering Technicians.
- (k) City Assessor.
- (l) Erosion Control Technician.
- (m) Street Superintendent.

Ordinance # 2408, A 6/6/06, Sec. 1.26(c)