

# CONSTRUCTION AND EFFECT OF ORDINANCES

## CHAPTER 20

### CONSTRUCTION AND EFFECT OF ORDINANCES

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## **CONSTRUCTION AND EFFECT OF ORDINANCES**

### **20.01 RULES OF CONSTRUCTION.**

- (1) In the construction of this Municipal Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:
  - (a) Wisconsin Statutes. All references to "Wisconsin Statutes" or "Wis. Stats." shall mean the Wisconsin Statutes for the year 1979-1980 and shall include all subsequent amendments to the Wisconsin Statutes and session laws.
  - (b) Gender, Singular and Plural. Every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.
  - (c) Person. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all Entities capable of being sued, unless plainly inapplicable.
  - (d) Acts of Agents. When a provision requires an act to be done which 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.

### **20.02 CONFLICT AND SEPARABILITY.**

- (1) CONFLICT OF PROVISIONS. If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.
- (2) SEPARABILITY OF CODE PROVISIONS. If any section, subsection, sentence, clause, or phrase of the Code 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 section, subsection, sentence, clause or phrase or portion thereof. The Council hereby declares that it would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

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### 20.03 CITY CLERK 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 City Clerk is hereby directed and required to file, deposit: and keep in his 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 City Clerk's office hours, subject to such orders or regulations, which the City Clerk may prescribe, for their preservation.

### 20.04 PENALTY PROVISIONS.

- (1) GENERAL PENALTY. 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:
  - (a) First Offense-Penalty. Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, forfeit not less than \$1.00 nor more than \$1500.00 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 said forfeiture and costs are paid, but not exceeding 90 days.
  - (b) Second Offense-Penalty. Any person found guilty of violating any ordinance or part of any ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one year shall upon conviction thereof, forfeit not less than \$10.00 nor more than \$1500.00 for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and cost shall be imprisoned in the county jail until said forfeiture and cost of prosecution are paid, but not to exceed 6 months.
- (2) 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.
- (3) 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.

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- (4) UNIFORM BOND, DEPOSIT, PENALTY, AND ASSESSMENT SCHEDULES AS APPLICABLE TO MISDEMEANORS, TRAFFIC VIOLATIONS AND JUVENILE DRINKING VIOLATIONS.
- (a) "The Wisconsin Uniform Misdemeanor Bail Schedule."
  - (b) "The State of Wisconsin Revised Uniform State Traffic Report Schedule."
  - (c) "The State of Wisconsin Juvenile Drinking Violation Deposit Schedule."
  - (d) Any future amendments, revisions, or modifications of the Uniform Schedule for deposits, penalty, or assessment bond are herein incorporated and intended to be made part of this ordinance in order to secure uniform State wide application of bond deposit, penalty or assessment schedule in the State of Wisconsin.
- (5) These Schedules shall be applicable to contemplate violations, particular those prescribed by State Statute which have been adopted by ordinance; save only for those existing non-traffic ordinance which make a specific reference to section 20.04 for the corresponding, penalty provision.

**20.05 REPEAL OF GENERAL ORDINANCES.** All ordinances heretofore adopted by the Common Council of the City are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects; and not conflicting with any of the provisions of this Code:

The issuance of corporate bonds and notes of the City of whatever name or description.

The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.

The fixing of salaries of public officials and employees.

Rights, licenses or franchises or the creation of any contract with the City.

The lighting of streets and alleys.

The annexation of territory to the City.

The naming and changing of names of streets, alleys, public grounds and parks.

The letting of contracts without bids.

The establishment of Aldermanic districts, Aldermanic district boundaries and election precincts.

Tax and special assessment levies.

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Release of persons, firms or corporations from liability.

Construction of any public works.

Water, sewer and electric rates, rules and regulations and sewer and water main construction.

Budget ordinances, resolutions and actions.

The Zoning ordinance which is reenacted with all amendments thereto.

**20.06 EFFECT OF REPEALS.** The repeal or amendment of any section or provision of this Code or of any other ordinance or resolution of the Common Council shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.
- (2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended unless the privilege of repealing such obligations or privilege has been reserved by the City.
- (3) Affect any offense committed or penalty or forfeiture incurred, previous to the time when any ordinance shall be repealed or amended, except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provision shall apply to and control effect for any offense committed before that time.
- (4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid shall be repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinances, and such prosecution shall proceed, in all respects, as if such ordinance or ordinances had not been repealed, except that all such proceedings had after the time this Code shall take effect, shall be conducted according to the provisions of this Code.

**20.07 TITLE: EFFECTIVE DATE: CITATION.** These ordinances shall be known as the "Municipal Code of the City of Algoma" and shall take effect from and after passage and publication as provided in sec. 66.035, Wis. Stats. All references thereto shall be cited by section number (example: section 13.06, Municipal Code of the City of Algoma.)

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