

25.01 RULES OF CONSTRUCTION.

1. RULES.

In the construction of this Code of general Ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the Ordinance.

a. Wisconsin Statutes.

The term Wisconsin Statutes wherever used in this Code shall mean the Wisconsin Statutes for the year 1984, and shall include all amendments thereof to date of adoption of this Code.

b. Gender: singular and plural.

Every word in this Code and in any Ordinance importing the masculine gender may extend and be applied to the 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 these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.

c. Person.

The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind 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.

25.02 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 this 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, clause or phrase or portion thereof. The Common Council hereby declares that they 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.

25.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE.

Whenever in this Code any standard, code, ruler, 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 shall file, deposit and keep in the Clerk's 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's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation. The Clerk may establish fees for the sale of this Code or any part thereof.

25.04 PENALTY

1. STATE TRAFFIC LAWS AND ALL OTHER VIOLATIONS AS SET FORTH IN THIS CODE.

Any forfeiture for violation of the State Statutes adopted by reference in this Code shall conform to the forfeiture permitted to be imposed for violation of such statutes as set forth in the Uniform Deposit and Misdemeanor Bail Schedule of the Wisconsin Judicial Conference, including any variations or increases for subsequent offenses, which schedule is adopted by reference.

2. LOCAL ORDINANCE VIOLATIONS AS SET FORTH IN THIS SECTION. (Rep. & Rec. 09-10)

Any adult violating the provisions of this Code shall be subject to a forfeiture of not less than \$10.00 nor more than \$2,000.00 plus costs per each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the County jail and/or revocation or suspension of driving privileges.

3. YOUTH PENALTIES.

a. For any person adjudged to have violated a code section relating to truancy or school drop out, the court is authorized to impose any of the dispositions listed in Section 938.342, Wis. Stats., in accordance with the provisions of those statutes, and said statutes are hereby adopted and incorporated herein. Any future amendments, revisions or modifications of the current or future statutes incorporated herein, are intended to be made part of this Code in order to secure uniform state-wide regulation of peace and good order of the State.

b. For any juvenile adjudged to have violated any Code section other than truancy or school drop out, the court is authorized to impose any of the dispositions listed in Section 938.343, Wis. Stats., in accordance with the provisions of those statutes, and said statutes are hereby adopted and incorporated herein. Any future amendments, revisions or modifications of the current or future statutes incorporated herein, are intended to be made part of this Code in order to secure uniform state-wide regulation of peace and good order of the State

4. DEPOSIT SCHEDULE.

All deposits for municipal Code ordinance violations authorized under this ordinance shall be set and adopted by separate resolution of the Common Council from time to time without the necessity of a formal hearing.

If a deposit schedule has not been established for a specific violation the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted hereunder.

5. 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.

6. EXECUTION AGAINST DEFENDANT'S PROPERTY.

Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the 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.

7. ENFORCEMENT.

a. Enforcement procedure.

The statutory provisions of Sections 66.0109, 66.0113, 66.0114, 345.20 to 345.53, and Chapter 199, Wisconsin Statutes, are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this Code. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation and enforcement of traffic and municipal Ordinance violations. Further the City specifically elects to use the citation method of enforcement.

b. Deposit.

(1) Any person arrested for a violation of this Chapter may make a deposit of money as directed by the arresting officer at the Community Offices or at the office of the Clerk of Court or by mailing the deposit to such places. The arresting officer or the person receiving the deposit shall comply with Section 345.27, Wis. Stats., or, if the deposit is mailed, the signed statement required under Section 345.27, Wis. Stats., shall be mailed with the deposit. The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:

(a) If he fails to appear in court at the time fixed in the citation, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture plus costs not to exceed the amount of the deposit; or

(b) If he fails to appear in court at the time fixed in the citation, and if the court does not accept the deposit as a forfeiture, he will be summoned into court to answer the complaint.

(2) The amount of the deposit shall be as set forth in Section 23.09, Subsection (2) of this Municipal Code and shall include the penalty assessment established under Section 757.05, Wis. Stats., and costs. If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted under this Chapter.

(3) The arresting officer or the person receiving the deposit shall issue the arrested person a receipt therefore as required by Section 345.26(3)(b), Wis. Stats.

c. Stipulation of no contest.

Any person charged with a violation of this Chapter except Sections 346.62(l) and 346.63(l), Wis. Stats., may make a Stipulation of no contest pursuant to Section 345.38, Wis. Stats., which shall be received at the Community offices or the office of the Clerk of Court within ten (10) days of the date of the alleged violation. Such person shall, at the time of entering into the stipulation, make the deposit required under Section 25.04, Subsection (7)(b) if he has not already done so. A person who has mailed or filed a stipulation under this Section may, however, appear in court on the appearance date and may be relieved from the stipulation for cause shown as required in Section 345.51, Wis. Stats.

d. Issuance of citations.

All Sections of this Code shall be enforced by law enforcement officers or the City of Pewaukee's duly appointed representatives. (Rep. & Recr. 09-21)

e. Nonexclusivity.

(1) Other Ordinances.

Adoption of this Code does not preclude the City of Pewaukee from adopting any other Ordinance or providing for the enforcement of any other law or Ordinance relating to the same or other matter.

(2) Other remedies.

The issuance of a citation hereunder shall not preclude the City of Pewaukee or any authorized office from proceedings under any other Ordinance or law or by any other enforcement method to enforce any Ordinance, regulation or order.

25.05 REPEAL OF GENERAL ORDINANCES.

1. REPEAL.

All ordinances heretofore adopted, by 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:

- a. The issuance of corporate bonds and notes of the City of whatever name or description.
- b. The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.
- c. The fixing of salaries and fringe benefits of public officials and employees.
- d. Rights, licenses or franchises or the creation of any contract with the City.
- e. The lighting of streets and alleys.
- f. The naming and changing of names of streets, alleys, public grounds and parks.
- g. The establishing of positions and job descriptions and classifications.
- h. The letting of contracts without bids.
- i. The establishment of wards, ward boundaries and election precincts.
- j. Tax and special assessment levies.
- k. Release of persons, firms or corporations from liability.

- I. Construction of any public works
- m. Waters sewer and electric rates, rules and regulations and sewer and water main construction.
- n. Budget ordinances, resolutions and actions.

2. SAVING OF ORDINANCES INADVERTENTLY EXCLUDED.

Any ordinances not addressed specifically in this Code are incorporated herein until repealed specifically by the Common Council.

25.06 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 I except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance# such provisions shall apply to and control any judgment to be pronounced after such Ordinance takes effect for any offense committed before that time.
- 4. Affect any prosecution for any offenses 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,.

25.07 TITLES: EFFECTIVE DATE. CITATION.

These Ordinances shall be known as the "Municipal Code of the City of Pewaukee" and shall take effect from and after passage and publication as provided in Section 66.0103, Wis. Stats. All references thereto shall be cited. by section number (examples, Section 13.06 or §13.06, Municipal Code of the City of Pewaukee).