

## Chapter 1

### GENERAL PROVISIONS\*

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\* **State Law References**--Authority to codify ordinances, Wis. Stats. § 66.035.

**Sec. 1.100. Title; effective date; citation.**

These ordinances shall be known as the "Municipal Code of the Village of Weston, Wisconsin" and shall take effect from and after passage and publication as required by the Wisconsin Statutes. All references shall be cited by section number (Example: section 6.105). For references to the provisions of ch. 82 of this Code, the section of this Code shall be cited together with the specific citation of the applicable Wisconsin Statute (Example: sections 82.100--341.04).

(Code 1982, § 14.10)

### **Sec. 1.101. Definitions and rules of construction.**

In the construction of this Code, the following definitions and rules of construction shall be observed unless such construction would be inconsistent with the manifest intent of the ordinances:

*Acts of agent.* 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.

*Board, village board.* Whenever the terms "board" and "village board" are used without qualification, they shall read as if the words "of Weston, Wisconsin" followed such terms.

*Code.* Whenever the term "Code" is used without further qualification, it shall mean the "Municipal Code of the Village of Weston, Wisconsin," as designated in section 1.100.

*County.* The term "county" shall mean the County of Marathon, Wisconsin.

*May.* The term "may" shall be construed as being permissive.

*Month.* The term "month" shall mean a calendar month.

*Oath.* The term "oath" includes an affirmation in all cases where by law an affirmation may be substituted for an oath. If any oath or affirmation is required to be taken, such oath or affirmation shall be taken before and administered before some officer authorized by the laws of this state, to administer oaths, at the place where the oath or affirmation is required to be taken or administered, unless otherwise expressly directed, and, when necessary, duly certified by such officer. If an oath is administered, it shall end with the words "so help me God." In actions and proceedings in the courts, a person may take an oath or affirmation in communication with the administering officer by telephone or audiovisual means.

*Officers and employes generally.* Whenever any officer or employe is referred to by title, such as "clerk/treasurer" or "health officer," such reference shall be construed as if followed by the words "of the Village of Weston, 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, corporations, 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.

*Preceding, following.* The terms "preceding" and "following" mean next before and next after, respectively.

*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, 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.

*Shall.* The term "shall" will be construed as being mandatory.

*Sheriff.* The term "sheriff" shall be construed as if followed by the words "of Marathon County, Wisconsin."

*Signature.* If the signature of any person is required by law it shall always be the writing of such person or, if the person is unable to write, the person's mark or the person's name written by some other person at the person's request and in the person's presence.

**State Law References--**Similar provisions, Wis. Stats. § 990.01(38).

*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; but 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.

*State.* The term "state" shall mean the State of Wisconsin.

*Street.* The term "street" shall include any highway, street, avenue, boulevard, road, alley, lane or viaduct in the village 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 of or who occupies the whole or part of such building or land, either alone or with others.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Time computation.*

- (1) The time within which an act is to be done or a proceeding had or taken shall be computed by excluding the first day and including the last. When any such time is expressed in hours, the whole of Sunday and of any legal holiday, from 12:00 midnight to 12:00 midnight, shall be excluded.
- (2) If the last day within which an act is to be done or a 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, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the state or any county, city, village, town, school district or other subdivision of the state, of any money, return, statement, 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 with which such return, statement, report, notice or other document is required to be filed do not include any office hours on such Saturday, the proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.
- (4) Regardless of whether the time limited in any statute 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 definition, 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.

*Village.* The term "village" shall mean the Village of Weston, Wisconsin.

*Wis. Stats. or statute.* The abbreviation "Wis. Stats." or the word "statute" shall mean the official Wisconsin Statutes, as amended.

*Written; in writing.* The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

**State Law References--**Similar provisions, Wis. Stats. § 990.01(48).

*Year.* The term "year" shall mean a calendar year.

**State Law References--**Similar provisions, Wis. Stats. § 990.01(49).

(Code 1982, § 14.01)

**Sec. 1.102. Titles, chapters, sections.**

- (1) Reference to this Code. All references to titles, chapters, sections, subsections or paragraphs refer to this Code 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.

(Code 1982, § 14.02)

**Sec. 1.103. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any such sections, including the catchlines, are amended or reenacted.

**Sec. 1.104. References and editor's notes.**

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

**Sec. 1.105. History notes.**

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

**Sec. 1.106. Provisions considered as continuation of existing ordinances.**

The provisions appearing in this Code so far as they are the same as those of the Code of the Village of Weston and of ordinances existing at the time of adoption of this Code shall be considered as a continuation of such ordinances and not new enactments.

**Sec. 1.107. Code does not affect prior offenses, penalties, rights.**

Nothing in this Code or the ordinance adopting this Code shall affect 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 Code.

(Code 1982, § 14.06)

**Sec. 1.108. Repeal of ordinances.**

All ordinances adopted by the village board prior to the effective date of this Code and inconsistent with any of the provisions of this Code are hereby repealed, except those ordinances and parts mentioned in section 1.110.

(Code 1982, § 14.03)

**Sec. 1.109. Ordinances not repealed.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
- (2) Any administrative ordinances of the village not in conflict or inconsistent with the provisions of this Code, including but not limited to letting contracts without bids and releasing persons from liability.
- (3) Any right or franchise granted by any ordinance, including CATV.
- (4) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, grading, repairing, vacating, etc., any street, alley or public way in the village.

- (5) Any appropriation ordinance.
- (6) Any ordinance levying or imposing taxes or levying special assessments or taxes.
- (7) Any ordinance prescribing through streets, parking and traffic regulations, ATV and snowmobile routes, speed limits, one-way traffic, limitations on load weights of vehicles or loading zones.
- (8) Any land use, zoning or rezoning ordinance or amendment to the zoning map or requiring dedication of land for parks and recreation.
- (9) Any ordinance establishing and prescribing the street grades of any street in the village.
- (10) Referendum ordinances and ordinances relating to the establishment of bulkhead lines.
- (11) Any ordinance providing for local improvements and prescribing utility rates and fees.
- (12) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the village.
- (13) Any ordinance setting salaries of village officers and employes or any personnel regulations.
- (14) Any temporary or special ordinances.
- (15) Any ordinance establishing grades, curblines and widths of sidewalks in the public streets and alleys.
- (16) Any ordinance regarding the lighting of streets and alleys.
- (17) Any ordinance naming public grounds and parks.
- (18) Any ordinance regarding the establishment of wards, ward boundaries and election districts.
- (19) Any charter ordinance unless repealed by charter ordinance.
- (20) Any ordinance releasing persons from liability.
- (21) Any ordinance regarding construction of public works.
- (22) Any ordinance regarding water, sewer, solid waste, and electric rates, rules and regulations and sewer and water main construction.
- (23) The village's schedules of fees and charges.

(24) Any ordinance regarding wage scales.

All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this section. All ordinances are on file in the clerk/treasurer's office.

(Code 1982, § 14.04)

**Sec. 1.110. Repeal of repealed acts.**

No act of part of any act repealed by subsequent act of the 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 reordained or reenacted by virtue of the provisions of section 1.108.

(Code 1982, § 14.05)

**Sec. 1.111. General penalty.**

(a) *Forfeiture.* Unless another penalty is expressly provided in this Code or in any ordinance of the village, 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:

- (1) *First offense.* For the first offense, a forfeiture of not less than \$10.00 nor more than \$500.00, together with 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 90 days.
- (2) *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 \$50.00 nor more than \$500.00 for each such offense, together with costs of prosecution, 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.
- (3) *Continuing violations.* The village may charge each day as a separate offense for continuing violations.

(b) *Execution against defendant's property.*

- (1) 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 village, 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.

- (2) The imposition of a forfeiture does not prevent revocation or suspension of a license, permit or franchise.

(Code 1982, § 14.07)

**State Law References**--Penalty for violation of ordinances, Wis. Stats. § 66.115; bail generally, Wis. Stats. § 66.114; outstanding unpaid forfeitures, Wis. Stats. § 66.117; actions for violations of municipal ordinances, Wis. Stats. § 66.12; fees of municipal courts, Wis. Stats. § 814.65; collection of forfeitures generally, Wis. Stats. § 778.10.

### **Sec. 1.112. Jurisdiction over children who are 12 years of age and older.**

(a) *Adoption of state statute.* Wis. Stats. § 48.17 is adopted and by reference made a part of this section as if fully set forth in this section.

(b) *Provisions of Code applicable to children who are 12 years of age or older.* Subject to the provisions and limitations of Wis. Stats. § 48.17, complaints alleging a violation of any provision of this Code and Wis. Stats. § 118.163 against children 12 years of age or older may be brought on behalf of the village and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.

(c) *Additional prohibited acts.* In addition to any other provisions of this Code, no underage person as defined in Wis. Stats. § 125.02(20m) shall own, possess, ingest, buy, sell, trade, use a beverage, give away, or otherwise control any intoxicating liquor or fermented malt beverage in violation of Wis. Stats. ch. 125.

(d) *Penalties.*

(1) *Violations of Wis. Stats. ch. 125.* The penalties for a violation of any provision of Wis. Stats. ch. 125 incorporated in this Code by reference shall be in conformity with the provisions of Wis. Stats. § 48.344(2), (2b), (2d), (2e), (2g), (2m) and (3).

(2) *No incarceration as penalty.* Except as might otherwise be provided by law, the court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this section.

(3) *Forfeitures.* Except as otherwise provided, any child 12 years of age or older who shall violate any provision of this Code shall be subject to a forfeiture in conformity with Wis. Stats. § 48.343(2), to wit: A minimum forfeiture of \$25.00 and the maximum forfeiture that may be imposed on an adult for committing such a violation allowing up to 12 months for the payment of such forfeiture. In default of payment of such forfeiture, the court may suspend any license issued under Wis. Stats. ch. 29 or suspend the child's operating privilege as defined in Wis. Stats. § 340.01(40) for not less than 30 days, nor

more than 90 days.

(e) *Victim notification.* Each known victim of a child's act shall receive timely notice of the information required under Wis. Stats. § 48.346, which statute is incorporated in this section by reference.

(Ord. of 3-7-1994, § 1)

### **Sec. 1.113. Costs to be included in forfeiture.**

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 default in payment of such fine, penalty, forfeiture or costs. All judgments shall be thus rendered, whether the provision under which a prosecution or proceeding is had shall specifically so direct or not.

(Code 1982, § 14.08)

### **Sec. 1.114. Supplementation of Code.**

When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ through \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or

already embodied in the Code.

**State Law References--**Code of ordinances generally, Wis. Stats. § 66.035.

**Sec. 1.115. Clerk/treasurer to file documents incorporated by reference.**

Whenever in this Code any standard, code, rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other sections of this Code, are adopted by reference, they shall be deemed incorporated in this Code as if fully set forth in this Code. The clerk/treasurer is directed and required to file, deposit and keep in the 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/treasurer's office hours, subject to such orders or regulations the clerk/treasurer may prescribe for their preservation.

**Sec. 1.116. Adoption of state statutes.**

Whenever in this Code state statutes are adopted by reference, such adoption shall include all amendments to such statutes.

**Sec. 1.117. Severability of 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, sentence, clause or phrase. The village board declares that it would have passed this Code and each section, subsection, sentence, clause, phrase or portion of this Code, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

(Code 1982, § 14.09)