

CHAPTER 40

CONSTRUCTION AND EFFECT OF ORDINANCES

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40.01 **CONSTRUCTION OF ORDINANCES.** In the construction of the ordinances of the City, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

(1) **GENERAL RULE.** All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(2) **GENDER; SINGULAR AND PLURAL.** Every word in any ordinance importing the masculine gender shall extend to and be applied to females as well as males; and every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.

(3) **PERSON.** Unless plainly inapplicable, the word "person" extends and applies to natural persons, firms, corporations, associations, or partnerships or other bodies politic and corporate and to all entities capable of being sued.

(4) **TENSE.** The use of any verb in the present tense shall include the future, when applicable.

(5) **SHALL HAVE BEEN.** The words "shall have been" include past and future cases.

(6) **ACTS BY AGENTS.** When an ordinance requires an act to be done which may 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.

(7) **REASONABLE TIME.** In all cases where any ordinance requires any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(8) **COUNCIL.** "Council" means Common Council as defined in §62.11, Wis. Stats.

(9) **TIME, HOW COMPUTED.** When expressed in days, the time within which an act is to be done as provided in any ordinance or in any order issued pursuant to any ordinance shall be computed by excluding the first day and including the last, provided if the last day by Sunday it shall be excluded; and when any such time is expressed in hours, the whole of Sunday, from midnight to midnight, shall be excluded.

(10) **WEEK.** The word "week" shall be construed to mean seven days; but publication in a newspaper of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week unless specifically stated to be for each day of the week or for more than one day in each week; and all publications heretofore made in accordance with the terms of this subsection are hereby validated.

(11) **STATUTES.** The reference to the Wisconsin Statutes when used herein shall be to the Statutes current and in effect and as amended after the date of adoption of this Municipal Code as of the recodification of 1984.

(12) **CONFLICT.** If the provisions of different chapters of these ordinances conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of each chapter. If conflicting provisions be found in different sections of the same chapter, the provisions of the section which is last in numerical order shall prevail unless such construction be inconsistent with the meaning of such chapter.

(13) **CONSTITUTIONALITY.** Should any section, paragraph, sentence, clause, or phrase of these ordinances be declared unconstitutional or invalid for any reason, then, to the extent of meaningful severability, the remainder of such ordinances shall not be affected.

(14) **CERTIFICATES OF DEPOSIT FOR CASH BONDS.** When any ordinance set forth in this Code shall require that a cash bond be deposited with the City for the purpose of performing certain obligations under such ordinance, the person required to deposit such cash bond may, in lieu thereof, deposit with the City a certificate of deposit naming such person or the City as payee. The person required to deposit such bond shall be entitled to any interest paid on certificate of deposit while the same is being held by the City in lieu of a cash bond. The City shall have the right to cash such certificate of deposit at such time as the person is in default of the provisions of this Code, and shall not be liable for any interest penalty which may occur as the result of early withdrawal. This provision shall apply to any cash bond deposited with the City from and after November 29, 1978.

40.02 **WHEN RULES OF CONSTRUCTION SHALL NOT APPLY.** The rules of construction set forth in this chapter shall not be applied to any ordinance which contains any express provision excluding such construction or when the subject matter or context of such ordinance may be repugnant thereto.

40.03 **WHEN ORDINANCES TO TAKE EFFECT.** All ordinances passed by the Council, except when otherwise specifically provided, shall take effect and be in force from and after their publication.

40.04 **EFFECT TO REPEAL.** When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause, or provision, unless it shall be expressly so provided.

40.05 **PENALTY WHERE NO PENALTY PROVIDED.** In any case where there shall be a violation of any City ordinance for which no penalty is provided, the person violating the same shall be subject of a forfeiture of not less than \$1 nor more than \$500 for each offense, except as provided in the following subsections:

(1) In any case where any ordinance or section of an ordinance of the City shall not provide a greater penalty for a second or subsequent conviction for a violation thereof, any person violating the same who shall previously have been convicted of a violation thereof shall be subject to a forfeiture of not less than \$10 nor more than \$500 for each offense; except where the penalty provided by any such ordinance or section for a first violation thereof shall be larger than the penalty herein provided, such larger penalty shall be applicable.

(2) No violation of any ordinance of the City shall be or shall be construed to be a misdemeanor, nor shall imprisonment be imposed as a punishment for violation of any ordinance of the City except for failure of the defendant to pay the forfeiture imposed by the court, any other provision of the general ordinances of the City to be contrary notwithstanding.

40.06 **IMPRISONMENT UPON FAILURE TO PAY PENALTY IMPOSED FOR VIOLATION OF ORDINANCE.** When a forfeiture shall be imposed for the violation of any ordinance of the City or any section thereof, the court may also sentence the defendant to pay the costs of the action and be imprisoned until such forfeiture and costs are paid, in no case, however, to exceed 90 days; and the court may also issue an execution against the property of the defendant for such forfeiture and costs. Imprisonment shall be either in the Brown County Jail or in the Brown County Reforestation Camp.

40.07 **RECODIFICATION OF ORDINANCES.** Unless otherwise provided, all ordinances adopted by the Common Council prior to No. 1-76 have been heretofore repealed, except those ordinances and parts of ordinances mentioned in §40.08, Green Bay Municipal Code. This Code, as recodified in 1984, shall be the official Code of the City of Green Bay.

40.08 **ORDINANCES NOT REPEALED.** No ordinances or parts of ordinances relating to the following subject are repealed:

- (1) The issuance of corporate bonds of the City of whatever name or description.
- (2) The establishing of grades and curb lines in the public streets and alleys, and dock and wharf lines.
- (3) The construction and repair of sidewalks on specified streets.
- (4) The vacation and discontinuance of public streets and alleys.
- (5) The fixing of salaries of public officials and employees.
- (6) The granting of franchises to railroads, public utilities, and other companies.
- (7) The lighting of streets.
- (8) The construction of public works by the City.
- (9) The annexation of territory to or detachment of territory from the City.
- (10) The naming and the changing of names of streets, alleys, public grounds, and parks.
- (11) The zoning ordinances of the City of Green Bay adopted by the Council on November 17, 1925, and all amendments supplementary thereto, including the establishment of residential, commercial, and industrial zones or districts, compiled in Ch. 13, Green Bay Municipal Code, as revised.
- (12) The creation of and establishment of an Official Map, and the location of streets, parks, parkways, and playgrounds shown thereon.
- (13) All matters covered by and contained in charter ordinances.
- (14) The creation of sewer districts.
- (15) The creation of setback lines.

40.09 **OFFENSES COMMITTED AND PENALTIES INCURRED PREVIOUS TO REPEAL.** No offense committed and no penalty or forfeiture incurred previous to the time when any of the ordinances aforesaid shall be affected by such repeal; provided when any punishment, forfeiture, or penalty shall have been mitigated by the provisions of these general ordinances, such provision shall apply to and control any judgment to be pronounced after these general ordinances shall take effect for any offense committed before that time.

40.10 **PROSECUTIONS PENDING NOT AFFECTED.** No prosecution for any offense, nor the levy of any penalty or forfeiture, pending at the time when any of the ordinances aforesaid shall be repealed shall be affected by repeal; 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 ordinances had not been repealed; provided all such proceedings had after the time these general ordinances shall take effect shall be conducted according to the provisions of these general ordinances and shall be in all respects subject to such provisions.

40.11 **TITLE OF ORDINANCES; WHEN TO TAKE EFFECT.** These ordinances shall be known as "The Green Bay Municipal Code" and shall take effect and be in force from and after passage and publication in book form as provided in §66.036, Wis. Stats.

40.12 **AUTHORITY TO ISSUE CITATIONS.** (Amd. GO 81-93) The following City officials are hereby authorized to issue Uniform Municipal Court Citations and to delegate that authority, upon the approval of the Common Council, to persons in their respective departments:

- (1) Chief of Police.
- (2) Fire Chief.
- (3) Superintendent of Inspection.
- (4) Director of Public Works.

40.13 **JUVENILES: MUNICIPAL CODE VIOLATIONS.** The State legislature has conferred concurrent jurisdiction on municipal court in matters involving the violation of municipal ordinances by juveniles. The Legislature has adopted certain procedures and dispositions that govern the relationship between juveniles, law enforcement agencies, and the courts. These procedures take precedence over any other procedures set forth in this Code or otherwise provided by law.

(2) The following statutes are adopted and incorporated as if fully set forth herein:

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| 48.17 | Jurisdiction over Traffic and Boating, Civil Law and Ordinance Violations. |
| 48.19(1)(d)8 | Taking a Child into Custody. |
| 48.237(1) | Civil Law and Ordinance Proceedings Initiated by Citation in the Court Assigned Jurisdiction Under this Chapter. |
| 48.299(1) | Procedures at Hearings. |
| 48.343(1), (2), | Disposition of Child Adjudged to have Violated a Civil Law or Ordinance. |

(5), (6), (7), and (8)

48.344 Disposition; Intoxicating Liquor and Beer Violations.

48.37 Costs.

49.396(2) and (3) Records.

343.30(6)(b)1 and 2 Suspension and Revocation by the Courts.

343.345 Suspension for Juvenile's Failure to Pay Forfeiture.

345.18 Sentencing of Juvenile.

775.045 Jurisdiction.

778.25 Citation Procedures; Violation of Laws Regulating Sale of Liquor to Persons Under 18.