

Chapter 1 GENERAL PROVISIONS

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State Law reference— towns generally, Wis. Stats. ch. 60; general municipality law, Wis. Stats. § 66.0101 et seq.; village powers, Wis. Stat. § 60.22(3); penalties under county and municipal ordinances, Wis. Stat. § 66.0109; bond or cash deposit under municipal ordinances, Wis. Stat. § 66.0111; citations for certain ordinance violations; Wis. Stat. § 66.0113; actions for violation of ordinances, Wis. Stat. § 66.0114; outstanding unpaid forfeitures, Wis. Stat. § 66.0115; special inspection warrants, Wis. Stat. § 66.0119.

Sec. 1-1. Title; effective date; citation.

This Code shall be known as the "Code of Ordinances of the Town of Onalaska, La Crosse County, Wisconsin," and shall take effect from and after passage and publication.

State Law reference — Authority for codification of ordinances, Wis. Stats. § 66.0103; publication and posting of ordinances and resolutions, Wis. Stats. § 60.80.

Sec. 1-2. Definitions and rules of construction.

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

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Acts by agents. When a provision requires an act to be done that may by law as well be done by an agent as by the principal, such requisition shall be construed to include all such acts when done by an authorized agent.

Code. Whenever the term "Code" or "Code of Ordinances" is used without further qualification, it shall mean this Code as designated in section 1-1.

County. The term "county" means La Crosse County, Wisconsin.

Fine. The term "fine" shall be the equivalent of the term "forfeiture," and vice versa.

Following. The term "following" means next after.

Gender; singular and plural. Every word in this Code and in any town ordinance importing the masculine gender may extend 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; provided, however, that these rules of construction shall not be applied to any provision that contains any express language excluding that construction or when the subject matter or context of the provision may be repugnant thereto.

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 this Code.

Joint authority. All terms purporting to give a joint authority to three or more town officers or employees shall be construed as giving such authority to a majority of such officers or other persons.

Includes. The term "includes" does not limit a term to a specified example.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

Month. The term "month" means a calendar month.

Oath. The term "oath" includes affirmation in all cases where by law an affirmation may be substituted for an oath. If an oath or affirmation is required to be taken, such oath or affirmation shall be taken before and administered by some officer authorized by law to administer oaths, at the place where the same is required to be taken or administered, unless otherwise expressly directed, and, when necessary, duly certified by such officer. In actions and proceedings in the court, a person may take an oath or affirmation in communication with the administering officer by telephone or audiovisual means.

Officers and employees. Whenever any officer or employee is referred to by title, such as, "town clerk" or "clerk," it shall be construed as if followed by the term, "of the Town of Onalaska, La Crosse County, Wisconsin."

Or, and. The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

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 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. The term "preceding" means next before.

Premises. The term "premises," as applied to real property, includes lands and structures.

Property. The term "property" includes real property, personal property and mixed property.

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Real property, real estate, land. The terms "real property," "real estate," and "land" include lands, tenements and hereditaments.

Shall. The term "shall" is to be construed as being mandatory.

State. The term "state" means the State of Wisconsin.

Tenant, occupant. The terms "tenant" and "occupant," as applied to a building or land include:

- (1) Any person holding, either alone or with others, a written or oral lease of such building or land.
- (2) Any person who, either alone or with others, occupies such building or land.

Town. The term "town" means the Town of Onalaska, La Crosse County, Wisconsin.

Town board, board and board of supervisors. The terms "town board," "board" and "board of supervisors" mean the board of supervisors of the Town of Onalaska, La Crosse County, Wisconsin.

Week. The term "week" means a period of seven consecutive days.

Wis. Admin. Code. The term "Wis. Admin. Code" means the current administrative regulations promulgated pursuant to law by state agencies.

Wisconsin Statutes. The terms "Wisconsin Statutes" and "Wis. Stats.," wherever used in this Code, shall mean the Wisconsin Statutes for the current year. The term shall include session laws of the legislature not yet printed in statute form.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means.

Year. The term "year" means a calendar year.

Sec. 1-3. Conflict.

- (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 any of the provisions hereof conflict, and the conflict cannot be resolved by the application of subsections (a) and (b) of this section, the more stringent regulation shall apply and the specific provision shall prevail over the general.

Sec. 1-4. 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. 1-5. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code, unless otherwise specified.

Sec. 1-6. 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. 1-7. 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. 1-8. Provisions deemed continuations of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the town relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Sec. 1-9. Effective date of ordinances.

- (a) Code. This Code shall take effect from and after passage and publication as provided by state law.
- (b) Subsequent ordinances. All ordinances passed by the town board subsequent to the adoption of this Code, except when otherwise specifically provided, shall take effect from and after their publication.

Sec. 1-10. Effect of adoption of Code; repeal and amendment of Code provisions.

The adoption of this Code or future repeal or amendment of any provision of this Code or of any other ordinance or resolution of the common town board shall not:

- (a) Affect any obligations or liabilities which were acquired or incurred or which had accrued under the repealed or amended provision, unless the town has expressly reserved the right to revoke such obligation or liability.
- (b) Affect any offense, penalty or forfeiture, or prosecution for any offense, or levy of any penalty or forfeiture that 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. 1-11. Amendments; language of amendments; new material; repeals.

- (a) All ordinances passed subsequent to this Code that amend, repeal, or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. When subsequent ordinances repeal any chapter, article, division, section, or subsection or any portion of a chapter, article, division, section, or subsection, such repealed portions may be excluded from the Code by omission from affected reprinted pages; and the subsequent ordinances, as numbered and printed or omitted, in the case of repeal, shall be *prima facie* evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the town board.
- (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of Ordinances of the Town of Onalaska, La Crosse County,

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Wisconsin, is hereby amended to read as follows:...." The new provisions shall then be set out in full as desired.

- (c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances of the Town of Onalaska, La Crosse County, Wisconsin, is amended by adding a section to be numbered _____, which section reads as follows:...." The new section may then be set out in full as desired.
- (d) All sections, divisions, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, division, article, or chapter number, as the case may be.

Sec. 1-12. Effect of amendments to Code.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the town board to make the addition or amendment a part of this Code, shall be deemed to be incorporated in this Code so that reference to the town's Code shall be understood and intended to include such additions and amendments.

Sec. 1-13. Keeping Code current; reviser's amendments.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the town. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

Sec. 1-14. Clerk to file documents incorporated by reference.

Whenever in this Code any standard, code, rule, regulation, or other written or printed matter, other than the state statutes or other sections of this Code, is adopted by reference, it shall be deemed incorporated in this Code, as if fully set forth in this Code.

Sec. 1-15. Reparability 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, sentence, clause, or phrase or portion thereof. The town board 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.

Sec. 1-16. Fees established by resolution; fee schedule.

Fees for permits, licenses, and other town services shall be as established from time to time by resolution or ordinance, as required by law, of the town board and set forth in the separate fee schedule adopted and maintained by the town. A copy of the fee schedule is available for inspection and copying in the office of the town clerk.

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Sec. 1-17. Penalty provisions.

- (a) Penalty schedule. Penalties for violation of any provision of this Code that are not specifically addressed in the Code shall be subject to the general penalty schedule set forth in this section.
- (b) General penalty. Unless otherwise specifically provided in the penalty schedule referred to in subsection (a) of this section or in this Code, any person who violates any of the provisions of this Code shall, upon conviction, be subject to a penalty as follows:
 - (1) First offense; penalty. For the first offense, forfeiture of not less than \$25.00 nor more than \$500.00 together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, imprisonment in the county jail until such forfeiture and costs are paid, but not for a period exceeding 90 days and not exceeding the penalty authorized by statute, if any.
 - (2) Second offense; penalty. For the second and all subsequent offenses of the same provision or ordinance within one year, forfeiture of not less than \$50.00 nor more than \$1,000.00 for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, imprisonment in the county jail until such forfeiture and costs of prosecution are paid, not to exceed 90 days and not to exceed the amount authorized by statute, if any.
- (c) Continued violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- (d) 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 provision of this Code or ordinance of the town, 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.

State Law reference— Authority of municipalities to prohibit criminal conduct, Wis. Stat. § 66.0107; penalty for violation of ordinances, Wis. Stat. § 66.0109; bail generally, Wis. Stat. § 66.0111; outstanding unpaid forfeitures, Wis. Stat. § 66.0115; actions for violations of municipal ordinances, Wis. Stat. § 66.0114; fees and costs in municipal court, Wis. Stat. § 814.65.

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