

## **Title 1**

### **GENERAL PROVISIONS\***

#### **Chapters:**

- 1.01 Code Adoption**
- 1.04 General Provisions**
- 1.08 General Penalty**
- 1.12 Incorporation by Reference**
- 1.16 Ordinance Repeal Provisions**

\*Editor's Note: Current boundary provisions are on file in the city clerk's office. For statutory authority to adopt a code of general ordinances, see Wis. Stat. 2015 § 66.0103. (part, Ord. 2B-15, 2015)

## Chapter 1.01

### CODE ADOPTION

#### Sections:

- 1.01.010 Adoption.**
- 1.01.020 Title—Citation—Reference.**
- 1.01.030 Codification authority.**
- 1.01.040 Ordinances passed prior to adoption of the code.**
- 1.01.050 Reference applies to all amendments.**
- 1.01.060 Title, chapter, and section headings.**
- 1.01.070 Reference to specific ordinances.**
- 1.01.080 Effect of code on past actions and obligations.**
- 1.01.090 Effective date.**
- 1.01.100 Constitutionality.**

#### **1.01.010 Adoption.**

Pursuant to the provisions of Wis. Stat. § 66.0103, there is adopted the Altoona Municipal Code. (part, Ord. 2B-15, 2015; Ord. 7 § 1, 1977)

#### **1.01.020 Title—Citation—Reference.**

This code shall be known as the Altoona Municipal Code and it shall be sufficient to refer to said code as the Altoona Municipal Code in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the Altoona Municipal Code. Further reference may be had to the titles, chapters, sections and subsections of the Altoona Municipal Code and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code. (Ord. 7 § 2, 1977)

#### **1.01.030 Codification authority.**

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the city of Altoona, Wisconsin, codified pursuant to the provisions of Wis. Stat. § 66.0103. (part Ord. 2B-15, 2015; Ord. 7 § 3, 1977)

#### **1.01.040 Ordinances passed prior to adoption of the code.**

The last ordinance included in this code was Ordinance A-146, passed December 9, 1976. The following ordinances, passed subsequent to Ordinance A-146, but prior to the adoption of this code, are hereby adopted and made a part of this code: Ordinances 1, 2, 3, 4 and 5. (Ord. 7 § 4, 1977)

#### **1.01.050 Reference applies to all amendments.**

Whenever a reference is made to this code as the Altoona Municipal Code or to any portion thereof, or to any ordinance of the city of Altoona, Wisconsin, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 7 § 5, 1977)

**1.01.060 Title, chapter, and section headings.**

Title, chapter and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this code. (Ord. 7 § 6, 1977)

**1.01.070 Reference to specific ordinances.**

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with, ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 7 § 7, 1977)

**1.01.080 Effect of code on past actions and obligations.**

Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the ordinance codified in this chapter, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 7 § 8, 1977)

**1.01.090 Effective date.**

This code shall become effective on the date the ordinance adopting this code as the Altoona Municipal code becomes effective. (Ord. 7 § 9, 1977)

**1.01.100 Constitutionality.**

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council declares that it would have passed this code, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ord. 7 § 10, 1977)

## Chapter 1.04

### GENERAL PROVISIONS

#### Sections:

- 1.04.010**      **Definitions.**
- 1.04.020**      **Title of office.**
- 1.04.030**      **Interpretation of language.**
- 1.04.040**      **Grammatical interpretation.**
- 1.04.050**      **Acts by agents.**
- 1.04.060**      **Prohibited acts include aiding and abetting.**
- 1.04.070**      **Computation of time.**
- 1.04.080**      **Construction.**
- 1.04.090**      **Effect of repeal.**
- 1.04.100**      **Numbering of additions, amendments and repeals.**
- 1.04.110**      **Copies to be on file in city clerk's office.**
- 1.04.120**      **Updating of the Altoona Municipal Code.**

#### **1.04.010**      **Definitions.**

Whenever used in the ordinances of the city the following words and phrases, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

A. "City" and "town" each mean the city of Altoona, Wisconsin, or the area within the territorial limits of the city and such territory outside of the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

B. "Council" means the city council of the city of Altoona. "All its members" or "all councilmen" means the total number of councilmen holding office.

C. "County" means the county of Eau Claire.

D. "Law" denotes applicable federal law, the Constitution and statutes of the state of Wisconsin, the ordinances of the city, and when appropriate, and all rules and regulations which may be promulgated thereunder.

E. "May" is permissive.

F. "Month" means a calendar month.

G. "Must" and "shall" are each mandatory.

H. "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

I. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

J. "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

K. "Personal property" includes money, goods, chattels, things in action and evidences of debt.

L. "Preceding" and "following" mean next before and next after, respectively.

M. "Property" includes real and personal property.

N. "Real property" includes land, tenements and hereditaments.

O. "Sidewalk" means that portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

P. "State" means the state of Wisconsin.

Q. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this city which have been or may hereafter be dedicated and open to public use or such other public property so designated in any law of this state.

R. "Tenant" and "occupant," applied to a building or land, include any person who occupies the whole or part of such building or land, whether alone or with others.

S. The term "Wisconsin Statutes" wherever used in this code shall mean the most recently compiled and published official set of the Wisconsin Statutes, as amended by any subsequent laws duly passed and published by the state of Wisconsin. Whenever any provisions of this code, refer to or adopt provisions of the Wisconsin Statutes, said code provisions are referring to said statutory provisions as they might subsequently be amended or renumbered by the state of Wisconsin.

T. "Written" includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

U. "Year" means a calendar year. (Ord. 11G-91, 1991; Ord. A-125 § 1, 1976: Ord. A-120, § 1, 1976: Ord. A-119, 1976)

**1.04.020 Title of office.**

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the city. (Ord. A-120 § 2, 1976)

**1.04.030 Interpretation of language.**

All words and phrases shall be construed 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. (Ord. A-120 § 3, 1976)

**1.04.040 Grammatical interpretation.**

The following grammatical rules shall apply in the ordinances of the city of Altoona unless it is apparent from the context that a different construction is intended:

A. Each gender includes the masculine, feminine, and neuter genders.

B. The singular number includes the plural and the plural includes the singular.

C. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. A-120 § 4, 1976)

**1.04.050 Acts by agents.**

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Ord. A-120 § 5, 1976)

**1.04.060 Prohibited acts include aiding and abetting.**

Whenever in the ordinances of the city any act or omission is made unlawful, it shall include causing, aiding, and abetting such act or omission. (Ord. A-120 § 6, 1976)

**1.04.070 Computation of time.**

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded. (Ord. A-120 § 7, 1976)

**1.04.080 Construction.**

The provisions of the ordinances of the city and all proceedings under them are to be construed with a view to effect their objects and to promote justice. (Ord. A-120 § 8, 1976)

**1.04.090 Effect of repeal.**

The repeal of an ordinance shall not:

A.Repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby;

B.Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege has been reserved by the city;

C.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 provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time;

D.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 proceedings held after the time this code shall take effect, shall be conducted according to the provisions of this code, and shall in all respects be subject to the provisions of this code. (Ord. A-120 § 9, 1976: prior code § 15.06(2), (3), (4))

**1.04.100 Numbering of additions, amendments and repeals.**

All general ordinances hereafter enacted by the city council shall be numbered in chronological order, prefixed by the letter "A" and shall indicate by appropriate decimal number the section, subsection or paragraph of this code created, amended, repealed or revised. (Prior code § 15.08)

**1.04.110 Copies to be on file in city clerk's office.**

The city clerk shall certify one copy of this code as the original code of the city and shall file the same as part of the city book. Such copy shall be retained in its original form. In addition, the clerk shall retain in his office at least one copy of the code of the city in current form in which shall be inserted all supplemental sheets as provided in Section 1.04.120. (Prior code § 15.09 (part))

**1.04.120 Updating of the Altoona Municipal Code.**

Whenever any ordinance amending, repealing, revising or creating any section of this code is adopted by the city council, the city clerk shall file said ordinance in his/her official files, which shall be open for public review during the city clerk's office's regular hours. At least once per year, the city clerk shall cause this code to be updated, either by his/her staff or by an independent contract. When such revision is completed, the city clerk shall have the revised pages reproduced, and it shall be the city clerk's responsibility to make sure that all copies of the Altoona Municipal Code in the possession of all city officials and officers, as well as the Eau Claire County Law Library, be updated. (Ord 7A-05, 2005, Ord. 11F-91, 1991: prior code § 15.09 (part))

## Chapter 1.08

### GENERAL PENALTY

#### Sections:

- 1.08.010 Issuance of Citations and Complaints for Violations of Certain Ordinances**
- 1.08.020 Penalty Where No Penalty Provided**
- 1.08.030 Ordinance violation not a misdemeanor**
- 1.08.040 Deposit Schedule**
- 1.08.050 Continuing offenses.**
- 1.08.060 Nonexclusivity of enforcement over remedies**
- 1.08.070 Execution against defendant's property permitted when.**
- 1.08.080 Imprisonment When**
- 1.08.090 Severability**

#### **1.08.010 Issuance of Citations and Complaints for Violations of Certain Ordinances**

A. Pursuant to the authority of Sec. 66.0113 of the Wisconsin Statutes, the City of Altoona hereby elects to use the citation method of enforcement of ordinances including those for which a statutory counterpart exists.

B. The citation shall be in compliance with Wis. Stat. § 800.02.

C. Any law enforcement officer may issue citations for enforcement of any ordinances authorized under this ordinance. In addition, the following officials of the City of Altoona are hereby authorized to issue citations for enforcement of those ordinances which are directly related to their official responsibilities and support the administration and resolution thereof.

1. Fire Chief
2. Director of Public Works
3. Zoning Administrator
4. Building Inspector

D. Enforcement duties as specifically assigned and described by Ordinance throughout this Altoona Municipal Code.

E. Procedure. The provisions of Wis. Stat. § 66.0113(3) relating to violator's options and procedure on default are hereby adopted and incorporated herein by reference. (part Ord 7D-20, 2020)

#### **1.08.020 Penalty Where No Penalty Provided**

A. In any case where there shall be a violation of any City of Altoona ordinance for which no penalty is provided, the person violating the same shall be subject to a forfeiture of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) for each offense, except as provided in the following subsection.

B. In any case where any ordinance or section of an ordinance of the City of Altoona shall not provide the 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 ten dollars (\$10) nor more than two hundred dollars (\$200) for each offense, except that 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. (part Ord 7D-20, 2020)

#### **1.08.030 Ordinance violation not a misdemeanor**

No violation of any ordinance of the city shall be, or be construed to be, a misdemeanor, nor shall imprisonment be imposed as a punishment for violation of any ordinance of the city except in the event of

a failure of the defendant to pay the forfeiture imposed by the court, any other provision of the general ordinances of the City to the contrary notwithstanding. (part Ord 7D-20, 2020).

**1.08.040           Deposit Schedule**

Pursuant to Wisconsin Statutes, the city does adopt the following as its cash deposit schedules for violations of city ordinances:

A. For violations of ordinances adopting state statutes covered by Uniform Deposit Schedules published by the Wisconsin Judicial Conference or other duly empowered state agencies, the city adopts the deposit schedules so published and as amended by said agencies from time to time.

B. For violations of other city ordinances, cash deposits, plus court costs established by duly empowered state agencies, shall be accepted pursuant to a bond schedule passed by city council resolution. Revisions to said schedule shall be made by city council resolution, and an updated copy of the bond schedule shall be available for public inspection at the police department during regular office hours. (Ord. 1213-89 (part), 1989)

**1.08.050           Continuing offenses.**

Whenever a person or entity violates any code provisions through a continuing course of conduct, failure to act, or in any other continuing manner, each and every day of said continuing violation shall be considered a separate and individual violation of this code, and said person or entity shall be subject to prosecution and penalties for each and every such individual violation. (Ord. 11A-91 (part), 1991)

**1.08.060           Nonexclusivity of enforcement over remedies.**

A. The adoption of this Chapter shall not preclude the City Council from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

B. The issuance of a citation hereunder shall not preclude the City or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation, or order (part Ord 7D-20, 2020).

**1.08.070           Execution against defendant's property permitted when.**

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.

**1.08.080           Imprisonment when**

When a forfeiture is imposed for the violation of any ordinance of the city or any section thereof the court may also order the defendant to pay the cost of the action and to be imprisoned until such forfeiture and costs are paid, in no case, however, to exceed six months, and the court may also issue an execution against the property of the defendant for the forfeiture and costs (part Ord 7D-20, 2020)

**1.08.090           Severability**

If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application. (part Ord 7D-20, 2020)



## Chapter 1.12

### INCORPORATION BY REFERENCE

#### Sections:

**1.12.010**      **Designated—Material to be on file where—City clerk responsibility.**

**1.12.010**      **Designated—Material to be on file where—City clerk responsibility.**

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, 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 clerk's office hours, subject to such orders or regulations which the clerk may prescribe for their preservation. (Prior code § 15.03)

## Chapter 1.16

### ORDINANCE REPEAL PROVISIONS

#### Sections:

#### 1.16.010 Exceptions.

#### 1.16.010 Exceptions.

All ordinances adopted prior to December 18, 1959 by the city council 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. Polling places;
- B. The issuance of corporate bonds and notes of the city of whatever name or description;
- C. The establishment of grades, curblines and widths of sidewalks in the public streets and alleys;
- D. The fixing of salaries of public officials and employees;
- E. Rights, licenses or franchises or the creation of any contract with the city;
- F. The lighting of streets and alleys;
- G. The annexation of territory to the city;
- H. The naming and changing of names of streets, alleys, public grounds and parks;
- I. The letting of contracts without bids;
- J. Tax and special assessment levies;
- K. Release of persons, firms or corporations from liability;
- L. Construction of any public works;
- M. Water, sewer and electric rates, rules and regulations and sewer and water main construction;
- N. Budget ordinances, resolutions and actions. (Prior code 15.05)