

CHAPTER 25-GENERAL PROVISIONS

CITY OF FENNIMORE

(History: Repealed and Recreated by Ordinance #2019-01, effective 3/1/2019)1

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25.01 RULES OF CONSTRUCTION

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:

- (1) Wisconsin Statutes. The term Wisconsin Statutes, whenever used in this Code, shall be the Wisconsin Statutes for the year **1977** as the same may be amended from time to time.
- (2) Gender: Singular and Plural. Every word in this Code and in any 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 things as well as to one person or thing; provided that these rules 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.
- (3) Person. The word “person” extends and applies to natural person, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.
- (4) 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

¹ History: (Repealed and Recreated Ordinance #2019-01, adopted 2/25/2019, published 2/28/2019, effective 3/1/2019)

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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 of 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 phrases or portion thereof. The Mayor and the Common Council of the City of Fennimore hereby declare 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, rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other section of this Code, are adopted by reference, they 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, rules, 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 at all reasonable time, subject to such orders or regulations which the Clerk may prescribe for their preservation.

25.04 PENALTY PROVISIONS

- (1) General Penalty. Any person who shall violate any of the provisions of this Code for which a different penalty is not provided shall upon conviction of such violation, be subject to a penalty which shall be as follows:
 - (a) First Offense - Penalty. Any person who shall violate any such provision shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$100.00, together with court costs and assessments, and, in default of payment of such forfeiture, costs and assessments, may be imprisoned in the County Jail or subject to license suspension or revocation as provided by law. The deposit amount for a first offense shall be not less than \$10.00 nor more than \$100.00
 - (b) Second and Subsequent Offenses - Penalty. Any person who shall violate any such provision, and who has previously been convicted of a violation of the same section shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$200.00, together with court costs and assessments, and, in default of payment of such forfeiture, costs and assessments, may be imprisoned in the County Jail or subject to license suspension or revocation as provided by law. The deposit amount for a second offense shall be not less than \$10.00 nor more than \$200.00.
- (2) Continued Violations. Each violation and each day a violation continues or occurs shall

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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.

(3) Other Remedies.

- (a) The City shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs or prosecution above.
- (b) Execution against defendant's property. Whenever any person fails to pay a forfeiture and costs of prosecution upon the order of any 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.
- (c) Restitution. Any violation of a provision of this Code similar to conduct prohibited by state statute for which restitution may be obtained shall require restitution to be made upon conviction thereof.

25.045 FEES

- (1) The fees referred to in all sections of the Municipal Code shall be established by the City of Fennimore by resolution and may from time to time be modified by Council Action. The current fee schedule resolution established by the City of Fennimore shall be available for review in the City Clerk/Treasurer's Office.
- (2) PAYMENT. All fees are due and payable at or prior to the date on which an application or request for a license, permit or service is sought. Fees for services provided without an application or request for such service being made are due and payable 20 days after the date of invoice.
- (3) OTHER MEANS OF COLLECTION. Nothing in this section shall be construed to prevent the City from collecting outstanding amounts owed by any other means of collection authorized by law including, but not limited to, assessment of special charges, small claims or other civil actions and the imposition of forfeitures.
- (4) EFFECT. In the event the fees provided in this ordinance conflict with fees provided under any other ordinance in the municipal code, the current resolution shall control.

25.05 REPEAL OF GENERAL ORDINANCES

All ordinances heretofore adopted by the Common Council of the City of Fennimore are hereby repealed, except all ordinances or parts of ordinances relating to the following subject and not conflicting with any of the provisions of this Code.

- (a) The issuance of corporate bonds and notes of the City of Fennimore of whatever

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- name or description.
- (b) The fixing of salaries of public officials and employees.
 - (c) Rights, licenses or franchises or the creation of any contract with the City of Fennimore.
 - (d) The lighting of streets and alleys.
 - (e) The annexation of territory to the City of Fennimore.
 - (f) The naming and changing of names of streets, alleys, public grounds and parks.
 - (g) The letting of contracts without bids.
 - (h) Tax and special assessment levies.
 - (i) Release of persons, firms or corporations from liability.
 - (j) Construction of any public works.
 - (k) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
 - (l) Budget ordinances, resolutions and actions.

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 obligation 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, 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) After 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, by the right of

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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 of this Code shall take effect, shall be conducted according to the provisions of this Code, and shall be, in all respects, subject to the provisions of this Code.

25.07 TITLE: EFFECTIVE DATE: CITATION

This Code of Ordinances shall be known as the “Municipal Code of the City of Fennimore” and shall take effect on October 26, 1979. All reference thereto shall be cited by section number (example: s. 12.06, Municipal Code of the City of Fennimore).

25.08 STYLE OF ORDINANCES: ADDITIONS, AMENDMENTS AND REPEALS

All general ordinances hereafter enacted by the Common Council of the City of Fennimore shall be numbered as follows: 4-digit year-chronological order # created, ie. “2019-01 and shall indicate by appropriate decimal number the section, subsection or paragraph of this Code created, amended, repealed or revised.

25.09 CLERK TO FILE ORDINANCES: SUPPLEMENTAL SHEETS; CORRECTION OF NON-SUBSTANTIVE ERRORS

- (1) The City Clerk shall certify one copy of this Code as the original Municipal Code of the City of Fennimore and shall file the same as part of the City Ordinance Book. Such copy shall be retained in its original form. In addition, the Clerk shall retain in his or her office at least one copy of the Municipal Code of the City of Fennimore in current form in which shall be inserted all supplemental sheets as hereinafter provided.
- (2) Whenever any ordinance amending, repealing, revising or creating any action of this Code is adopted by the Common Council, the Clerk after recording such ordinance in the ordinance book, shall cause copies to such ordinance to be reproduced on supplemental sheets in proper form for insertion in the municipal code and shall insert such ordinances in all copies of this Code in his possession except the aforementioned original copy. The Clerk shall make such supplemental sheets available at cost to all persons requesting the same.
- (3) The Clerk may make non-substantive changes necessary to accommodate page numbering and section numbering and may correct typographical errors, but no other changes shall be made without Common Council approval.