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Chapter 1.01CODE ADOPTION\*Sections:

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**1.01.010 Adoption.** Pursuant to the provisions of Section 66. 0103 of the Wisconsin Statutes, there is hereby adopted the "Code of Ordinances of the City of Eau Claire", as published by Book Publishing Company, Seattle, Washington. (Ord. 3458 §1, 1974).

**1.01.020 Title--Citation--Reference.** This code shall be known as the "Code of Ordinances of the City of Eau Claire", and it shall be sufficient to refer to said code as the "Code of Ordinances of the City of Eau Claire" 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 "Code of Ordinances of the City of Eau Claire". Further reference may be had to the titles, chapters, sections, and subsections of the "Code of Ordinances of the City of Eau Claire", and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code. (Ord. 3458 §2, 1974).

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\* For statutory provisions authorizing cities to adopt codification of their general ordinances, see WSA 66. 0103.

**1.01.030 Codification authority.** This code consists of all the regulatory and penal ordinances and certain of the administration ordinances of the city of Eau Claire, Wisconsin, codified pursuant to the provisions of Section 66. 0103 of the Wisconsin Statutes Annotated. (Ord. 3458 §3, 1974).

**1.01.040 Ordinances passed prior to adoption of the code.** The last ordinance included in the initial code is Ordinance 3415, passed December 27, 1973. The following ordinances, passed subsequent to Ordinance 3415, but prior to the adoption of this code, are hereby adopted and made a part of this code: Ordinances 3415, 3423, 3424, 3425, 3427, 3431, 3432, 3444, 3445, 3446, 3447 and 3448. (Ord. 3458 §4, 1974).

**1.01.050 Reference applies to all amendments.** Whenever a reference is made to this code as the "Code of Ordinances of the City of Eau Claire" or to any portion thereof, or to any ordinance of the city of Eau Claire, Wisconsin, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 3458 §5, 1974).

**1.01.060 Title, chapter and section headings.** Title, chapter, and section headings contained herein 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 hereof. (Ord. 3458 §6, 1974).

**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. 3458 §7, 1974).

**1.01.080 Effect on past actions and obligations.** Neither the adoption of this code nor the repeal or amendments 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 hereof, 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. 3458 §8, 1974).

**1.01.090 Effective date.** This code shall become effective on the date the ordinance adopting this code as the "Code of Ordinances of the City of Eau Claire" becomes effective. (Ord. 3458 §9, 1974).

**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 hereby 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. 3458 §10, 1974).

Chapter 1.04GENERAL PROVISIONSSections:

- 1.04.010 Definitions.**
- 1.04.020 Words and phrases--Meaning.**
- 1.04.030 Acts by agents.**
- 1.04.040 Grammatical interpretation.**
- 1.04.050 Ordinances--Severability.**
- 1.04.060 Ordinances--Effective date.**
- 1.04.065 Reorganization and modernization of Chapter 66 of the Wisconsin Statutes.**
- 1.04.070 Prohibited acts include causing, permitting, etc**
- 1.04.080 Construction.**
- 1.04.090 Ordinances--Repeal shall not revive.**
- 1.04.100 Notice to owners of property.**
- 1.04.110 Publication of ordinances.**

**1.04.010 Definitions.** The following words and phrases, whenever used in the ordinances of the city of Eau Claire, Wisconsin, shall be construed as defined in this section unless from the context a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

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

B. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day be Sunday or a legal holiday, as defined by Wisconsin Statutes s. 985.09, that day shall be excluded.

C. "Council" means the city council of the city of Eau Claire, Wisconsin. "All its members" or "all councilmen" means the total number of councilmen as provided by the city under the laws of the state of Wisconsin.

D. "County" means the county of Eau Claire, Wisconsin.

Dm. "Holiday" means the following days: January 1; the last Monday in May; July 4; the first Monday in September; the 4th Thursday in November; December 25; and December 31. For the exclusive purpose of enforcement of parking restrictions, "holiday" shall also mean the following days: the third Monday in January; the third Monday in February; the second Monday in October; November 11; and December 24.

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

F. "May" is permissive.

G. "Month" means a calendar month.

H. "Must" and "Shall". Each is mandatory.

I. "Oath" shall be construed to include 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".

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

K. "Ordinance" means a law of the city; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

L. "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 a part of such building or land.

M. "Person" means 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.

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

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

P. "Property" includes real and personal property.

Q. "Real Property" includes lands, tenements and hereditaments.

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

S. "State" means the state of Wisconsin.

T. "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.

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

V. "Title of office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the city.

W. "Written" includes printed, typewritten, mimeographed or multigraphed.

X. "Year" means a calendar year. (Ord. 6947, 2011; Ord. 5897, 1998; Ord. 3396 §1.25(1), 1973).

**1.04.020 Words and phrases--Meaning.** All words and phrases shall be construed and understood according to the common and approved usage of the language. 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. 3396 §1.25(2), 1973).

**1.04.030 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 as to include all such acts performed by an authorized agent. (Ord. 3396 §1.25(3), 1973).

**1.04.040 Grammatical interpretation.** The following grammatical rules shall apply in the ordinances of the city:

A. Gender. The masculine gender includes the feminine and neuter genders.

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

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

D. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Ord. 3396 §1.25 (4), 1973).

**1.04.050 Ordinances--Severability.** The provisions of these ordinances are severable. If any part or provision of any section, clause or provision of these ordinances is invalid, or if its application to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application. (Ord. 3396 §1.25(5), 1973).

**1.04.065 Reorganization and modernization of Chapter 66 of the Wisconsin Statutes.** All sections of Chapter 66 of the Wisconsin Statutes enumerated in this code that are affected by the reorganization and modernization of that chapter by 1999 Wisconsin Act 150 shall be amended or modified to conform to that Act, effective January 1, 2001. The city attorney is authorized to insert statutory references in the code that conform to that Act. (Ord. 6103, 2000).

**1.04.060 Ordinances--Effective date.** All ordinances shall take effect after passage on the day after their publication in the official city newspaper or at a later date if expressly prescribed. (Ord. 3396 §1.25(6), 1973).

**1.04.070 Prohibited acts include causing, permitting, etc.** Whenever in the ordinances of the city any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Ord. 3396 §1.25(7), 1973).

**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. 3396 §1.25(8), 1973).

**1.04.090 Ordinances--Repeal shall not revive.** The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby. (Ord. 3396 §1.25(9), 1973).

**1.04.100 Notice to owners of property.** In this code of ordinances, whenever notice is required to be given to "owners" or "owners of record" of property, or words of similar import, and state law does not provide otherwise, notice to the owner or owners of property as shown on the current city assessment roll shall be sufficient compliance with such requirement. (Ord. 4436, 1984).

**1.04.110 Publication of ordinances.** Any ordinance which consolidates, revises or otherwise enacts a comprehensive revision included in the preparation of a code, or part thereof, as provided in sec. 66. 0103, Wisconsin Statutes, need not be published in accordance with sec. 62.11(4)(a), Wisconsin Statutes. Such code, or part thereof, may be adopted by an ordinance referring thereto and may be published in book or pamphlet form in accordance with sec. 66. 0103, Wisconsin Statutes. A copy of the code shall be on file with the City Clerk for public inspection. An opinion as to whether an ordinance in question qualifies for publication hereunder shall be obtained from the City Attorney and shall be filed with the ordinance. (Ord. 4652, 1986).

## **Chapter 1.06**

### **REVIEW OF ADMINISTRATIVE DETERMINATIONS**

#### **Sections:**

- 1.06.010 Legislative purpose.**
- 1.06.020 Review of administrative determinations.**
- 1.06.030 Determinations subject to review.**
- 1.06.040 (Reserved.)**
- 1.06.050 Administrative review board.**
- 1.06.060 Procedure for review.**

**1.06.010 Legislative purpose.** The city of Eau Claire elects not to be governed by the provisions of Chapter 68, Wisconsin Statutes. This election is made pursuant to the provisions of Wis. Stats. s. 68.16. The purpose of this chapter is to afford a constitutionally sufficient, fair, and orderly administrative procedure and review in connection with determinations by city authorities which involve constitutionally protected rights of specific persons who are entitled to due process protection under the 14th Amendment to the United States Constitution, and for which appeal procedures are not already created by other ordinances or statutes. There is no intention to create any new or additional rights to administrative review beyond those already guaranteed by the Constitution. (Ord. 6567, 2005).

**1.06.020 Review of administrative determinations.** A person aggrieved shall be defined as any person having a substantial interest which is adversely affected by an administrative determination of any official, agent, or employee acting on behalf of the city, as set forth in s. 1.06.030. A person aggrieved by such determination may have it reviewed by following the procedure set forth in s. 1.06.060. (Ord. 6567, 2005).

**1.06.030 Determinations subject to review.** The following determinations are exclusively reviewable under this section for a fee as stated in the City of Eau Claire Schedule of Fees and Licenses:

A. Determinations made under chapters 2.16, 5.04, 5.24, 5.26, 5.34, 5.42, 5.46, 5.48, 5.52, 5.54, 5.56, 5.60, 6.10, 8.20, 8.32, 9.58, 9.59, 9.60; and sections 5.28.090, 6.08.020, 8.16.070, 13,12.062, and 16.28.090.

B. Determinations made under Wis. Stats. s. 125.12 that allow for a hearing by a committee of city council. (Ord. 7030, 2012; Ord. 6943, 2010; Ord. 6940, 2010; Ord. 6746 §1, 2007; Ord. 6593 §2, 2005; Ord. 6592 §2, 2005; Ord. 6586 §2, 2005; Ord. 6579 §2, 2005; Ord. 6572 §19, 2005; Ord. 6567, 2005).

**1.06.050 Administrative review board.** A. The Eau Claire city council hereby creates an administrative review board. The board shall consist of 7 persons appointed and approved by the Eau Claire city council. Board members shall be residents of the city of Eau Claire each having a 2 year term. The board shall elect a president and secretary annually. The board may adopt rules of procedure.

B. The administrative review board shall meet as needed to hold hearings within 30 days of the date of filing of an appeal or at such time as agreed upon.

C. The Eau Claire city council hereby duly authorizes the administrative review board to hold hearings and issue decisions under s. 1.06.060 below. Participation by a city council member in the proceedings of the administrative review board shall not disqualify said member from participating in further proceedings before the city council. (Ord. 7193 §1, 2016; Ord. 6752, 2007; Ord. 6746 §2, 2007; Ord. 6567, 2005).

**1.06.060 Procedure for review.** A. For all administrative determinations subject to review under this ordinance that are governed by s. 125.12, Wis. Stats., the board is designated as a committee of city council and shall follow the procedure for review provided in said statute. Where s. 125.12, Wis. Stats., is silent, the procedures for review shall be as adopted by the board.

B. All other administrative determinations subject to review under this chapter are governed by the procedures listed in subsection C. below and such additional rules adopted by the board.

C. Appeal from determination.

1. Notice of appeal. The administrative determination may be appealed to the administrative review board if the person aggrieved files a written appeal within 30 days of the mailing of the determination. Such appeal shall be filed with the city clerk. The board shall hold a hearing within 30 days of the filing of the appeal, or at such time as agreed upon by both parties. The appellant shall be notified at the address provided on the appeal by registered mail postmarked at least 10 days before the hearing.

2. Hearing. At the hearing, the appellant and the responsible city official or authority may be represented by counsel, may present evidence, and may call and examine witnesses and cross-examine witnesses of the other party. The president of the board shall conduct the hearing. In the absence of the president, the board shall choose by majority vote another member to conduct the hearing. If applicable, the presiding member may administer oaths to witnesses, issue subpoenas and seek advice of counsel. The rules of evidence provided in s. 227.45, Wis. Stats., for administrative proceedings shall be followed. The secretary of the board may receive and mark all exhibits, if any. If either or both parties request that the hearing be recorded on audio or video tape or requests a stenographic recording, the staff shall make the necessary arrangements but the expense shall be borne by the requesting party, or split equally if requested by both parties. Such request shall be made at least 5 days before the hearing.

3. Decision. The board may issue an oral decision at the time of the hearing. Within 10 days of the completion of the hearing, the aggrieved person may request the board to reduce its decision to written form, which the board shall do within 10 days of receipt. The board shall have the power to affirm or reverse the administrative determination. The board shall have four (4) affirmative votes in order to reverse an administrative determination. Such decisions shall be consistent with applicable law and, when issued in written form, shall be final determinations for the purpose of judicial review.

4. Decisions under s. 125.12, Wis. Stats. Pursuant to s. 125.12, Wis. Stats., the board shall make a report and recommendation to the city council. Written arguments supporting the objection to the report shall be filed with the city clerk and forwarded to the city council. Oral arguments supporting the objection may be presented at city council's discretion. No party is entitled to a hearing de novo before the city council. (Ord. 7193 §1, 2016; Ord. 6746 §3, 2007; Ord. 6567, 2005).

**Chapter 1.08****PUBLIC RECORDS****Sections:**

- 1.08.010 Definitions.**
- 1.08.020 Duty to maintain records.**
- 1.08.030 Legal custodians.**
- 1.08.040 Public access to records.**
- 1.08.050 Access procedures.**
- 1.08.060 Limitations on right to access.**
- 1.08.070 Destruction of records.**
- 1.08.080 Lesser time, when authorized.**
- 1.08.090 Preservation through reproduction methods.**

**1.08.010 Definitions.** In this chapter, unless the context clearly requires otherwise:

A. "Authority" means any of the following entities having custody of a city record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by construction, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

B. "Custodian" means that officer, department head, division head, or employee of the city designated under Section 1.08.030 or otherwise responsible by law to keep and preserve any city records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this chapter to respond to requests for access to such records.

C. "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library. (Ord. 4328, 1983).

**1.08.020 Duty to Maintain Records.** A. Except as provided under section 1.08.070, each officer and employee of the city shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

B. Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the city clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt. (Ord. 4328, 1983).

**1.08.030 Legal Custodians.** A. Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.

B. Unless otherwise prohibited by law, the city clerk or the clerk's designee shall act as legal custodian for the city council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the city council.

C. For every authority not specified in subsections A. or B., the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

D. Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee.

E. The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under subchapter II of Chapter 19, Wisconsin Statutes, and this section. The designation of a legal custodian shall not affect the powers and duties of an authority under this section. (Ord. 4328, 1983).

**1.08.040 Public Access to Records.** A. Except as provided in section 1.08.060, any person has a right to inspect a record and to make or receive a copy of any record as provided in section 19.35(1), Wisconsin Statutes.

B. Records shall be available for inspection and copying during all regular office hours.

C. If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours' advance notice of intent to inspect or copy.

D. A requester shall be permitted to use facilities comparable to those available to city employees to inspect, copy or abstract a record.

E. The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner or access to an original record if the record is irreplaceable or easily damaged.

F. A requester shall be charged a fee to defray the cost of locating and copying records as follows:

1. The cost of photocopying shall be as stated in the City of Eau Claire Fees and Licenses Schedule. Other costs may be imposed not to exceed the actual, necessary and direct cost of reproduction and transcription of the record.

2. If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

3. The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- or video-tapes, shall be charged.

4. If mailing or shipping is necessary, the actual cost thereof shall also be charged.

5. There shall be no charge for locating a record unless the actual cost thereof exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester. Such actual cost shall be derived by multiplying the actual hourly wage of the employee or employees conducting the search, including fringe benefits, by the amount of time spent in the search.

6. The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.

7. Elected and appointed officials of the city of Eau Claire shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

8. The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

G. Pursuant to Section 19.34, Wisconsin Statutes, and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This subsection does not apply to members of the city council. (Ord. 6363 §1, 2002; Ord. 4331, 1983; Ord. 4328, 1983).

**1.08.050 Access Procedures.** A. A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Section 19.37, Wisconsin Statutes. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 1.08.040 F.6. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

B. Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the city attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

C. A request for a record may be denied as provided in section 1.08.060. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under section 19.37(1), Wisconsin Statutes, or upon application to the attorney general or a district attorney. (Ord. 4328, 1983).

**1.08.060 Limitations on Right to Access.** A. As provided by section 19.36, Wisconsin Statutes, the following records are exempt from inspection under this section:

1. Records specifically exempted from disclosure by state or federal law;
2. Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations requires exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
3. Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection; and
4. A record or any portion of a record containing information qualifying as a common law trade secret.

B. As provided by section 43.30, Wisconsin Statutes, public library circulation records are exempt from inspection under this section.

C. In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the city attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

1. Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
2. Records of current deliberations after a quasi-judicial hearing.
3. Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any city officer or employee, or the investigation of charges against a city officer or employee, unless such officer or employee consents to such disclosure.
4. Records concerning current strategy for crime detection or prevention.
5. Records of current deliberations or negotiations on the purchase of city property, investing of city funds, or other city business whenever competitive or bargaining reasons require nondisclosure.
6. Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
7. Communications between legal counsel for the city and any officer, agent or employee of the city, when advice is being rendered concerning strategy with respect to current litigation in which the city or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under section 905.03, Wisconsin Statutes.

D. If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the city attorney prior to releasing any such record and shall follow the guidance of the city attorney when separating out the exempt material. If in the judgment of the custodian and the city attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure. (Ord. 4328, 1983).

**1.08.070 Destruction of Records.** A. City officers may destroy the following non-utility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under chapter 442 of the Wisconsin Statutes, but not less than 7 years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the state public records board pursuant to section 16.61(3)(e), Wisconsin Statutes, and then after such shorter period:

1. Bank statements, deposit books, slips and stubs;
2. Bonds and coupons after maturity;
3. Cancelled checks, duplicates and check stubs;
4. License and permit applications, stubs and duplicates;
5. Official bonds;
6. Payrolls and other time and employment records of personnel included under the Wisconsin Retirement System (subject to approval of the city manager);
7. Receipt forms;
8. Special assessment records (subject to approval of city manager);
9. Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto;

B. City officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under chapter 442 of the Wisconsin Statutes, subject to state public service commission regulations, but not less than 7 years after the record was effective unless a shorter period has been fixed by the state public records board pursuant to section 16.61(3)(e) Wisconsin Statutes, and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two years.

1. Contracts;
2. Excavation permits;
3. Inspection records;
4. Vouchers and supporting documents pertaining to charges not included in plant accounts;
5. Other utility records with the prior written approval of the Public Service Commission.

C. City officers may destroy the following records of the city but not less than 3 years after the incurring of the liability which is the subject of the record:

1. Parking tickets;
2. Miscellaneous accounts receivable.

D. City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than 7 years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the state public records board pursuant to section 16.61(3)(e), Wisconsin Statutes, and then after such a shorter period.

1. Assessment rolls and related records, including board of review minutes;
2. Contracts and papers relating thereto;
3. Correspondence and communications;
4. Election notices;
5. Financial reports other than annual financial reports;
6. Insurance policies;
7. Justice dockets;
8. Oaths of office;
9. Reports of boards, commissions, committees and officials duplicated in the official council

minutes;

10. Resolutions and petitions;
11. Voter registration cards;
12. Uniform traffic citations;
13. Police department firearms scores;
14. City ordinance citations;
15. Library patron and circulation records;
16. Other records of the city not enumerated above.

E. Unless notice is waived by the state historical society, at least 60 days' notice shall be given the state historical society prior to the destruction of any record as provided by section 19.21(4)(a), Wisconsin Statutes.

F. Any tape recordings of a governmental meeting of the city, made by the city, may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

G. Any tape recordings of telephone calls, radio transmissions or other methods of communication recorded in the city's communications center may be erased, destroyed or reused after 125 days.

H. Closed call records associated with the computer aided dispatch (CAD) system in the city's communication center and mobile data computer (MDC) data logs may be deleted and destroyed after 120 days.

I. No record may be destroyed at any time after the receipt of a request for inspection or copying of the record under s. 19.35(1), Wis. Stats., until after the request is granted or until at least 60 days after the date that the request is denied or, if the requester is an incarcerated person, until at least 90 days after the date that the request is denied. If the city receives written notice that an action relating to a record has been commenced under s. 19.37, Wis. Stats., the record may not be destroyed until after the order of the court in relation to such record is issued and the deadline for appealing that order has passed or, if appealed, until after the order of the court hearing the appeal is issued. If the court orders the production of any record and the order is not appealed, the record may not be destroyed until after the request for inspection or copying is granted. (Ord. 5843, 1998; Ord. 5737, 1997; Ord. 5357, 1993; Ord. 5131, 1991; Ord. 4563, 1985; Ord. 4328, 1983).

**1.08.080 Lesser time, when authorized.** This chapter shall not be construed to authorize the destruction of any public record after a period less than prescribed by statute or state administrative regulations. (Ord. 4328, 1983).

**1.08.090 Preservation through reproduction methods.** Any city officer, or the director of any department or division of city government may, subject to the approval of the city manager, keep and preserve public records in his or her possession by means of microfilm, optical disk, electronic format, or other reproduction method technology permits. Such records shall meet the standards for reproduction set forth in section 16.61(7)(a) and (b), Wisconsin Statutes, and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Section 1.08.040 through 1.08.060. (Ord. 6606, 2005; Ord. 4328, 1983).

**Chapter 1.12**

**WARD BOUNDARIES\***

**(RESERVED)**

**Chapter 1.16**

**GENERAL PENALTY\*\***

**Sections:**

- 1.16.010 General code penalty.**
- 1.16.020 Aiding and abetting ordinance violations.**
- 1.16.030 Ordinance violation not misdemeanor.**
- 1.16.040 Imprisonment when.**
- 1.16.050 Fine payment--Indigents unable to pay.**

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\* A map outlining ward boundaries is available in the office of the city clerk. For statutory authority for cities to change ward boundaries not more than once in two years, see WSA 62.08(4); for provisions that wards shall be topographically compact and have populations of no less than 1,500 in cities of the second class, see WSA 62.08(2); for effect of boundary change on ward officers, see WSA 62.08(3).

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\*\* For statutory provision that where the penalty under a municipal ordinance shall conform to penalties prescribed by statute, a city may impose only a fine and not imprisonment unless there is default, see WSA 66.0109; for provisions regarding civil actions to collect forfeitures and penalties, see WSA 66.12.

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**1.16.010 General code penalty.** Where no penalty is otherwise provided, any person who violates any provision of this code shall be subject to a forfeiture of not less than ten dollars nor more than five hundred dollars, plus the costs of prosecution, and in default of payment of such forfeiture and the costs of prosecution, shall be imprisoned in the county jail until payment of such forfeiture and costs of prosecution is made, but not for more than ninety days. Each day of violation shall constitute a separate offense. (Ord. 6034, 2000; Ord. 4902 §1, 1989; Ord. 3396 §1.25(10)(part), 1973).

**1.16.020 Aiding and abetting ordinance violations.** A. Whoever is concerned in the commission of an ordinance violation is a principal and may be charged with and convicted of the commission of the ordinance violation although he or she did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other ordinance violation based on the same act.

B. A person is concerned in the commission of an ordinance violation if he or she:

1. Directly commits an ordinance violation;
2. Intentionally aids and abets the commitment of an ordinance violation; or
3. Is a party to a conspiracy with another to commit an ordinance violation or advises, hires, counsels or otherwise procures another to commit an ordinance violation. Such a party is also concerned in the commission of any other ordinance violation which is committed in pursuance of the intended ordinance violation and which under the circumstances is a natural and probable consequence of the intended ordinance violation. This paragraph does not apply to a person who voluntarily changes his or her mind and no longer desires that the ordinance violation be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the ordinance violation so as to allow the others also to withdraw. (Ord. 4902 §3, 1989; Ord. 4732, 1987).

**1.16.030 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. (Ord. 3396 §1.25(10)(b), 1973).

**1.16.040 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. (Ord. 3396 §1.25 (10)(c), 1973).

**1.16.050 Fine payment--Indigents unable to pay.** This chapter shall not be construed to authorize imprisonment of a defendant for failure to pay forfeiture or costs solely because the defendant is indigent and cannot forthwith pay his fine in full. (Ord. 3396 §1.25(10)(d), 1973).

**Chapter 1.24**

**CITATIONS FOR ORDINANCE VIOLATIONS**

**Sections:**

- 1.24.010 Citation method adopted.**
- 1.24.020 Form and provisions of citations.**
- 1.24.030 Deposit schedule.**
- 1.24.040 Issuance of citations.**
- 1.24.050 Procedure.**
- 1.24.060 Nonexclusivity of enforcement over remedies.**

**1.24.010 Citation method adopted.** Pursuant to s. 66.0113, Wisconsin Statutes, the city authorizes the citation method of enforcement for the violation of any city ordinance contained in this code, except for violations of chapters 341 through 348 of the Wisconsin Statutes. (Ord. 4904 §1, 1989; Ord. 4898 §1, 1989; Ord. 4840 §1, 1988; Ord. 4817 §2, 1988; Ord. 4630 §1, 1986; Ord. 4553 §2, 1985; Ord. 4334 §1, 1983; Ord. 4327 §1, 1983; Ord. 4246 §1, 1982; Ord. 4234 §1, 1981; Ord. 4220 §1, 1981).

**1.24.020 Form and provisions of citations.** The citation shall contain the information prescribed by s. 66.119 of the Wisconsin Statutes. (Ord. 6090 §1, 2000; Ord. 5124, 1991; Ord. 3794 §1(part), 1977).

**1.24.030 Deposit schedule.** A. Any violation of the code of ordinances of the city of Eau Claire, except as stated in subsection B, C, Cm, Cn, or D, shall be classified as a Class 1 violation. A cash deposit consisting of a forfeiture of \$60.00, plus applicable costs, penalties, and assessments as prescribed by Wisconsin Statutes, shall be required for each violation of this classification.

B. The following violations of the code of ordinances shall be Class 2 violations and shall require a cash deposit consisting of a forfeiture of \$125.00, plus applicable costs, penalties, and assessments as prescribed by Wisconsin Statutes:

1. Any violation of s. 5.28.010, adopting Chapter 125 of the Wisconsin Statutes, except as contained in paragraphs C. and E. below;
2. Chapter 9.77, fraud on residential landlords;
3. Section 16.08.120 A., rooming house license procedures;
4. Section 8.32.120 D., prohibited dumping;
5. Sections 5.28.030 and 5.28.040, conditions on alcohol beverage violations;
6. Chapter 9.61, trespass;
7. Chapter 9.63, damage to property;
8. Chapter 9.36, public nuisance;
9. Section 9.52.045, public excessive intoxication.

C. The following violations of the code of ordinances shall be Class 3 violations and shall require a cash deposit consisting of a forfeiture of \$200.00 plus applicable costs, penalties, and assessments as prescribed by Wisconsin Statutes:

1. The following sections of Chapter 125 of the Wisconsin Statutes as adopted by section 5.28.010 of the code of ordinances:

- a. 125.04;
- b. 125.07(1)(a)1. and 2.;
- c. 125.07(2);
- d. 125.07(3).

2. Chapter 8.06, adult-oriented establishments.

3. Section 9.56.020, prohibiting the harboring of juveniles without parental consent.

4. Section 9.56.075 A., loud parties and gatherings.

Cm. The following violations of the code of ordinances shall be Class 4 violations and shall require a cash deposit consisting of a forfeiture of \$300.00 plus applicable costs, penalties and assessments as prescribed by Wisconsin Statutes:

1. Chapter 9.62, retail theft;

2. Chapter 16.32, occupancy violation, fire code.

Cn. The following violation of the code of ordinances shall be a Class 5 violation and shall require a cash deposit consisting of a forfeiture of \$1.00 plus applicable costs, penalties, and assessments as prescribed by Wisconsin Statutes:

1. Chapter 9.37, possession of marijuana.

D. The maximum deposit required under the foregoing table for persons 12 to 18 years of age shall be \$50.00 unless otherwise designated by Wisconsin Statute.\*

E. Penalties for underage alcohol or identification related violations of Chapter 125 of the Wisconsin Statutes shall be as prescribed by the Revised Uniform State Deposit Schedule adopted by the Wisconsin Judicial Conference pursuant to s. 778.25(3) of the Wisconsin Statutes.

F. The above deposits shall be made in cash, money order or certified check to the clerk of county court who shall provide a receipt therefor. (Ord. 7357 §2, 2020; Ord. 7308 §2, 2018; Ord. 7297 §3, 2018; Ord. 7010 §2, 2012; Ord. 6853 §1, 2008; Ord. 6468, 2004; Ord. 6302, 2002; Ord. 6219, 2001; Ord. 6090 §2, 2000; Ord. 5686 §1, 1997; Ord. 5488, 1995; Ord. 5363, 1993; Ord. 5352 §1, 1993; Ord. 5319, 1993; Ord. 5247 §1, 1992; Ord. 5205, 1992; Ord. 5189, 1991; Ord. 5064 §1, 1990; Ord. 4964, 1989; Ord. 4904, 1989; Ord. 4898 §2; 1989; Ord. 4888 §3; 1989; Ord. 4841, 1988; Ord. 4840 §2, 1988; Ord. 4817 §3, 1988; Ord. 4775, 1987; Ord. 4630 §2, 1986; Ord. 4334 §2, 1983; Ord. 4327 §2, 1983; Ord. 4226 §2, 1981; Ord. 4220 §2, 1981; Ord. 4174 §1, 1981; Ord. 4072 §10, 1980; Ord. 3936 §3, 1978; Ord. 3794 §1(part), 1977).

**1.24.040 Issuance of citations.** A. Law enforcement officers may issue citations authorized under this chapter.

B. The following officials are authorized to issue citations for violations of those ordinances which are directly related to their official responsibilities:

1. Superintendent of inspections;
2. City-county health director;
3. Fire chief;
4. Superintendent of streets and sidewalks;
5. Director of community services
6. Superintendent of schools;
7. Police chief;
8. Library Director;
9. City Clerk;
10. Director of finance;
11. Director of engineering.

C. Such officials may delegate their authority to issue citations to their subordinates. (Ord 7202, 2016; Ord. 6469, 2004; Ord. 4406, 1983; Ord. 4334 §1, 1983; Ord. 4233 §1, 1981; Ord. 4013 §7, 1979; Ord. 3947, 1978; Ord. 3919, 1978; Ord. 3974 §1(part), 1977).

\* Per Wis. Stat. §938.343, a 17-year old shall be assessed a total amount of \$50 when the offense is one specific to juveniles; otherwise, a 17-year old shall be assessed a forfeiture no greater than that charged to an adult for the same offense.

**1.24.050 Procedure.** Section 66.0113, Wisconsin Statutes, relating to violators' options and procedure on default, is adopted and incorporated in this chapter by reference. (Ord. 3794 §1(part), 1977).

**1.24.060 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. (Ord. 3794 §1(part), 1977).

## **Chapter 1.25**

### **ENFORCEMENT--ORDERS--INSPECTIONS**

#### **Sections:**

**1.25.010 Enforcement order.**

**1.25.020 Re-inspection fee.**

**1.25.010 Enforcement order.** Whenever any officer or official designated under s. 1.24.040 determines that a violation of this code exists, that person may, in addition to any other available enforcement options, issue a written order directing that all violations shall be corrected within the period of time specified. (Ord. 6859 §1, 2008).

**1.25.020 Re-inspection fee.** A. For each compliance reinspection performed, any person who shall fail or neglect to comply with any such lawful order issued for any violation of this code shall be assessed a fee, as stated in the City of Eau Claire Fees & Licenses Schedule.

B. Re-inspection shall constitute a service, and any unpaid fee for said service shall be entered in the tax roll as a special charge against each lot or parcel of land so served, as provided in Wis. Stats. s. 66.0627. (Ord. 7221 §2, 2017; Ord. 6859 §1, 2008).