

## TITLE III: ADMINISTRATION

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## CHAPTER 30: COMMON COUNCIL

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## **GOVERNMENT IN GENERAL**

### **§ 30.01 FORM OF GOVERNMENT.**

The city operates under the Mayor-Council form of government pursuant to Wis. Stats. Ch. 62. The city certificate of incorporation was issued March 31, 1894, and is recorded in Vol. 4, Miscellaneous Records of the Secretary of State, pages 419 and 420.  
(1989 Code, § 1.01)

### **§ 30.02 MEETINGS.**

(A) *Organizational meeting.* Following a regular city election, the new Council shall meet on the third Tuesday of April.

## Common Council

(B) *Regular meetings.* Regular meetings of the Council shall be held on the second Monday of each month at 6:00 p.m. Any regular meeting falling upon a legal holiday shall be held on the next following secular day, at the same hour and place.

(Am. Ord. 486, passed 1-7-1992)(Am. Ord. 764, passed 1-7-2014)(Am. Ord. 780, passed 5-8-2017)

(C) *Special meetings.* Special meetings may be called by the Mayor upon written notice of the time and purpose thereof to each member of the Council, delivered to him or her personally or left at his or her usual place of abode at least 6 hours before the meeting. A special meeting shall be called by the City Clerk-Treasurer upon written request therefor by a majority of all the members of the Council filed with the Clerk-Treasurer not less than 24 hours prior to the time of the meeting which shall be specified in the request. The Clerk-Treasurer shall cause written notice of the meeting to be delivered to each member of the Council personally or left at his or her usual place of abode at least 6 hours before the meeting.

(1) A special meeting may be held without notice when all members of the Council are present in person, or consent in writing to the holding of such meeting.

(2) At a special meeting no business shall be transacted other than that for which the meeting was called, except by unanimous consent of all members of the Council.

(D) *Place of meetings.* All meetings shall be held at the Council chambers in the City Hall.

(E) *Meetings to be public.* Except as provided in Wis. Stats. § 19.85, all meetings of the Council, committees thereof, and boards and commissions shall be open to the public.

(1989 Code, § 2.01)

### § 30.03 QUORUM AND ATTENDANCE.

Two-thirds of the members of the Council shall constitute a quorum. A lesser number may compel the attendance of absent members or may adjourn. The Mayor shall not be counted in determining whether a quorum is present.

(1989 Code, § 2.02)

### § 30.04 PRESIDING OFFICER.

(A) The Mayor shall preside at all meetings when present and shall preserve order and decorum, decide all questions of order and conduct the proceedings in accordance with these rules and the parliamentary rules of procedure contained in *Robert's Rules of Order, Revised*. In the absence of the Mayor, the President of the Council shall preside. In the absence of both the Mayor and the President of the Council, the Clerk-Treasurer shall call the Council to order and the Council shall select one of its members president pro-tern.

## Common Council

(B) Any member may appeal to the Council from a decision of the presiding officer.  
(1989 Code, § 2.03)

### § 30.05 ORDER OF BUSINESS.

(A) At all regular meetings, the order of business shall be according to the agenda prepared by the Clerk-Treasurer and mailed to the Mayor and each member of the Council no later than the Monday preceding the regular meeting. Members of the Council and city officers desiring a matter to be placed on the agenda shall submit the same in writing to the Clerk-Treasurer not later than the close of regular hours on the Thursday preceding the regular meeting. When in doubt, the Clerk-Treasurer shall be advised by the Mayor whether to include an item on the agenda.

(B) Generally, the following order shall be observed in the conduct of all meetings of the Council:

- (1) Call to order by the presiding officer;
- (2) Roll call;
- (3) Approval of the minutes of the preceding meeting. The Clerk-Treasurer shall have prepared the minutes of the preceding meeting which he or she shall mail with the agenda to the Mayor and each member of the Council so that the approval of the minutes can be handled expeditiously;
- (4) Public hearings;
- (5) Public appearances;
- (6) Committee reports;
- (7) Reports of city officers;
- (8) Unfinished business;
- (9) New business, including the introduction of ordinances and resolutions; and
- (10) Communications and miscellaneous business.

(1989 Code, § 2.04)

### § 30.06 COMMITTEES.

(A) *Appointment.* The following standing committees of the Council shall be appointed by the Mayor annually at the first regular meeting of the Council in May:

## Common Council

- (1) Finance;
- (2) Streets and Sidewalks and Solid Waste Disposal;
- (3) Police and License;
- (4) Public Property and Health;
- (5) Water and Sewer;
- (6) Ordinances and Claims; and
- (7) Personnel Committee.

(Am. Ord. 410, passed - -)

(B) *Members.* Each committee shall consist of such members as shall be appointed by the Mayor, subject to confirmation by the Council. The Mayor shall be ex officio Chairperson of the Committee on Finance. The chairpersons of the other committees shall be designated by the Mayor.

(C) *Reference and reports.* The Mayor shall refer new business coming before the Council to the appropriate committee, unless otherwise referred or disposed of by motion of the Council. Unless otherwise provided in the reference, the Committee shall report thereon to the Council at its next regular meeting. Committee reports shall be in writing and shall be filed with the City Clerk-Treasurer not later than the close of normal business hours on the Thursday preceding the next regular meeting of the Council. The chairperson of the committee shall report verbally to the Council at the meeting at which the report of the committee is to be made. Adoption of the committee report shall comprise final Council action on any ordinance, resolution or other matter recommended for adoption by the committee report.

(D) *Special committees.* The Mayor may, from time to time, appoint such special committees as he or she may deem necessary, which appointments shall be announced to the Council stating the number of members and the object of the committee.

(E) *Cooperation of city officers.* All city officers shall, upon request of the chairperson of the committee, confer with the committee and supply to it such information as may be requested in connection with any matter pending before the committee.

(1989 Code, § 2.05)

### § 30.07 ORDINANCES AND RESOLUTIONS.

All ordinances and resolutions to be considered by the Council shall be prepared in writing and submitted to the City Clerk-Treasurer not later than the close of normal business hours on the Thursday preceding the Council meeting. All ordinances and resolutions shall be read by title and author and referred to the appropriate committee as provided in § 30.06. Any member of the Council may require the reading in full of any ordinance or resolution at any time it is before the Council.

(1989 Code, § 2.06)

## **§ 30.08 BILLS AND FINANCIAL CLAIMS.**

All bills and financial claims shall be itemized and shall be examined by the Committee on Finance for report to the Council, provided payment of regular wages and salaries, according to schedules adopted by the Council, shall be made by the Clerk-Treasurer without submission to the Council. (1989 Code, § 2.07)

## ***PROCEDURES***

## **§ 30.15 PARLIAMENTARY PROCEDURE.**

(A) *Robert's Rules of Order, Revised.* Unless otherwise provided in these rules, the Council in its deliberations shall be guided by *Robert's Rules of Order, Revised.*

(B) *Recognition and speaking.* No member shall address the Council until he or she has been recognized by the presiding officer. He or she shall address himself or herself to the presiding officer and confine his or her remarks to the questions under discussion and avoid all personalities. When two or more members seek recognition, the presiding officer shall name the member who is to speak first.

(C) *Motions.*

- (1) No motion shall be discussed or acted upon until it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the same and the person seconding it.
- (2) When a question is under discussion, the following motions shall have precedence in the order listed:
  - (a) To adjourn;
  - (b) To recess;
  - (c) To lay on the table;
  - (d) To move the previous question;
  - (e) To postpone to a day certain;
  - (f) To refer to a committee;
  - (g) To amend; or
  - (h) To postpone indefinitely.

- (3) Any member wishing to terminate debate may move the previous question which shall require a 2/3 vote of the members present.

*(D) Voting.*

- (1) Any member of the Council may demand an aye and nay vote on any matter, and all aye and nay votes shall be recorded in the journal. On confirmation of appointments and on the adoption of any measure assessing or levying taxes, appropriating or disbursing money or creating any liability or charge against the city, or any fund thereof, the vote shall be aye and nay. Every member of the Council shall vote when a question is put unless the Council by a majority vote of those present shall excuse him or her for special cause. A member of the Council may not change his or her vote on any question after the result has been announced.
- (2) The Mayor shall not vote except in the case of a tie. When the Mayor does vote in the case of a tie, his or her vote shall be counted in determining whether sufficient number of the Council has voted favorably or unfavorably on any measure. A majority vote of all members of the Council in favor of any proposed ordinance, resolution or appointment shall be necessary for passage or approval, unless a larger number is required by statute. Except as otherwise provided, a majority vote of those present shall prevail in other cases.

(1989 Code, § 2.08)

### **§ 30.16 RECONSIDERATION OF QUESTIONS.**

Any member voting in the majority may move reconsideration of any question, except confirmation of the appointment of a city official, at the same meeting or at the next succeeding regular meeting. A motion to reconsider being put and lost shall not be renewed.

(1989 Code, § 2.09)

### **§ 30.17 SUSPENSION OF RULES.**

These rules or any part thereof may be temporarily suspended by a recorded vote of 2/3 of the members present.

(1989 Code, § 2.10)

### **§ 30.18 AMENDMENT OF RULES.**

These rules or any part thereof may be amended by a recorded vote of 2/3 of all the members of the Council.

(1989 Code, § 2.11)

## CHAPTER 31: CITY OFFICIALS

### Section

- 31.01 Elected officials
- 31.02 Appointed officials
- 31.03 Salaries and compensation
- 31.04 Salaries, wages and fringe benefits
- 31.05 City administrator

### § 31.01 ELECTED OFFICIALS.

The Mayor shall be elected at the regular city election in even-numbered years for a term of 2 years. One Alderperson shall be elected annually at the regular city election from each Aldermanic District for a term of 2 years.

(1989 Code, § 1.03) (Am. Ord. 327, passed - -)

### § 31.02 APPOINTED OFFICIALS.

The appointed officials, the method of selection and the terms of office shall be as follows:

<i>Official</i>	<i>How Appointed</i>	<i>Term</i>
Administrative Assistant Clerk-Treasurer and City Administrator	By 3/4 vote of Council	Indefinite
Assessor	Mayor, subj. to approval by Council	2 years
Building Inspector and Zoning Administrator	Mayor, subj. to approval by Council	1 year
City Administrator	Majority of Council	Indefinite
City Attorney	Mayor, subj. to approval by Council	2 years
City Forester	Mayor, subj. to approval by Council	1 year
Clerk-Treasurer	By 3/4 vote of Council	Indefinite

<i>Official</i>	<i>How Appointed</i>	<i>Term</i>
Deputy Water and Sewer Superintendent	Mayor, subj. to approval by Council	1 year
Fire Chief	Mayor, subj. to approval by Council, upon recommendation of Fire Dept.	1 year
Police Chief	Mayor, subj. to approval by Council	1 year
Street Foreperson	Mayor, subj. to approval by Council	1 year
Water and Sewer Superintendent	By 3/4 vote of Council	Indefinite

(1989 Code, § 1.04) (Am. Ord. 434, passed - -)(Am. Ord. 741, passed 4-7-2010)(Am. Ord. 742, passed 4-7-2010)(Am. Ord. - , passed 5-22-2019)

**§ 31.03 SALARIES AND COMPENSATION.**

(A) Officers and employees shall be paid salaries and compensation as shall be determined by the Council from time to time, except that the salary of an elected official shall not be increased during his or her term of office.

(1989 Code, § 1.05)

(B) Members of the Board of Review receive compensation in an amount to be determined by the Council per day for actual attendance.

(Am. Ord. 474, passed 5-1-1990)

**§ 31.04 SALARIES, WAGES AND FRINGE BENEFITS.**

(A) *Salaries and wages.* The compensation paid to all elected and appointed officials and employees shall be determined at such times and in such manner as the Common Council shall deem necessary.

(B) *Vacation.*

(1) All full-time city officials or employees shall be entitled to paid vacations in accordance with the following schedule:

1 year to 2 years	1 week
3 years to 4 years	2 weeks
5 years or more	3 weeks

## **City Officials**

(2) Each full-time official or employee must take the vacation time within the year it accrues, or lose all rights thereto, and the vacation may be taken as a unit at 1 time, or divided into units of not less than 1 week. The City Clerk-Treasurer must be notified by each official or employee of his or her intent to take vacation time at least 10 days prior to the commencement of the vacation.

### *(C) Holidays.*

(1) Each full-time official or employee with 30 days of prior continuous employment shall be entitled to 7-1/2 days of paid legal holidays in each year, as follows:

New Year's Day	1 day
Good Friday afternoon	1/2 day
Memorial Day	1 day
Independence Day	1 day
Labor Day	1 day
Veterans' Day	1 day
Thanksgiving Day	1 day
Christmas Day	1 day

(2) When the holiday occurs on a Saturday, the preceding workday shall be observed as a holiday. If a holiday falls on a Sunday, the next scheduled workday shall be observed as the holiday.

### *(D) Sick leave.*

(1) Each full-time official or employee of the city shall be entitled to sick leave accumulated at the rate of 1/2 day per month, or 6 days per year. The maximum sick leave to be accumulated is limited to 30 days. The sick leave allowed to any employee shall be certified by the immediate superior of the employee, or by a medical certificate of the attending physician.

(2) Any full-time official or employee who has been in prior continuous employment of the city for 1 year shall, upon terminating his or her employment, be paid for 1/2 of the total accumulated sick leave within 30 days following the termination of his or her employment.

(1989 e, § 1.08)

**§ 31.05 CITY ADMINISTRATOR.**

(A) *Purpose.* In order to provide the City of Mineral Point with a more efficient, effective and responsible government under a system of a part-time mayor and part-time common council (hereinafter referred to as "council") at a time when city government is becoming increasingly complex, there is hereby created the Office of City Administrator for the City of Mineral Point (hereinafter referred to as "administrator").

(B) *Appointment, Term of Office and Removal.* The administrator shall be appointed on the basis of merit with due regard to training, experience, administrative ability and general fitness for the office, by a majority vote of the council. For the purpose of selecting the administrator, the members of the council each shall cast one vote. The administrator shall hold office for an indefinite term subject to removal at any time by a majority vote of the council members present at the meeting at which such action is taken. This section, however, shall not preclude the council from establishing other employment terms and conditions not inconsistent with the provisions of the Municipal Code of the City of Mineral Point.

(C) *Functions and Duties of the Administrator.* The administrator, subject to the limitations defined in resolutions and ordinances of the City of Mineral Point and Wisconsin State Statutes, shall be the chief administrative officer of the city, responsible only to the mayor and the council for the proper administration of the business affairs of the city, pursuant to the statutes of the State of Wisconsin, the ordinances of the City of Mineral Point, and the resolutions and directives of the council, with duties specified in the City Administrator Position Description.

(Ord. - , passed 5-22-2019)

## CHAPTER 32: DEPARTMENTS, BOARDS AND COMMISSIONS

### Section

#### *Boards*

- 32.01 Board of Review
- 32.02 Board of Public Works
- 32.03 Board of Zoning Appeals
- 32.04 Landmarks Board
- 32.05 Board of Park Commissioners
- 32.06 Library Board
- 32.07 Board of Health

#### *Commissions*

- 32.15 Plan Commission

#### *Police Department*

- 32.30 Police Department
- 32.31 Chief of Police; powers and duties
- 32.32 Police officers
- 32.33 Mayor and Alderpersons; police powers
- 32.34 Assistant Police Chief

#### *Fire Department*

- 32.50 Fire Department Recognition
- 32.51 Rules and Regulations
- 32.52 Authority
- 32.53 Uniform Fire Response Rate Schedule

- 32.99 Penalty

#### ***Cross-reference:***

- Historic Preservation Commission, see Ch. 151*
- Tourism Commission, see § 34.30*

## Departments, Boards and Commissions

### ***BOARDS***

#### ***§ 32.01 BOARD OF REVIEW.***

The Board of Review shall consist of the Mayor and 1 citizen from each Aldermanic District, appointed annually by the Mayor, subject to confirmation by the Common Council. The City Clerk-Treasurer shall serve as clerk of the Board but shall not vote.

(1989 Code, § 1.06(1))

#### ***§ 32.02 BOARD OF PUBLIC WORKS.***

The powers and duties of the Board of Public Works shall be exercised by the Common Council.

(1989 Code, § 1.06(2))

#### ***§ 32.03 BOARD OF ZONING APPEALS.***

(A) *Membership.* The Board of Zoning Appeals shall consist of 5 citizens appointed by the Mayor, subject to confirmation by the Common Council.

(B) *Terms.* Each member shall serve for a term of 3 years, provided appointments shall be so made that no more than 2 members are appointed in any 1 year, except to fill vacancies.

(C) *Qualifications.* One member shall be a member of the Plan Commission and one member shall be a registered architect, registered professional engineer, builder or real estate appraiser.

(D) *Alternates.* Two alternate members may be appointed by the Mayor for terms of 3 years. These members shall act only when a regular member is absent or refuses to vote because of interest.

(E) *Powers and duties.* See Chapter 154, Zoning Code.  
(1989 Code, § 1.06(4))

#### ***§ 32.04 LANDMARKS BOARD.***

(A) *Members.* The Landmarks Board shall consist of an Alderperson and 6 citizen members, appointed by the Mayor subject to confirmation by the Common Council.

(B) *Terms.* Members shall serve for terms of 3 years, provided appointments shall be so staggered that not more than 3 members are appointed in any 1 year.

(C) *Qualifications.* One member shall be a registered architect, one an historian qualified in the field of historic preservation, and one a licensed real estate broker.

## **Departments, Boards and Commissions**

(D) *Powers and duties.* See Chapter 154, Zoning Code.  
(1989 Code, § 1.06(5))

### **§ 32.05 BOARD OF PARK COMMISSIONERS.**

(A) *Members.* The Board of Park Commissioners shall consist of 7 citizens appointed by the Mayor subject to confirmation by the Common Council.

(B) *Terms.* Members shall be appointed for 3-year terms, provided appointments shall be so staggered that no more than 1 member is appointed in any 1 year.

(C) *Powers and duties.* The Board of Park Commissioners shall have the powers and duties provided by Wis. Stats. § 27.08, and such further powers as may be delegated to it by the Common Council.  
(1989 Code, § 1.06(6))

### **§ 32.06 LIBRARY BOARD.**

The Library Board shall be appointed and governed pursuant to Wis. Stats. Ch. 43.  
(1989 Code, § 1.06(7))

### **§ 32.07 BOARD OF HEALTH.**

The Health Committee of the Common Council shall perform the duties of the Board of Health.  
(1989 Code, § 1.06(8))

## **COMMISSIONS**

### **§ 32.15 PLAN COMMISSION.**

(A) *How constituted.* There is hereby created a City Plan Commission for the city to consist of 7 members, as follows: the Mayor, who shall be its presiding officer, 2 members of the Common Council, and 4 citizens. Citizen members shall be persons of recognized experience and qualifications.  
(Am. Ord. 651, passed 2-3-2004)

(B) *Appointment.* The Alderperson members of the Commission shall be elected by a 2/3 vote of the Council upon the creation of the Commission and during each April thereafter, for a 1-year term commencing the succeeding May 1.

## **Departments, Boards and Commissions**

(C) *Citizen members.* Two citizen members shall be appointed by the Mayor upon the creation of the Commission. These 2 members shall hold office for a period ending 1 and 2 years, respectively, from the succeeding May 1, and thereafter annually during April.

(D) *Powers and duties.* The Plan Commission shall perform all of the duties for the physical development of the city pursuant to Wis. Stats. § 62.23, and have such further powers as may be granted to it by the statutes and ordinances of the city.  
(1989 Code, § 1.06(3))

### *POLICE DEPARTMENT*

#### **§ 32.30 POLICE DEPARTMENT.**

(A) *Personnel.* The Police Department shall consist of the Chief of Police and such police officers as the Common Council may prescribe by ordinance or resolution.

(B) *Salary; collection of fees.* The Chief and the police officers shall receive a salary as fixed by the Common Council and shall not be entitled to any other compensation. All fees, bail deposits and other special remuneration or funds collected or received by the Department or any officers thereof shall be deposited with the Clerk-Treasurer not less than monthly.

(C) *Tenure of Chief, police officers.* The Chief of Police shall be appointed by the Mayor, subject to confirmation by the Council for a term of 1 year. Other members of the Police Department shall hold office at the pleasure of the Council. The Mayor as head of the Police Department may suspend the Chief or any officer subject to appeal to the Common Council.  
(1989 Code, § 4.01)

#### **§ 32.31 CHIEF OF POLICE; DUTIES AND POWERS.**

(A) The Chief of Police shall possess the powers, enjoy the privileges and be subject to the liabilities conferred and imposed by law upon marshals and constables.

(B) He or she shall obey all lawful written orders of the Mayor and Common Council.

(C) He or she shall cause the public peace to be preserved and see that all laws and ordinances of the city and state are enforced, and whenever any violation thereof shall come to his or her knowledge, he or she shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender or offenders.

(D) He or she shall exercise supervisory control over all the personnel of his or her Department and may adopt, subject to the approval of the Common Council, rules and regulations for the government, discipline, equipment and uniforms of police officers.

## **Departments, Boards and Commissions**

(E) He or she shall be solely responsible for the care and condition of the equipment used by his or her Department.

(F) He or she shall keep an accurate and complete record of all complaints, arrests, traffic violations, convictions and dispositions of the Department.  
(1989 Code, § 4.02)

### **§ 32.32 POLICE OFFICERS.**

(A) *General powers and duties.* Each officer of the Department shall possess the powers conferred on marshals and constables by law, shall preserve the public peace, and enforce the laws and ordinances of the state and city subject to the orders, rules and regulations of the Chief, the Mayor and the Common Council.

(B) *Power or arrest.* The Chief of Police and any police officer shall arrest all persons in the city found in the act of violating any law or ordinance of the city or state, or aiding or abetting in such violation, and they shall arrest without warrant all persons whom they have reasonable grounds to believe have violated any law or ordinance and who will not be apprehended unless immediately arrested, shall take all arrested persons in charge and confine them and shall within a reasonable time bring the persons before the court having jurisdiction thereof to be dealt with according to law.  
(1989 Code, § 4.03)

### **§ 32.33 MAYOR AND ALDERPERSONS; POLICE POWERS.**

The Mayor and Alderpersons shall have and exercise the powers of peace officers and may summarily suppress any riotous or disorderly conduct in the streets or public places of the city.  
(1989 Code, § 4.04)

### **§ 32.34 ASSISTANT POLICE CHIEF.**

The position of Assistant Police Chief is hereby established for the purpose of delegating managerial responsibility to assist the Chief of Police in the effective management of the Department when job demands or his or her absence would create a lack of adequate supervision. The Assistant Chief shall have such authority as is delegated by the Chief of Police.  
(1989 Code, § 4.05) (Ord. 429, passed - -)

***FIRE DEPARTMENT***

**§ 32.50 FIRE DEPARTMENT RECOGNITION.**

The Mineral Point Fire Department, Inc., a Wisconsin non-stock corporation organized pursuant to chapter 181, Wis. Stats., is officially recognized as the Fire Department of the City of Mineral Point, and the duties of firefighting and fire prevention in the City of Mineral Point are delegated to said Fire Department.  
(Ord. 748, passed 9-6-2011)

**§ 32.51 RULES AND REGULATIONS.**

The Fire Department is hereby authorized and directed to adopt bylaws for the control, management, and government of the Department, and for regulation the business and proceedings of the Department.  
(Ord. 748, passed 9-6-2011)

**§ 32.52 AUTHORITY.**

The Fire Chief or any Fire Department officers in charge shall have full and complete police authority at fires, pursuant to Section 213.095, Wis. Stats.  
(Ord. 748, passed 9-6-2011)

**§ 32.53 UNIFORM FIRE RESPONSE RATE SCHEDULE.**

The Fire Chief may establish and implement a uniform fire response rate schedule, to help the Department recover its actual net cost of providing services to persons and property. The schedule shall be subject to periodic review by the Common Council of the City of Mineral Point.  
(Ord. 749, passed 9-6-2011)

**§ 32.99 PENALTY.**

Except as otherwise provided, any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in § 10.99 of this municipal code.  
(1989 Code, § 4.10)

## CHAPTER 33: PUBLIC RECORDS

### Section

- 33.01 Definitions
- 33.02 Duty to maintain records
- 33.03 Legal custodian
- 33.04 Public access to records
- 33.05 Access procedures
- 33.06 Limitations on right to access
- 33.07 Destruction of records
- 33.08 Preservation through microfilm

### § 33.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AUTHORITY.** Any of the following city 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 constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

**CUSTODIAN.** That officer, department head, division head or employee of the city designated under the definition of "record" below or otherwise responsible by law to keep and preserve any city records or file, deposit or keep the 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 section to respond to requests for access to the records.

**RECORD.** 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.  
(1989 Code, § 1.07) (Ord. 400, passed - -)

## Public Records

### § 33.02 DUTY TO MAINTAIN RECORDS.

(A) Except as provided under § 33.07, 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 such receipt with the City Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, the records shall be delivered to and receipted for by the Clerk-Treasurer, on behalf of the successor, to be delivered to the successor upon the latter's receipt.

(1989 Code, § 1.07) (Ord. 400, passed - -)

### § 33.03 LEGAL CUSTODIAN.

(A) The City Clerk-Treasurer, or in his or her absence or disability, or in case of vacancy, the Deputy Clerk, is hereby designated the legal custodian of all city records.

(B) Unless otherwise prohibited by law, the City Clerk-Treasurer, or his or her designee, shall act as legal custodian for the Common Council and for any committees, commissions, boards or other authorities created by ordinance or resolution of the Common Council.

(C) For every authority not specified in divisions (A) or (B) of this section, 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 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 Wis. Stats. Ch. 19, subch. II, and this section. The designation of a legal custodian does not affect the powers and duties of any authority under this section.

(1989 Code, § 1.07) (Ord. 400, passed - -)

## Public Records

### § 33.04 PUBLIC ACCESS TO RECORDS.

(A) Except as provided in § 33.06, any person has a right to inspect a record and to make or receive a copy of any record as provided in Wis. Stats. § 19.35(1).

(B) Records will 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 of 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 \$1 per page. Such cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.

(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 audiotapes or videotapes, 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 therefor exceeds \$50, in which case the actual cost shall be determined by the legal custodian and billed to the requester.

(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.

(7) Elected and appointed officials of the city 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 Wis. Stats. § 19.34, 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,

## **Public Records**

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. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of Wis. Stats. §§ 19.31 to 19.39. This division does not apply to members of the Common Council. (1989 Code, § 1.07) (Ord. 400, passed - -)

### **§ 33.05 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 Wis. Stats. § 19.37. 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 § 33.04(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 § 33.06. 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.

(D) 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 Wis. Stats. § 19.37, or upon application to the Attorney General or a district attorney. (1989 Code, § 1.07) (Ord. 400, passed - -)

### **§ 33.06 LIMITATIONS ON RIGHT TO ACCESS.**

(A) As provided by Wis. Stats. § 19.36, the following records are exempt from inspection under this section:

(1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;

## Public Records

(2) Any record relating to investigative information obtained for law enforcement purposes, if federal law or regulations require 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 Wis. Stats. § 43.30, 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 the 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 the history or data; and

(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 Wis. Stats. § 905.03.

(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

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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.

(1989 Code, § 1.07) (Ord. 400, passed - -)

### § 33.07 DESTRUCTION OF RECORDS.

(A) City officers may destroy the following nonutility 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 Wis. Stats. Ch. 442, 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 Wis. Stats. § 16.61(3)(e), and then after such shorter period:

- (1) Bank statements;
- (2) Cancelled checks;
- (3) Receipt forms; and
- (4) Vouchers and the like.

(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 Wis. Stats. Ch. 442, 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 Wis. Stats. § 16.61(3)(e), and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after 2 years:

- (1) Contracts;
- (2) Excavation permits; and
- (3) Inspection records.

(C) 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 Wis. Stats. § 16.61(3)(e), and then after such a shorter period:

- (1) Old insurance policies;

(2) Election notices; and

(3) Canceled registration cards.

(D) 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 Wis. Stats. § 19.21(4)(a).

(E) Any tape recordings of a governmental meeting of 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.  
(1989 Code, § 1.07) (Ord. 400, passed - -)

### **§ 33.08 PRESERVATION THROUGH MICROFILM.**

Any city officer or the director of any department or division of city government may, subject to the approval of the Common Council, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Wis. Stats. § 16.61(7)(a) and (b), 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 §§ 33.04 through 33.06.  
(1989 Code, § 1.07) (Ord. 400, passed - -)

## CHAPTER 34: FINANCE AND TAXATION

### Section

#### *General Provisions*

- 34.01 Duplicate Treasurer's bond eliminated
- 34.02 Destruction of obsolete public records
- 34.03 Letting of contracts

#### *Budget*

- 34.15 Fiscal year
- 34.16 Budget
- 34.17 Changes in budget
- 34.18 City funds to be spent in accordance with appropriations

#### *Taxes*

- 34.30 Tax on lodging facilities

### *GENERAL PROVISIONS*

#### **§ 34.01 DUPLICATE TREASURER'S BOND ELIMINATED.**

(A) Pursuant to Wis. Stats. § 70.67, the city hereby obligates itself to the payment to the Iowa County Treasurer of all taxes of any kind required by law to be paid by the City of Mineral Point Clerk-Treasurer to the County Treasurer.

(B) This section is passed for the purpose of serving as a substitute for the bond otherwise to be required of the City of Mineral Point Clerk-Treasurer for the collection of taxes to be paid to the Iowa County Treasurer and shall be in full force and effect until a certified copy of its repeal shall be filed with the Iowa County Clerk and the Iowa County Treasurer.

(1989 Code, § 3.01) (Ord. 687, passed 12-6-2005)

## **Finance and Taxation**

### **§ 34.02 DESTRUCTION OF OBSOLETE PUBLIC RECORDS.**

See § 33.07 of this municipal code.  
(1989 Code, § 3.06)

### **§ 34.03 LETTING OF CONTRACTS.**

The provisions of Wis. Stats. § 62.15 shall be applicable to city contracts.  
(1989 Code, § 3.07)

## ***BUDGET***

### **§ 34.15 FISCAL YEAR.**

The calendar year shall be the fiscal year.  
(1989 Code, § 3.02)

### **§ 34.16 BUDGET.**

(A) *Departmental estimates.* Each year, each officer, department and committee shall file with the Clerk-Treasurer an itemized statement of disbursements made to carry out the powers and duties of the officer, department or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of the officer, department or committee during the year, and of the conditions and management of the fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. The statements shall be presented in the form prescribed by the Clerk-Treasurer and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.

(B) *Preparation of budget.*

(1) *Budget to include.* Each year the Clerk-Treasurer, Mayor and Finance Committee shall prepare a proposed budget presenting a financial plan for conducting the affairs of the city for the ensuing calendar year. The budget shall include the following information:

(a) The expense of conducting each department and activity of the city for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current year.

## **Finance and Taxation**

(b) An itemization of all anticipated income of the city from sources other than general property taxes and bond issued, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal year.

(c) An itemization of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.

(d) Such other information as may be required by the Council and by state law.

(2) *Copies.* The city shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

(C) *Hearing.* The Council shall hold a public hearing on the budget as required by law. Following the public hearing, the proposed budget may be changed or amended and shall take the same course in the Council as ordinances.

(1989 Code, § 3.03)

### **§ 34.17 CHANGES IN BUDGET.**

The amount of the tax to be levied or certified, the amounts of the various appropriations, and the purposes thereof, shall not be changed after approval of the budget except by a 2/3 vote of the entire membership of the Common Council. Notice of the transfer shall be given by publication within 15 days thereafter in the official city newspaper.

(1989 Code, § 3.04)

### **§ 34.18 CITY FUNDS TO BE SPENT IN ACCORDANCE WITH APPROPRIATIONS.**

No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by § 34.17. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the General Fund and be subject to reappropriation; but appropriations may be made by Council, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within that year, and any such appropriations shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

(1989 Code, § 3.05)

## **TAXES**

### **§ 34.30 TAX ON LODGING FACILITIES.**

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

## **Finance and Taxation**

***HOTEL; MOTEL.*** Have the meaning given in Wis. Stats. § 77.52(2)(a)1. An ***INN*** or ***BED AND BREAKFAST ESTABLISHMENT*** is intended to be included as a ***HOTEL*** or ***MOTEL*** within this definition.

***TAXABLE ROOM REVENUE.*** The revenue from the rental of rooms with beds and does not include revenue from meeting rooms, banquet rooms or any invoices with approved tax exemptions.

***TOURISM.*** Travel for recreational, business or educational purposes.

***TOURISM ENTITY.*** A nonprofit organization that provides staff, development or promotional services for the tourism industry in a municipality.

***TRANSIENT.*** Any person residing for a continuous period of less than 1 month in a hotel, motel or other furnished accommodations available to the public.

*(B) Imposition of tax.* Pursuant to Wis. Stats. § 66.0615, a tax is hereby imposed on the privilege and service of furnishing at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. This tax shall be at a rate of 3% of the taxable room revenue from such retail furnishings of rooms or lodging. Any subsequent changes in this tax rate shall be enacted only at the recommendation of the Tourism Commission and by majority vote of the Common Council of Mineral Point, Wisconsin.

*(C) Collection of tax and reporting requirements.*

(1) The tax is imposed following adoption of this section to commence on the first day of the following quarter in the current fiscal year.

(2) The tax is due and payable on or before the last day of the month following the end of each calendar quarter for which the tax is imposed.

(3) Returns shall report taxable room revenue receipts, amount of taxes, and other information as deemed necessary by the Clerk-Treasurer of the city.

(4) Returns shall be accompanied by the same-quarter Wisconsin Sales Tax Return.

(5) Annual Return will summarize quarterly returns, reconcile and adjust for errors.

(6) The Clerk-Treasurer of the City of Mineral Point shall administer this section.

*(D) Tourism Commission.*

(1) A Tourism Commission is created pursuant to Wis. Stats. § 66.0615(b) and (c). Pursuant to Wis. Stats. § 66.0615(1m)(b)4, the Commission shall contract with 1 tourism entity from the municipality to obtain staff, support services and assistance in developing and implementing programs to promote the municipality to visitors. If no tourism entity exists, the Commission shall contract with another organization to perform the functions of a tourism entity.

## **Finance and Taxation**

(2) The Commission shall be composed of 7 members with the following recommended composition:

(a) Two representatives from the lodging establishment in the city with the largest number of guest rooms;

(b) Two representatives selected from the remainder of the lodging establishments in the city;

(c) One representative from the tourism entity with whom the Commission contracts to carry out the activities and functions of the Commission;

(d) One representative from a retail business within the City of Mineral Point; and

(e) One representative from an historic site or other tourist attraction within the City of Mineral Point.

(3) The initial terms for members of the Commission shall be comprised of 4 members with 2-year terms and 3 members with a 1-year term. Subsequent terms shall be 2 years. Members of the Commission may be reappointed.

(4) Members to the Commission shall be appointed by the Mayor and approved by the Common Council. The Room Tax Committee of the Mineral Point Chamber of Commerce shall make recommendations for initial appointments. The Commission shall recommend persons for appointments thereafter.

(5) The Commission shall meet a minimum of once per calendar quarter and from its members shall elect a Chairperson, Vice-Chairperson and Secretary.

(6) The Commission shall report any inaccurate reporting or delinquencies to the Clerk-Treasurer of the city.

(7) The Commission shall submit an annual budget to the city no later than October 1 of each year.

(8) The Commission shall submit an annual compilation of expenditures to the city no later than February 1 of each year.

### *(E) Distribution of tax.*

(1) Five percent of the tax revenue shall be retained by the city to cover administrative costs.

(2) The remaining 95 % of the tax revenue shall be deposited on a quarterly basis into a segregated fund to be available to the Commission to allocate for implementation of the Commission marketing plan and projects.

## **Finance and Taxation**

### *(F) Use of tax.*

(1) The tax revenue shall be used to fund marketing efforts, including off-season events and promotions for tourism intended to increase room night stays during periods of low hotel/motel occupancy.

(2) The tax revenues shall be used solely for marketing efforts that have the potential to increase overnight stays in local hotels, motels, inns or bed and breakfast establishments.

(3) The tax shall not be used, without the approval of the Commission, to support events existing prior to enactment of this section.

(4) The funds collected from this tax shall be an additional source of revenue for purposes stated herein and shall not be considered a replacement of funding from the City of Mineral Point to the Mineral Point Chamber/Main Street.

### *(G) Liability on sale of business.*

(1) Upon termination of business by any person liable for any amount of tax under this section, the full amount of tax liability shall become immediately due and payable.

(2) In the event of the sale or termination of a business liable for any amount of tax under this section, the purchasers, successors and assigns shall withhold enough of the purchase price of the business or any asset of the business to cover the full amount of tax due under this section until the former owner produces a receipt from the City Clerk-Treasurer that he or she has been paid, or a certificate stating that no amount is due.

(3) Any person who does not withhold a portion of the purchase price as required shall be personally liable for payment of the tax due to the extent of the price of the business or assets purchased, as valued in money.

*(H) Enforcement of collection of room tax.* As a means of enforcing the collection of the tax imposed under this section, the city may:

(1) Whenever the city has probable cause to believe that the correct amount of room tax has not been assessed or the tax return is not correct, the City Clerk-Treasurer or his or her designee may inspect and audit the financial records of any hotelkeeper. The financial records to be inspected and audited shall include all records pertaining to the furnishing of accommodations.

(2) If any hotelkeeper fails to file a return as required by this section, the City Clerk-Treasurer shall make an estimate of the amount of the taxable room receipts received by the hotelkeeper. This estimate shall be made for the period for which the hotelkeeper failed to file a return and shall be based upon any relevant information available to the City Clerk-Treasurer. On the basis of this estimate, the City Clerk-Treasurer shall compute the amount of tax required.

## **Finance and Taxation**

(3) No refund or modification of the payment determined may be granted until the hotelkeeper files a correct return and permits the City Clerk-Treasurer or his or her designee to inspect and audit his or her financial records.

(4) All delinquent taxes under this section shall bear interest at the rate of 1% per month for every month or portion of a month in which the taxes are delinquent.

*(I) Records.* Every person liable for tax imposed by this section shall keep or cause to be kept:

(1) Copies of all sales tax reported to the State of Wisconsin;

(2) All documentation necessary to substantiate the figures set forth in the sales tax reports;  
and

(3) All records, receipts, invoices and other pertinent papers necessary to support the tax return required under this section.

*(J) Returns confidential.*

(1) Information obtained under this section shall remain confidential, except that the City Clerk-Treasurer may divulge the contents of tax returns, schedules, exhibits, writings or audit reports relating to the returns to the following and to no others: The person who filed the return or such other persons who use the information in the discharge of duties imposed by law or the duties of their office or by order of a court.

(2) No person having an administrative duty under this section shall make known in any manner the business affairs, operations or other information obtained by an investigation of records of any person on whom a tax is imposed by this section, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person except as described herein.

(3) Any person who violates the division relating to confidentiality may be required to forfeit not less than \$100 or more than \$500.

*(K) Effective date.* This section is effective as of July 1, 2002.

(Ord. 630, passed 6-4-2002)

## **CHAPTER 35: CITY POLICIES**

Section

### ***Administrative Review Procedure***

- 35.01 Review of administrative determinations
- 35.02 Determinations reviewable
- 35.03 Determinations not subject to review
- 35.04 Municipal authority defined
- 35.05 Persons aggrieved
- 35.06 Reducing determination to writing
- 35.07 Request for review of determination
- 35.08 Review of determination
- 35.09 Administrative appeal
- 35.10 Hearing on administrative appeal
- 35.11 Final determination
- 35.12 Judicial review
- 35.13 Legislative review

### ***ADMINISTRATIVE REVIEW PROCEDURE***

#### ***§ 35.01 REVIEW OF ADMINISTRATIVE DETERMINATIONS.***

Any person aggrieved by an administrative determination of the Common Council, or a board, commission, committee, agency, officer or employee of the city or agent acting on its behalf, may have the determination reviewed as provided in this chapter. The remedies under this chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.  
(1989 Code, § 24.01)

#### ***§ 35.02 DETERMINATIONS REVIEWABLE.***

The following determinations are reviewable under this chapter:

(A) The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.

## City Policies

(B) The suspension, revocation or nonrenewal of an existing permit, license, right, privilege or authority, except as provided in § 35.03(D).

(C) The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for the grant.

(D) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.

(E) The suspension or removal of a city officer or employee except as provided in § 35.03(B) and (G).  
(1989 Code, § 24.02)

### **§ 35.03 DETERMINATIONS NOT SUBJECT TO REVIEW.**

The following determinations are not reviewable under this chapter:

(A) A legislative enactment. A *LEGISLATIVE ENACTMENT* is an ordinance, resolution or adopted motion of the Common Council;

(B) Any action subject to administrative or judicial review procedures under state statutes or other provisions of this code;

(C) The denial of a tort or contract claim for money required to be filed with the city under Wis. Stats. § 62.25;

(D) The grant, denial, suspension or revocation of a fermented malt beverage or intoxicating liquor license under Wis. Stats. Ch. 125;

(E) Judgments and orders of a court;

(F) Determinations made during municipal labor negotiations; and

(G) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.  
(1989 Code, § 24.03)

### **§ 35.04 MUNICIPAL AUTHORITY DEFINED.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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***MUNICIPAL AUTHORITY*** includes the Common Council, commission, committee, agency, officer, employee or agent of the city making a determination under § 35.01, and every person, committee or agency of the city to make an independent review under § 35.08(B).  
(1989 Code, § 24.04)

### ***§ 35.05 PERSONS AGGRIEVED.***

A person aggrieved includes any individual, partnership, corporation, association, public or private organization; and/or officer, department, board, commission or agency of the city, whose rights, duties or privileges are adversely affected by a determination of a municipal authority. No department, board, commission, agency, officer or employee of the city who is aggrieved may initiate review under this chapter of a determination of any other department, board, commission, agency, officer or employee of the city, but may respond or intervene in a review proceeding under this chapter initiated by another.  
(1989 Code, § 24.05)

### ***§ 35.06 REDUCING DETERMINATION TO WRITING.***

If a determination subject to this chapter is made orally or, if in writing, does not state the reasons therefor, the municipal authority making the determination shall, upon written request of any person aggrieved by the determination made within 10 days of notice of the determination, reduce the determination and the reasons therefor to writing and mail or deliver the determination and reasons to the person making the request. The determination shall be dated, and shall advise such person of his or her right to have the determination reviewed, that the review may be obtained within 30 days, and the office or person to whom a request for review shall be addressed.  
(1989 Code, § 24.06)

### ***§ 35.07 REQUEST FOR REVIEW OF DETERMINATION.***

Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made the determination within 30 days of notice to the person of the determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body who made the determination, but failure to make such request to the proper party shall not preclude the person aggrieved from review unless the failure has caused prejudice to the municipal authority.  
(1989 Code, § 24.07)

### ***§ 35.08 REVIEW OF DETERMINATION.***

(A) *Initial determination.* If a request for review is made under § 35.07, the determination to be reviewed shall be termed an initial determination.

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(B) *Who shall make review.* A review under this section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of the determination by another person, committee or agency of the city, appointed by the Mayor, without confirmation, shall be provided if practicable.

(C) *When to make review.* The municipal authority shall review the initial determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.

(D) *Right to present evidence and argument.* The person aggrieved may file with his or her request for review or within the time agreed with the municipal authority written evidence and argument in support of his or her position with respect to the initial determination.

(E) *Decision on review.* The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review, which shall state the reasons for the decision. The decision shall advise the person aggrieved of his or her right to appeal the decision, that appeal may be taken within 30 days, and the office or person with whom notice of appeal shall be filed.  
(1989 Code, § 24.08)

### **§ 35.09 ADMINISTRATIVE APPEAL.**

(A) *From initial determination or decision on review.*

(1) If the person aggrieved had a hearing substantially in compliance with § 35.10 when the initial determination was made, he or she may elect to follow §§ 35.06 through 35.08, but is not entitled to a further hearing under § 35.10 unless granted by the municipal authority. He or she may, however, seek judicial review under § 35.12.

(2) If the person aggrieved did not have a hearing substantially in compliance with § 35.10 when the initial determination was made, he or she shall follow §§ 35.06 through 35.08 and may appeal under this section from the decision made under § 35.08.

(B) *Time within which appeal may be taken under this section.* Appeal from a decision on review under § 35.08 may be taken within 30 days of notice of the decision.

(C) *How appeal may be taken.* An appeal under this section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review, written notice of appeal.  
(1989 Code, § 24.09)

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### **§ 35.10 HEARING ON ADMINISTRATIVE APPEAL.**

(A) *Time of hearing.* The city shall provide the appellant a hearing on an appeal under § 35.09 within 15 days of receipt of the notice of appeal and shall serve the appellant with notice of the hearing by mail or personal service at least 10 days before the hearing. The office or person with whom a notice of appeal is filed shall immediately notify the City Attorney, who shall forthwith advise the Mayor of the appeal.

(B) *Conduct of hearing.* At the hearing, the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. The witnesses shall be sworn by the person conducting the hearing. The Mayor shall appoint, without confirmation, an impartial decision maker, who may be an officer, committee, board or commission of the city or the Common Council who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Mayor to conduct the hearing and report to the decision maker.

(C) *Record of hearing.* The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may and upon request of the appellant shall cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the city.

(D) *Hearing on initial determination.* Where substantial existing rights are affected by an initial determination, the municipal authority making the determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this section before making the determination.

(1989 Code, § 24.10)

### **§ 35.11 FINAL DETERMINATION.**

(A) Within 20 days of completion of the hearing conducted under § 35.10 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons therefor. This determination shall be a final determination.

(B) A determination following a hearing substantially meeting the requirements of § 35.10 or a decision on review under § 35.08 following the hearing shall be a final determination, judicial review of which may be obtained under § 35.12.

(1989 Code, § 24.11)

**§ 35.12 JUDICIAL REVIEW.**

(A) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 30 days of receipt of the final determination.

(B) The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his or her expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the city and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

(1989 Code, § 24.12)

**§ 35.13 LEGISLATIVE REVIEW.**

(A) Seeking review pursuant to this chapter does not preclude a person aggrieved from seeking relief from the Common Council or any of its boards, commissions, committees, or agencies which may have jurisdiction.

(B) If in the course of legislative review under this section, a determination is modified, the modification and any evidence adduced before the Common Council, board, commission, committee or agency shall be made part of the record on review under § 35.12.

(C) The Common Council, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under § 35.10.

(1989 Code, § 24.13)

**CHAPTER 36: FORFEITURE  
SCHEDULE**

*Section*

36.01 Forfeiture penalties

**§ 36.01 FORFEITURE PENALTIES.**

The bond schedule for forfeiture penalties for certain violations pursuant to the city code is set forth in the table that follows:

[Table begins on following page]

Code §	Offense	Forfeiture	Penalty Surcharge	Court Costs	Justice Information	Jail Surcharge	Crime Lab & Drug	Court Support	Total
Ch. 71	Restricted Parking CMV	\$25.00	\$6.50	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$169.00
Ch. 72	Bicycle & Roller Skate Restrictions	\$10.00	\$2.60	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$150.10
72.075	Illegal Operation of Snowmobile	\$25.00	\$6.50	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$169.00
72.085 (c) 1 thru 11	Illegal Operation of ATV/UTV	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
Ch. 90.02	Unlicensed Dog	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
Ch 90.09(D)	Dog Habitually Barks	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
Ch. 90.10	Dogs Running at Large	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
92.05(J)	Noisy Animal	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
93.01	Fire Code Violation	\$25.00	\$6.50	\$25.00	\$12.00	\$10.00	\$8.00	\$68.00	\$154.50
110.15	Intoxicants on the Street	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
110.15	Bar Open After Hours (Second Offense)	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
	Third Offense	\$500.00	\$130.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$767.50
130.015	Possession of Firearms	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
130.016	Throwing or Shooting of Missile	\$60.00	\$15.60	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$213.10
130.017	Sale and Use of Fireworks	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
130.03	Loud and Unnecessary Noise (person or auto)	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
130.031	Dynamic Brakes Prohibited	\$25.00	\$6.50	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$169.00
130.033	Junk	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
130.035	Littering	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
130.053	Swimming After Hours	\$50.00	\$13.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$200.50
130.065	Fraud on Hotel and Restaurant Keepers	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
130.066	Theft under \$100	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
130.067	Criminal Damage to Property Under \$100	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
130.068	Retail Theft, Shoplifting Under \$100	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
130.08	Curfew	\$25.00	\$6.50	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$169.00

Code §	Offense	Forfeiture	Penalty Surcharge	Court Costs	Justice Information	Jail Surcharge	Crime Lab & Drug	Court Support	Total
130.081	Truancy	\$50.00	\$13.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$200.50
	(Second Offense within 1 year)	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
130.083	Loitering	\$35.00	\$9.10	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$181.60
130.095	Possession of Drug Paraphernalia (First Offense)	\$50.00	\$13.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$200.50
	Possession of Drug Paraphernalia (Second Offense)	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
130.095	Manufacture or Delivery of Drug Paraphernalia	\$200.00	\$52.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$389.50
130.096(C)(1) through (4)	Tobacco & Vaping (Minor)	\$10.00	\$2.60	--	\$21.50	--	--	\$68.00	\$102.10
130.096(D)	Tobacco & Vaping by Students on School Property	\$10.00	\$2.60	--	\$21.50	--	--	\$68.00	\$102.10
130.097	Tobacco on School Property (Adult)	\$10.00	\$2.60	--	\$21.50	--	--	\$68.00	\$102.10
130.098	Possession of 25 grams or Less of marijuana	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50

**OFFENSE AGAINST STATE LAW (See § 130.001)**

Wis. Stats. Sec.	Offense	Forfeiture	Penalty Surcharge	Court Costs	Justice Information	Jail Surcharge	Crime Lab & Drug	Court Support	Total
940.19(1)	Battery	\$130.00	\$33.80	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$301.30
941.20	Reckless Use of Weapon	\$130.00	\$33.80	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$301.30
941.23	Carrying Concealed Weapon	\$130.00	\$33.80	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$301.30
943.01(1)	Damage to Property (Under \$1,000)	\$130.00	\$33.80	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$301.30
943.50	Shoplifting Over \$100	\$130.00	\$33.80	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$301.30
944.20	Lewd and Lascivious	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
946.41	Obstruction or Resisting	\$130.00	\$33.80	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$301.30
947.01	Disorderly Conduct	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
		\$200.00	\$52.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$389.50

<b>JUVENILE CITATIONS</b>	
Ages: 0-11 years:	Referral Only
12-13 years:	Citation without Court Costs
14-17 years:	Citation with Court Costs

<b>Any violation not covered on the bond schedule shall result in a forfeiture as follows:</b>									
Code	Offense	Forfeiture	Penalty Surcharge	Court Costs	Justice Information	Jail Surcharge	Crime Lab & Drug	Court Support	Total
A	First Offense	\$100.00	\$26.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$263.50
B	Second Offense within 1 year	\$150.00	\$39.00	\$25.00	\$21.50	\$10.00	\$13.00	\$68.00	\$326.50

*(Ord 694 passed 3/7/2006; Am Ord 739 passed 12/1/2009; Am Ord 744 passed 12/7/2010; Am Ord - , 10/14/2019)*

