

Chapter 1.20

PENALTIES FOR ORDINANCE VIOLATIONS

Sections:

- 1.20.010 General penalty.**
- 1.20.020 Continued violation.**
- 1.20.030 Execution against defendant's property.**
- 1.20.040 Indigents.**
- 1.20.050 Ordinance citation.**
- 1.20.060 Police department authority.**
- 1.20.070 Relationship to other laws.**
- 1.20.080 Severability.**

1.20.010 General penalty.

Except as otherwise provided, any person who shall violate any of the provisions of this code shall, upon conviction of such violation, be subject to a penalty which shall be as follows:

A. First Offense. Any person who shall violate any provision of this code shall, upon conviction thereof, forfeit not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00), together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

B. Second Offense. Any person found guilty of violating any ordinance or part of an ordinance of this code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each such offense, together with the costs of

prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs are paid but not exceeding six months.

C. The town may have injunctive relief by which any violation may be required to be returned to a state of compliance with this title.

D. As and for additional forfeitures, the town may require that any net profit realized from a violation of this title be paid over to the town and/or any other parties harmed or damaged by the violation.

E. Recordation improperly made carries penalties as provided in Wisconsin Statutes Section 236.30.

F. Conveyance of lots in unrecorded plats carries penalties as provided for in Wisconsin Statutes Section 236.30.

G. Monuments disturbed or not placed carries penalties as provided for in Wisconsin Statutes Section 236.31.

H. An assessor's plat made under Wisconsin Statutes Section 70.27 may be ordered as a remedy by the town, at the expense of the subdivider, when a subdivision as defined in Chapter 16.08 of this code is created by successive divisions. (Ord. dated 9/8/05 (part))

1.20.020 Continued violation.

Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this code shall preclude the town from maintaining any appropriate action to prevent or remove a violation of any provision of this code. (Ord. dated 9/8/05 (part))

1.20.030 Execution against defendant's property.

Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the town, the court may, in lieu of ordering imprisonment of the defendant or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs. (Ord. dated 9/8/05 (part))

1.20.040 Indigents.

Indigent defendants shall not be imprisoned for failure to pay forfeitures. (Ord. dated 9/8/05 (part))

1.20.050 Ordinance citation.

Pursuant to Section 66.0113, Wis. Stats., the purpose of this section is to authorize the town board of the town of Burlington, or its designees, to issue citations for violations of town ordinance, including ordinances with statutory counterparts.

A. Coverage. The town board prescribes the form for citations to be issued in the town by the town board, or its designees, for violations of town ordinances. Such citations shall be as provided in this subsection and shall include all of the following:

1. The name and address of the alleged violator;
2. The factual allegations describing the alleged violation;
3. The time and place of the offense;
4. The section of the ordinance violated;
5. A designation of the offense in a manner that can be readily understood by a person making a reasonable effort to do so;
6. The time at which the alleged violator may appear in court;

7. A statement that in essence informs the alleged violator of all the following:

a. That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time,

b. That if the alleged violator makes a cash deposit, he or she need not appear in court unless subsequently summoned,

c. That if the alleged violator makes a cash deposit and does not appear in court, he or she either will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under Chapter 814, Wis. Stats., not to exceed the amount of the deposit, or will be summoned into court to answer the complaint if the court does not accept the plea of no contest,

d. That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment under Section 66.0113(3)(d), Wis. Stats., or the municipality may commence an action against the alleged violator to collect the forfeiture, plus costs, fees, and surcharges imposed under Chapter 814, Wis. Stats.,

e. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement that accompanies the citation to indicate that he or she read the statement required under Section 66.0113(1)(b)7, Wis. Stats., and shall send the signed statement with the cash deposit,

f. A statement that if the court finds that the violation involves an offense that prohibits conduct prohibited by state statute

punishable by fine or imprisonment or both, the violation resulted in property damage or physical injury to a person other than the alleged violator, the court may summon the defendant into court to determine if restitution shall be ordered under Section 800.093 (Municipal Court), Wis. Stats.,

g. Any other information as may be deemed necessary.

B. Adoption of State Uniform Bond Schedule. The town board adopts the state of Wisconsin Uniform Bond Schedule, unless other forfeitures or remedies are set forth in town of Burlington ordinances. In any instance for which there is no specific forfeiture or penalty, the general penalties of this chapter shall apply.

C. Adoption of Uniform Traffic Citation. The town board requires that in traffic regulation violation actions, except for parking regulation violations, the uniform traffic citation specified in Section 345.11, Wis. Stats., shall be used by the town in lieu of the citation form noted in above section C.

D. Exceptions to Uniform Citation. The town board requires that in actions for violations of town ordinances enacted in accordance with Section 23.33(11)(am) or Section 30.77, Wis. Stats., the citation form specified in Section 23.54, Wis. Stats., shall be used in lieu of the citation form noted above in subsection C.

E. Issuance of Citation. The town board may, from time to time, designate certain officials to issue citations with respect to those specific ordinances which are related to their official responsibilities. This subsection specifically grants to such officials, pursuant to any resolution, the authority to issue citations under the terms of this chapter.

F. Service. All service of citations shall continue to be carried out by the town of Burlington police department.

G. Procedure. Section 66.0113(3), Wis. Stats., relating to violators options and procedures on default is adopted and incorporated by reference. (Ord. dated 9/8/05 (part))

1.20.060 Police department authority.

Notwithstanding the foregoing, nothing in this chapter shall limit the authority of the police department of the town of Burlington to issue citations under any title of the town of Burlington code of general ordinances. This section expressly authorizes the town of Burlington police department to issue citations for any violation of the code of general ordinances based upon actual knowledge of the violation, third-party complaint, or direction from the town board. (Ord. dated 9/8/05 (part))

1.20.070 Relationship to other laws.

The adoption and authorization for use of a citation under this ordinance does not preclude the town board from adopting any other ordinance or providing for the enforcement of any other law or ordinance or providing for the enforcement of any other law or ordinances relating to the same or any other matter. The issuance of a citation under the ordinance does not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter does not preclude the issuance of a citation under this chapter. (Ord. dated 9/8/05 (part))

1.20.080 Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable. (Ord. dated 9/8/05 (part))