

TITLE 1

General Provision for Use of Code of Ordinances

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Use and Construction of Code of Ordinances

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Sec. 1-1-1 Title of Code; Citation

These collected Ordinances shall be known and referred to as the “Code of Ordinances, Town of Oshkosh, Winnebago County, Wisconsin.” References to the Code of Ordinances, Town of Oshkosh, Wisconsin, shall be cited as follows: “Sec. 2-1-1, Code of Ordinances, Town of Oshkosh, Wisconsin.”

Sec. 1-1-2 Principles of Construction

The following rules or meanings shall be applied in the construction and interpretation of Ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the plain meaning or intent of the Ordinances:

- (a) **Acts by agents.** When an Ordinance requires an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.
- (b) **Code and Code of Ordinances.** The words “Codes,” “Code of Ordinances” and “Municipal Code” when used in any Section of this Code shall refer to this Code of Ordinances of the Town of Oshkosh unless the context of the Section clearly indicates otherwise.
- (c) **Computation of time.** In computing any period of time prescribed or allowed by these Ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days, Saturdays, Sundays and

legal holidays shall be excluded in the computation. As used in this Section, "legal holiday" means any statewide legal holiday specified by state law.

- (d) **Fine.** The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.
- (e) **Gender.** Every word in these Ordinances referring to gender shall be gender neutral.
- (f) **General rule.** All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Ordinances.
- (g) **Person.** The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, political bodies or any other entity of any kind which is capable of being sued.
- (h) **Repeal.** When any Ordinance having the effect of repealing a prior Ordinance is itself repealed, such repeal shall not be construed to revive the prior Ordinance or any part thereof, unless expressly so provided.
- (i) **Singular or plural.** Every word in these Ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these Ordinances referred to the plural number shall also be construed to apply to one (1) person or thing.
- (j) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- (k) **Town.** The term "Town" shall mean the Town of Oshkosh, Winnebago County, Wisconsin.
- (l) **Wisconsin Statutes.** The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the Wisconsin Statutes for the 2003-2004, as amended.
- (m) **Wisconsin Administrative Code.** The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.

State Law Reference: Legal Holidays, §256.17, Wis. Stats.

Sec. 1-1-3 Conflict of Provisions

- (a) If the provisions of different Chapters conflict with each other, the provisions of each individual Chapter shall control all issues arising out of the events and persons intended to be governed by that Chapter.
- (b) If the provisions of different Sections of the same Chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

Sec. 1-1-4 Separability of Provisions.

If any provision of this Code of Ordinances is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of these Ordinances.

Sec. 1-1-5 Effective Date of Ordinances.

- (a) **Code.** The Code of Ordinances, Town of Oshkosh, Winnebago County, Wisconsin, shall take effect as provided by state law.
- (b) **Subsequent Ordinances.** All Ordinances passed by the Town Board subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication or legal posting.

Sec. 1-1-6 General Penalty.

- (a) **General Penalty.** Except where a penalty is provided elsewhere in this Code of Ordinances, 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:
 - (1) **First Offense---Penalty.** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), 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.
 - (2) **Second Offense—Penalty.** Any person found guilty of violating any Ordinance or part of an Ordinance of this Code who shall previously have been convicted of a violation of the same Ordinance within one (1) year shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for each such

offense, together with 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 of prosecution are paid, but not exceeding six (6) months.

- (b) **Continued Violations.** 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.
- (c) **Other Remedies.** The Town of Oshkosh shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.

**Sec. 1-1-7 Clerk to Maintain Copies of Documents
 Incorporated by Reference.**

Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein, and the Town Clerk shall maintain in his/her office a copy of any such material as adopted and as amended from time to time. Materials on file at the Town Clerk office shall be considered public records open to reasonable examination by any person during the office hours of the Town Clerk subject to such restrictions on examination as the Clerk imposes for the preservation of the material.

Issuance of Citations

1-2-1	Method of Enforcement
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Sec. 1-2-1 Method of Enforcement.

The Town of Oshkosh hereby elects to use the citation method of enforcement of ordinances. All Town law enforcement officers and other Town personnel charged with the responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to §66.119(1)(a), Wis. Stats., to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

Sec. 1-2-2 Information Contained in Citation.

The citation shall contain the following:

- (a) The name and address of the alleged violator.
- (b) Factual allegations describing the alleged violation.
- (c) The time and place of the offense.
- (d) The Section of the Ordinance and/or state statute violated.
- (e) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
- (f) The time at which the alleged violator may appear in court.
- (g) A statement which, in essence, informs the alleged violator:
 - (1) That a cash deposit based on the schedule established by this Chapter may be made which shall be delivered or mailed to the Town Clerk prior to the time of the scheduled court appearance.
 - (2) That, if a deposit is made, no appearance in court is necessary unless he/she is subsequently summoned.
 - (3) That, if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of not contest, a summons will be issued commanding him to appear in court to answer the complaint.

- (4) That, if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
- (h) A direction that, if the alleged violator elects to make cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Subsection (g) above has been read. Such statement shall be sent or brought with the cash deposit.
- (i) Such other information as the Town deems necessary.

Sec. 1-2-3 Form of Citation.

The form of the citation to be issued by law enforcement officers or other designated Town officials is incorporated herein by reference and shall provide for the following information:

- (a) The name and address of the alleged violator;
- (b) The factual allegations describing the alleged violation;
- (c) The date and place of the offense;
- (d) The Section of the Ordinance violated;
- (e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so;
- (f) The time at which the alleged violator may appear in court;
- (g) A statement, which, in essence, informs the alleged violator:
 - (1) That the alleged violator makes a cash deposit of a specified amount to be mailed to a specified official within a specified time;
 - (2) That, if the alleged violator makes such a deposit; he/she need not appear in court unless subsequently summoned;
 - (3) That, if the alleged violator makes a cash deposit and does not appear in court, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by §165.87, Wis. Stats., and court costs as imposed by §800.10, 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 not contest;
 - (4) That, if the alleged violator does not make a cash deposit and does not appear in court at the time specified, and action may be commenced against the alleged violator to collect the forfeiture and the penalty assessment imposed by §165.87, Wis. Stats.
- (h) A direction that, if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement, which accompanies the citation to indicate that he read the statement required under Subsection (g) and shall send the signed statement with the cash deposit;
- (i) Such other information as may be deemed necessary.

Sec. 1-2-4 Schedule of Deposits

- (a) The schedule of cash deposits shall be established by the Town Board for use with citations issued under this Chapter according to the penalty provision of this Code, a copy of which is in file with the Town Clerk.
- (b) Deposits shall be made in cash, money order or certified check to the Clerk of Court who shall provide a receipt therefore.

Sec. 1-2-5 Issuance of Citation.

- (a) **Law Enforcement Officer.** Winnebago County Sheriff and its Deputies and Department or any law enforcement officer is authorized to enforce the Code of Ordinance of the Town of Oshkosh within the town. Any law enforcement officer may issue citations authorized under this Chapter.
- (b) **Town Officials.** The following Town officials may issue citations with respect to those specified Ordinances, which are directly related to their official responsibilities;
 - (1) Building Inspector.
 - (2) Plumbing Inspector.
 - (3) HVAC Inspector.
 - (4) Electrical Inspector.
 - (5) Fire Inspector.
- (c) **Delegated Authority.** The Town officials named in Subsection (b) above may delegate their authority to issue citations to their subordinates, provided the Town Board authorizes such delegation.

Sec. 1-2-6 Procedure.

§66.119(3), Wis. Stats., relating to violator's options and procedure on default is hereby adopted and incorporated herein by reference.

Sec. 1-2-7 Nonexclusivity.

- (a) **Other Ordinance.** Adoption of this Chapter does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance, including, but not limited to, summons and complaint, relating to the same or other matter.
- (b) **Other Remedies.** The issuance of a citation hereunder shall not preclude the Town 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.