

ORDINANCE No. 17

AN ORDINANCE REGARDING ISSUANCE OF CITATIONS

The Town Board of the Town of Colfax, Dunn County, Wisconsin, do ordain as follows:

SECTION I. ADOPTION OF NEW PROVISIONS.

The following Town of Colfax Ordinance is created to read as follows:

Penalties; Issuance of Citations

- 1-1-1** Method of Enforcement
- 1-1-2** Form of Citation
- 1-1-3** Schedule of Deposits
- 1-1-4** Issuance of Citations
- 1-1-5** Procedure
- 1-1-6** General Penalty
- 1-1-7** Nonexclusivity

Sec. 1-1-1 Method of Enforcement.

The Town of Colfax, Dunn County, Wisconsin hereby elects to use the citation method of enforcement of ordinances. All law enforcement officers and other Town personnel authorized and charged with the responsibility of enforcing the provisions of Town of Colfax Ordinances are hereby authorized pursuant to Sec. 66.0113, Wis. Stats., to issue citations for violations of Town Ordinances, including ordinances for which a statutory counterpart exists.

Sec. 1-1-2 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 may make 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 Section 165.87, Wis. Stats., and court costs as imposed by Section 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 no contest;
 - (4) That, if the alleged violator does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture and the penalty assessment imposed by Section 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) A statement that if the court finds the violation involves an offense that prohibits conduct prohibited by state statute punishable by fine or imprisonment or both, and that 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 Sec. 800.093, Wis. Stats., for Municipal Courts (if the Town exercises its option to create or join with a Municipal Court).
- (j) Such other information as may be deemed necessary.

Sec. 1-1-3 Schedule of Deposits.

- (a) The schedule of cash deposits shall be established by the Town Board for use with citations issued under this Ordinance according to the penalty

provision in Section 1-1-6 of this Ordinance, a copy of which is on 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 therefor. Sections 66.0114, 66.0115 and 66.0117, Wis. Stats., are adopted and incorporated herein by reference.

Sec. 1-1-4 Issuance of Citation.

- (a) **Law Enforcement Officer.** Any law enforcement officer may issue citations authorized under this Ordinance.
- (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) Fire Inspector.
 - (3) The Town Chairperson, Supervisor(s) or other Town of Colfax official designated by the Town Board to issue citations for enforcement of Town Ordinances. The designated Chairperson or Supervisor(s) shall be selected by majority vote of the Town Board for a grant of authority running concurrently with his/her term of office, unless otherwise modified or revoked by Town Board action.
 - (4) Wisconsin Department of Natural Resources (DNR) wardens.
- (c) **Delegated Authority.** The Town officials named in Subsection (b) above may delegate their authority to issue citations to their subordinates, provided such delegation is authorized by the Town Board.

Sec. 1-1-5 Procedure.

Section 66.0113, Wis. Stats., relating to violator's options and procedure on default is hereby adopted and incorporated herein by reference.

Sec. 1-1-6 General Penalty.

- (a) **General Penalty.** Except where a penalty is provided elsewhere in Town of Colfax any person who shall violate any of the provisions of a Town Ordinance 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 a Town Ordinance shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) 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.

- (2) **Second Offense — Penalty.** Any person found guilty of violating any ordinance or part of a Town Ordinance 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 a Town of Colfax Ordinance shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of a Town Ordinance.
- (c) **Other Remedies.** The Town of Colfax shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above, including those specifically prescribed in Secs. 66.0109, 66.0114 and 66.0115, Wis. Stats., incorporated herein by reference.
- (d) **Court Authority to Impose Alternative Juvenile Dispositions and Sanctions.**
 - (1) For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in Sec. 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes and this Section.
 - (2) For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under Sections 938.343 or 938.344, Wis. Stats., a municipal court is authorized to impose any of the sanctions listed in Sec. 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.
 - (3) This Section is enacted under the authority of Sec. 938.17(2)(cm), Wis. Stats.
- (e) **Juvenile Disposition Alternatives for Alcohol/Drug Offenses.**
 - (1) If a juvenile is found to have engaged in underage drinking of alcohol, drinking of alcohol on school premises or at a school sponsored activity, falsifying proof of age, possessing drug paraphernalia, delivery of drug paraphernalia to a minor in violation of a Town of Colfax Ordinance, the Court may order any of the following:
 - a. 1. A forfeiture;
 2. Suspension or revocation of the juvenile's driver's license;
 3. Participation in a supervised work program;
 - b. After ordering any of the above penalties, the Court may, with the juvenile's agreement, enter an additional order staying the execution of the penalty order and suspending or modifying the

penalty imposed and may require the juvenile to do any of the following:

1. Submit to an Alcohol or Other Drug Abuse (AODA) assessment;
 2. Participate in an outpatient AODA treatment program if an AODA assessment recommends treatment;
 3. Participate in an AODA education program.
- (2) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
- a. The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
 - b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
 - c. The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.
- (3) If the Court finds that a juvenile's parent or guardian is unable to provide or refuses to provide a court-ordered AODA services for the juvenile through his or her health insurance or other third (3rd) party payments, the Court may order the parent or health insurer to pay.
- (4) If payment is not attainable as described in Subsection (e)(3) above, the Court may order the municipality to pay for any AODA services so ordered.
- (f) **Dispositional Alternatives for Other Ordinance Violations.** The Court may impose one (1) or more of the following dispositional alternatives against a juvenile found to have violated a municipal ordinance, for which no penalty is otherwise provided, as follows:
- (1) Counseling for the juvenile and/or the parent or guardian;
 - (2) A forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing the same violation.
 - (3) If the forfeiture is for a violation that is only applicable to a juvenile, the maximum forfeiture amount is Fifty Dollars (\$50.00) plus costs;
 - (4) Suspend a fishing, hunting or driving license from ninety (90) days to five (5) years for failure to pay the forfeiture;
 - (5) Order the juvenile to participate in a supervised work program or other community service work;
 - (6) Order participation in an AODA assessment, an outpatient AODA treatment or an AODA education program;
 - (7) Order participation in a pupil assistance program provided by the juvenile's school provided the juvenile's school agrees;

- (8) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
- a. The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
 - b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
 - c. The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.
- (g) **Violation of Juvenile Dispositional Orders.** The Court may impose the following sanctions on a juvenile who has violated a Town ordinance and who has violated a condition of his or her dispositional order:
- (1) Suspend the juvenile's operating privilege for a period not more than ninety (90) days;
 - (2) Detain the juvenile in his or her home or current residence for not more than thirty (30) days without electronic monitoring;
 - (3) Order no more than twenty-five (25) hours of community service work in a supervised work program.

State Law Reference: Secs. 66.0109, 66.0114, and 66.0115, Wis. Stats.

Sec. 1-1-7 Nonexclusivity.

- (a) **Other Ordinance.** Adoption of this Ordinance 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 of Colfax 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.

SECTION II. SEVERABILITY.

If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.

SECTION III. EFFECTIVE DATE.

This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED this 8TH day of April, 2015.

TOWN OF COLFAX, WISCONSIN

Dary Klukow

Chairperson

Rebecca Kiesow

Town Clerk

INTRODUCED:

4-8-15

PASSED:

4-8-15

POSTED/PUBLISHED:

4-22-15

State of Wisconsin:

County of Dunn:

I hereby certify that foregoing ordinance is a true, correct and complete copy of an ordinance duly and regularly enacted by the Town Board of the Town of Colfax on the 8th day of April, 2015, and that said ordinance has not been repealed or amended and is now in full force and effect.

Dated this 8th day of April, 2015

Rebecca Kiesow

Town Clerk