

## **Chapter 32 OFFENSES AND MISCELLANEOUS PROVISIONS**

### ARTICLE I. - IN GENERAL

### ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

### ARTICLE IV. - PUBLIC NUISANCES

### ARTICLE V. - OFFENSES INVOLVING JUVENILES

**State Law reference**— Local regulation of firearms, Wis. Stats. § 66.0409; local regulation, impoundment, seizure, and forfeiture of sound-producing devices, Wis. Stats. § 66.0411; authority of municipalities to prohibit criminal conduct, Wis. Stats. § 66.0107.

### **ARTICLE I. IN GENERAL**

Secs. 32-1—32-18. Reserved.

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### **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

Sec. 32-19. Statutory authorization.

Sec. 32-20. Citation form and contents.

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Sec. 32-23. Procedure.

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Secs. 32-25—32-51. Reserved.

#### **Sec. 32-19. Statutory authorization.**

The Town hereby authorizes the use of a citation under Wis. Stat. § 66.0113 to be issued for violations of ordinances, including ordinances for which a statutory counterpart exists.

#### **Sec. 32-20. Citation form and contents.**

The citation shall contain the following:

- (1) The name and address of the alleged violator.
- (2) Factual allegations describing the alleged violation.
- (3) The time and place of the offense.

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- (4) The section of the ordinance violated.
- (5) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
- (6) The time at which the alleged violator may appear in court and a statement describing whether the appearance is mandatory.
- (7) A statement that informs the alleged violator:
  - a. That a cash deposit based on the schedule established by the board may be made, which may be delivered or mailed to the clerk of circuit court prior to the time of the scheduled court appearance.
  - b. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
  - c. That if a cash deposit is made and the alleged violator does not appear in court, he or she will be deemed to have entered a plea of no contest and have submitted to a forfeiture forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not to exceed the amount of the deposit. If the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.
  - d. That if no cash deposit is made and the alleged violator does not appear in court at the specified time, 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 Wis. Stat. § 66.0113(3)(d), or the municipality may commence an action against the alleged violator to collect the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.
  - e. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under Wis. Stat. § 800.093.
- (8) A direction that if the alleged violator elects to make a cash deposit the statement that accompanies the citation shall be signed to indicate that the statement required under (7) of this section has been read. Such statement shall be sent or brought with the cash deposit.
- (9) Such other information as the town deems necessary.
- (10) The form of the citation to be used by the town shall be kept on file with the clerk/administrator.

**Sec. 32-21. Schedule of deposits and penalty assessments.**

The following schedule of cash deposits is established for use with citations issued under this article:

- (1) The cash deposit will be the amount of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814. Deposits shall be made in cash, personal check, or money order made payable to the county clerk of courts. The officer or person who issues the citation may accept the deposit from the cited person, but shall thereafter forward the deposit, along with the citation, to the clerk of courts. Receipts must be given for cash deposits.
- (2) For ordinances authorizing forfeitures of not less than \$25.00 nor more than \$500.00 for a first offense and not less than \$50.00, nor more than \$1,000.00 for a second or subsequent offense within one year, cash deposit shall be \$100.00 for the first offense and \$250.00 for a second or subsequent offense within one year, plus fee or assessment imposed by state law, as provided above.

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(Res. No. 9402, §§ 1, 2, 9-4-2002)

**Sec. 32-22. Issuance of citations.**

The county sheriff's department and other persons as may be designated by the town board to enforce town ordinances may issue citations authorized under this article.

**Sec. 32-23. Procedure.**

Wis. Stats. § 66.0113(3), and as from time to time amended, relating to violator's options and procedure on default is hereby adopted and incorporated herein by reference.

**Sec. 32-24. Nonexclusivity.**

Adoption of this citation procedure does not preclude the town board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to same or other matter. The issuance of a citation hereunder shall not preclude the town or any authorized official from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation, or order.

**Secs. 32-25—32-81. Reserved.**

**State Law reference—** Citations for violations of certain ordinances, Wis. Stats. § 66.0113; bond or cash deposition under municipal ordinances, Wis. Stats. § 66.0111.

**ARTICLE IV. PUBLIC NUISANCES**

Sec. 32-82. Defined.

Sec. 32-83. Penalties and enforcement.

Sec. 32-84. Prohibited.

Sec. 32-85. Specific nuisances.

Sec. 32-86. Enforcement.

Sec. 32-87. Abatement of nuisances constituting immediate danger.

Sec. 32-88. Abatement of nonemergency nuisances.

Sec. 32-89. Remedies not exclusive.

Sec. 32-90. Right of access; permission of owner.

Secs. 32-91—32-108. Reserved.

**Sec. 32-82. Defined.**

The term "public nuisance" means a thing, act, occupation, condition, or use of property that continues for such a length of time as to:

- (1) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;
- (2) In any way render the public insecure in life or in use of property;
- (3) Greatly offend the public morals or decency.

(Ord. No. 21, § 2, 7-5-1989)

**Sec. 32-83. Penalties and enforcement.**

- (a) In addition to any other penalty imposed by this article for the direction, continuance, creation, continuance, or maintenance of a public nuisance, the cost of abating a public nuisance shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if the notice to abate the nuisance has been given to the owner, such costs shall be assessed against the real estate as a special charge.
- (b) Any person violating this article shall upon conviction be subject to penalties as provided in section 1-17 of this Code.

(Ord. No. 21, § 9, 7-5-1989)

**Sec. 32-84. Prohibited.**

No person shall erect, continue, cause, maintain or permit to exist, any public nuisance within the town.

(Ord. No. 21, § 1, 7-5-1989)

**Sec. 32-85. Specific nuisances.**

The following acts, omissions, places, conditions and things are declared to be a public nuisance affecting the health, peace, and safety of the public, but such enumeration should not be construed to exclude other nuisances offending the public health, comfort, and safety under the definition provided in this article:

- (1) Any place or premises within the town, if this Code, county ordinances, or state laws regarding public health, safety, peace, morals, or welfare are openly, continuously, repeatedly, and intentionally violated;
- (2) Any building erected, repaired, or altered in violation of the provisions of this Code, or county ordinances, or state law;
- (3) Any building or structure so old, dilapidated, or out of repair as to be dangerous, unsafe, or unsanitary or otherwise unfit for human use; or
- (4) The placing or permitting to remain within the town upon any public or private property of any garbage, refuse, unused furniture, unused appliances, waste materials from a demolition, improvement, destruction, burning or disposable buildings, or other waste materials which cause injury or discomfort to adjacent residences.

(Ord. No. 21, § 3, 7-5-1989)

**Sec. 32-86. Enforcement.**

The town board or its designee shall enforce this article and shall make periodic inspections and inspections upon complaint to ensure the provisions of this article are not violated. No action shall be taken under this article to abate the public nuisance, unless the town board or its designee has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that the nuisance does, in fact, exist.

(Ord. No. 21, § 4, 7-5-1989)

**Sec. 32-87. Abatement of nuisances constituting immediate danger.**

If the town board or its designee determines that the public nuisance does exist and is of great and immediate danger to the public health, safety, peace, morals, or decency, the town board or its designee may cause the same to be abated and charge the costs thereof to the owner, occupant or person causing or permitting or maintaining the nuisance as the case may be.

(Ord. No. 21, § 5, 7-5-1989)

**Sec. 32-88. Abatement of nonemergency nuisances.**

If after the town board or its designee determines that a public nuisance exists on private premises, but the nature of the nuisance does not threaten great or immediate danger to the public health, safety, peace, morals, or decency, the town board or its designee shall serve a ten-day notice upon the person causing or maintaining the nuisance to remove the same. If the nuisance is not removed within ten days, then the town board or its designee may cause the nuisance to be removed.

(Ord. No. 21, § 6, 7-5-1989)

**Sec. 32-89. Remedies not exclusive.**

Nothing in this article shall be construed as prohibiting the abatement of a public nuisance by the town in accordance with state law.

(Ord. No. 21, § 7, 7-5-1989)

**Sec. 32-90. Right of access; permission of owner.**

The town board or its designee shall not use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied. If such permission is denied, the town board or its designee shall apply to any court having jurisdiction for a special inspection warrant under Wis. Stat. § 66.0119 assisting the abatement of the nuisance.

(Ord. No. 21, § 8, 7-5-1989)

**Secs. 32-91—32-108. Reserved.**

**ARTICLE V. OFFENSES INVOLVING JUVENILES**

**DIVISION 1. - GENERALLY**

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DIVISION 2. - JUVENILE CURFEW

**State Law reference—** Juvenile justice code, Wis. Stats. § 938.342, § 118.163 & § 60.22(3).

***DIVISION 1. GENERALLY***

Secs. 32-109—32-129. Reserved.

**Secs. 32-109—32-129. Reserved.**

***DIVISION 2. JUVENILE CURFEW***

Sec. 32-130. Curfew hours imposed.

Sec. 32-131. Exceptions.

Sec. 32-132. Parental responsibility.

**Sec. 32-130. Curfew hours imposed.**

No person under 17 years of age shall congregate, loiter, wander or play in or upon the public streets, public parking lots, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or any public places in the town, either on foot or in, or upon any conveyance being driven or parked thereon between the hours of 11:00 p.m. and 6:00 a.m. Sunday through Thursday, and 12:00 a.m. and 6:00 a.m. Friday and Saturday.

**Sec. 32-131. Exceptions.**

The curfew imposed in this division shall not apply if the person is accompanied by an adult person having legal custody of such person, or unless such person is engaged in the performance of an errand or duty directly by the adult having legal custody of such person or whose employment makes it necessary for such person to be in such public place, or if such person is going home from school activities, church programs, or other similar organizational activities.

Similarly, the curfew imposed in this division shall not apply in circumstances in which the minor was exercising First Amendment rights protected by the United States Constitution or the Wisconsin Constitution, including freedom of speech, the free exercise of religion and/or the right of assembly. Unless flight by the minor or other circumstances make it impracticable, a person authorized to issue town citations shall, prior to issuing a citation for an offense under this division, afford the minor an opportunity to explain his or her reasons for being present in the public place. The person authorized to issue a citation shall not issue a citation for an offense under this division unless the person reasonably believes that an offense has occurred, and that none of the exceptions to the curfew restriction described herein applies.

**Sec. 32-132. Parental responsibility.**

Any adult person having the legal custody of a person under the age of 17 years suffering or permitting a minor to violate this article shall be subject to penalties as set forth in Section 1-17 of this Code.

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Board Adopted 3/14/2023