

CHAPTER 1

CONSTRUCTION AND EFFECT OF ORDINANCES

SECTION 1 - RULES OF CONSTRUCTION

In the construction of this Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

1. **WISCONSIN STATUTES.** All references to "Wisconsin Statutes" or "Wis. Stats." means the current edition of the Wisconsin Statutes and includes the most recent biennial session.
2. **GENDER, SINGULAR AND PLURAL.** Every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.
3. **PERSON.** The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all entities capable of being sued, unless plainly inapplicable.
4. **ACTS OF AGENTS.** When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

SECTION 2 - CONFLICT AND SEPARABILITY

1. **CONFLICT OF PROVISIONS.** If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.
2. **SEPARABILITY OF CODE PROVISIONS.** If any section, subsection, sentence, clause or phrase of the Code 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 section, subsection, sentence, clause or phrase or portion thereof. The Board hereby declares that it would have passed this Code and each section, subsection, sentence, clause,

phrase or portion thereof irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 3 - CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE

Whenever in this Code any standard, code, rule, regulation 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 Clerk shall file, deposit and keep in his/her office a copy of the Code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

SECTION 4 - PENALTY PROVISIONS

1. **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 violates any provision of this Code shall, upon conviction thereof, forfeit not less than \$5 nor more than \$500, 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 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 \$10 nor more than \$500 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 6 months.
2. **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.
3. **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.

SECTION 5 - REPEAL OF GENERAL ORDINANCES

All ordinances previously adopted by the Town Board which are in direct and clear conflict with any provision of this General Code are hereby repealed to the extent of said conflict.

SECTION 6 - EFFECT OF REPEALS

The repeal or amendment of any section or provision of this Code, or of any other ordinance or resolution of the Board, shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time such repeal or amendment takes effect.
- (2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Town.
- (3) Affect any offense committed, or penalty or forfeiture incurred, previous to the time when any ordinance is repealed or amended; except when any forfeiture or penalty has been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.
- (4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance above is repealed or amended; but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinance, and such prosecution shall proceed, in all respects, as if such ordinance had not been repealed; except all such proceedings had after the time this Code takes effect shall be conducted according to the provisions of this Code.

SECTION 7 - TITLE; EFFECTIVE DATE; CITATION

These ordinances shall be known as the "General Code of the Town of Auburn, Wisconsin," and shall take effect from and after passage and publication as provided in § 66.035, Wis. Stats.

SECTION 8 - KEEPING CODE CURRENT; REVISOR'S AMENDMENTS

As each ordinance or resolution affecting this General Code becomes effective, the Town Clerk shall forward such ordinance or resolution to the Revisor, who shall incorporate them into the General Code. The Revisor shall make no substantive changes to such ordinances and resolutions, but may renumber, rearrange and edit them without first submitting them to the

Town Board; and such rearranging, renumbering and editing shall not affect the validity of such ordinances and resolutions or the provisions of this General Code affected thereby.

SECTION 9- CITATION PROCEDURE

1. **AUTHORIZATION.** In addition to any other enforcement procedure or method authorized for a violation of the provisions of this Code, the Town Board authorizes the following Town officials and employees to issue ordinance violation citations, pursuant to § 66.119, Wis. Stats., which is incorporated here by reference, and pursuant to the procedure set forth below:

All County Law Enforcement Officers
Refuse and Recycling Coordinator
Code Enforcement Officer(s)

2. **FORM OF CITATION**

- (a) The Town shall use a form of citation as is prescribed in § 66.0113(1)(b), Wis. Stats., which is incorporated by reference. This citation form may be used for violations of all Town of Auburn ordinances except violations of the Town Traffic Code, if any.
- (b) The fact that an alleged violator has made the proper cash deposit does not and shall not prohibit a judge from ordering the alleged violator into court when it is deemed to be in the best interest of the Town of Auburn or to protect the basic rights of the alleged violator.

3. **RELATIONSHIP TO OTHER LAWS** The adoption and authorization for use of a citation under this section shall not preclude the Town from adopting any other ordinance or providing for the enforcement of any other law or ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this section.

4. **SCHEDULE OF CASH DEPOSITS**

- (a) The revised Uniform State Traffic Deposit Schedule and Alcohol Beverages, Harassment, Safety, Tobacco, UW Rule, and Drug Paraphernalia Violation Deposit Schedule and the Uniform Misdemeanor Bail Schedule and Trespass to Land Deposit Schedule as revised and amended and including any amendments and/or revisions thereto is hereby adopted and incorporated by reference.

- (b) For violations of all ordinances other than those governed by the afore-described Uniform State Deposit Schedule or as otherwise set forth in this Code, the Cash Deposit Schedule shall be as follows:

CASH DEPOSIT SCHEDULE

Ordinance Violation	Forfeiture Amount
Chapter 45 violations	\$500.00
All other ordinances, first offense	\$100.00
Second and subsequent offenses	\$200.00

- (c) In addition to the appropriate cash deposit amount as established above, all citations issued under this ordinance shall further specify and include as part of the deposit, any costs under Wis. Stat. § 814.63 and any penalty surcharge applicable under Wis. Stat. § 814.78.
- (d) Cash deposits shall be made to the appropriate court clerk.