

Citation Procedures

Q. When an ordinance with a penalty provision is passed, how can it be enforced?

A. It is important for town officials to remember that there is a formal process that must be used to enforce local ordinances. If a town board, town official, or town employee feels that someone has violated a town ordinance, the town cannot simply write the person a letter and say they owe the town a fine. Rather, state law allows towns and villages to use the citation method to enforce local ordinances. See s. 66.0113, Wis. Stat. Towns and villages need to adopt the citation method by ordinance. The citation ordinance will spell out the procedures to be followed, the information that must be included with any citation that is to be issued, the deposit schedule, who may issue citations on behalf of the town for which ordinances, etc. There is a sample citation ordinance in the Town Law Forms book which can be linked to through the WTA website.

Q. Who may issue citations for ordinance violations on behalf of the town?

A. In its citation ordinance, the town or village names the people that have the authority to issue citations. One or more citation enforcement officers could be hired as part-time employees for this purpose. For example, you might hire an off duty sheriff's deputy for a few hours each month. Other towns and villages might rely on certified law enforcement officers if they have a local police department. If your town has an elected constable, that person could also be given citation authority. The job could also be divided up and given to various town officers or employees. For example, the board might have the town building inspector cite people for failing to get a building permit and have the dog catcher cite people who let their dog run at large, etc. If your town or village has no one on staff to perform the citation function or you'd feel more comfortable having a certified law enforcement officer handle the job, the board could also investigate whether you are able to contract with the county sheriff's department for additional services and then ask sheriff's deputies to issue town citations as part of that contracted service time.

Q. Is there a citation form that we can use? Where can we get them?

A. The State of Wisconsin Department of Administration (Document Sales Division) used to sell citation booklets for municipal use for a nominal fee. The booklets were called "Wisconsin Citation and Complaint Non-traffic" forms and numbered GF-116. It is my understanding that the state recently discontinued selling the pre-printed booklets, but you can email Terri.Borrud@wicourts.gov to receive a camera ready copy via email that you can then use as a model to create your own citation forms. If you decide to make your own, make sure the form includes: the offense charged, the defendant's (alleged violator's) name and address, the basis for the charge, the scheduled court date for appearance, and the cash deposit allowed.

Q. When a citation is issued, what happens next?

A. For any town ordinance that includes a potential forfeiture for violations, a penalty range should be set forth in the ordinance. The citation ordinance would indicate the deposit schedule and costs applicable for each potential offense. When a citation is issued, the applicable deposit (and state court costs established pursuant to a state schedule if there is no municipal court) are indicated on the citation. A copy of the citation is filed with the Clerk of Courts in your county (if there is no municipal court). The alleged violator may pay the deposit amount (and essentially plead guilty or no contest) or appear at the scheduled court appearance time indicated on the citation. If the defendant appears and pleads not guilty, a trial date is set for a later date. If no deposit is paid and there is no court appearance, the court could summons the defendant into court to determine the course of action to be taken or, depending on how the citation was served, the court might enter a judgment and order payment of the forfeiture.

Q. Is the town required to send a representative to that initial court appearance?

A. In most cases no, but check your local circuit court rules as this may be something your county has decided to require. Although no town representative may be required to attend the initial court appearance, there may be some benefit in doing so. For example, the town may find out that there is a defense to the charge of which it was unaware. The town might also be able to use this opportunity as one last chance to settle the matter with the alleged violator before having to proceed to trial and incur more expenses to enforce the ordinance.

Q. If we issue someone a citation and it goes unpaid, can we put the outstanding forfeiture on their tax bill as a special charge?

A. No. Under s. 66.0627, Wis. Stat., special charges can only be assessed for services rendered to someone's property. By their very nature, forfeitures are a penalty for violating an ordinance and not a fee for any service that the town provided to someone's real estate. So, unpaid forfeitures need to stay off the tax bill.

Q. We have a tavern owner with two unpaid forfeitures from town ordinance violations. Can we use the unpaid forfeitures as a reason to non-renew his retail alcohol license next year using the process under s. 125.12, Wis. Stat. if they remain unpaid at that time?

A. Towns and villages may adopt an ordinance making it a condition of obtaining or renewing any town or village license, that all local taxes, assessments, special charges, or other fees, including but not limited to municipal forfeitures from a violation of any local ordinance, shall be paid on a current basis. Any such local claims that remain unpaid within a time limit set by the town, or a court, as the case may be, place the licensee in a state of delinquency. Delinquencies that are pending at the time of license renewal or issuance would then form the basis for a possible nonrenewal or denial. Note that such an ordinance cannot be applicable to retail alcohol licenses only and must apply to all licenses issued by the town (other than dog licenses).

Q. Are there other avenues to collect if citations remain unpaid?

A. The State Debt Collection Initiative (administered by the Wisconsin Department of Revenue) is a great option for local governments to explore: <https://www.revenue.wi.gov/Pages/HTML/debtcoll.aspx>