

Ordinance 2013-08-06-03, Citation Ordinance

STATE OF WISCONSIN

Town of Montrose

Dane County

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of Montrose Citation Ordinance. The purpose of this ordinance is to authorize the Town Board of the Town of Montrose, or its designees, to issue citations for violations of Town of Montrose ordinances, including ordinances with statutory counterparts.

SECTION II – AUTHORITY

The Town Board of the Town of Montrose, Dane County, Wisconsin, has the specific authority under s. [66.0113](#), Wis. stats., to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides the authority for the town to issue citations for violations of Town of Montrose ordinances, including ordinances with statutory counterparts.

SECTION IV - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION V – COVERAGE

- A. Except as provided in subsections D and E [and F if applicable], the form for citations to be issued in the Town of Montrose by the town board, or its designees, for violations of Town of Montrose ordinances shall be as provided in this subsection and shall include all of the following:
1. The name and address of the alleged violator.
 2. The factual allegations describing the alleged violation.
 3. The time and place of the alleged violation.
 4. The number of the ordinance violated.
 5. A designation of the offense in a manner that can be readily understood by a person making a reasonable effort to do so.
 6. The time at which the alleged violator may appear in court.
 7. A statement that in essence informs the alleged violator of all of the following:
 - a. That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time.
 - b. That if the alleged violator makes a cash deposit, he or she need not appear in court unless subsequently summoned.
 - c. That if the alleged violator makes a cash deposit and does not appear in court, he or she either will be deemed to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under chapter 814, 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.

- d. That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, 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 s. [66.0113 \(3\) \(d\)](#), Wis. stats., or the municipality may commence an action against the alleged violator to collect the forfeiture, plus costs, fees, and surcharges imposed under chapter 814, Wis. stats.
 - 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 s. [800.093](#), Wis. stats.
8. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement that accompanies the citation to indicate that he or she read the statement required under s. [66.0113 \(1\) \(b\) 7.](#), Wis. stats., and shall send the signed statement with the cash deposit.
 9. Any other information as may be deemed necessary.
- B. The town board adopts the following schedule of cash deposits that are required for the various Town of Montrose ordinance violations, which includes for each listed violation the costs, fees, and surcharges imposed under chapter 814, Wis. stats.: [list deposit amount for each violation].
 - C. The town board names the following court, clerk of court, or other official to whom cash deposits are to be made and requires that receipts shall be given for cash deposits: [state court, clerk of court, or official].
 - D. The town board requires that in traffic regulation violation actions, except for parking regulation violations, the uniform traffic citation specified in s. [345.11](#), Wis. stats., shall be used by the Town of Montrose in lieu of the citation form described in subsection A.
 - E. The town board requires that in actions for violations of Town of Montrose ordinances enacted in accordance with s. [23.33 \(11\) \(am\)](#) or [30.77](#), Wis. stats., the citation form specified in s. [23.54](#), Wis. stats., shall be used in lieu of the citation form described in subsection A.
 - F. (Optional) [include if town has established a municipal court] If the action for a violation of a municipal ordinance is to be in municipal court, the citation used shall be in compliance with s. [800.02 \(2\)](#), Wis. stats. The service of the citations in municipal court shall conform with s. [800.01](#), Wis. stats. The officers authorized to issue citations for municipal court actions are: [list town officers]. The citation for any violation to be heard in municipal court shall contain substantially all of the following information:
 1. The name, address, and date of birth of the defendant.
 2. The name and department of the issuing officer.
 3. The violation alleged, the time and place of occurrence, a statement that the defendant committed the violation, the ordinance, resolution, or bylaw violated, and a designation of the violation in language that can be readily understood.
 4. A date, time, and place for the court appearance, and a notice to appear.
 5. Provisions for the amount of a deposit and stipulation in lieu of a court appearance, if applicable.
 6. Notice that the defendant may make a deposit and thereby obtain release if an arrest has been made.
 7. Notice that the defendant may, by mail prior to the court appearance, enter a plea of guilty and may within 10 days after entry of the plea request a jury trial.
 8. Notice that, if the defendant makes a deposit and fails to appear in court at the time fixed in the citation, the defendant is deemed to have tendered a plea of no contest and submits to a forfeiture, penalty assessment, jail assessment, and crime laboratories and drug law enforcement assessment, any applicable consumer protection assessment, and any applicable domestic abuse assessment plus costs, including the fee prescribed in s. [814.65 \(1\)](#), Wis. stats., not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and plea.
 9. Notice 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 defendant, the court may summon the defendant into court to determine if restitution shall be ordered under s. [800.093](#), Wis. stats.

10. Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or a warrant for the defendant's arrest or may enter a default judgment against the defendant.
11. Any other pertinent information.

SECTION VI – ISSUANCE AND SERVICE OF CITATION

- A. Town of Montrose citations may be issued by the Town Board of the Town of Montrose, or the Town Board of the Town of Montrose may designate certain Town of Montrose, Dane County, or other municipal officials, with their written approval, to issue such citations.
- B. Town of Montrose citations, in addition, may specifically be issued by Dane County Sheriff Department. This official may also designate a person to issue such Ordinances for the Town of Montrose and this official may revoke this authority to issue anytime.
- C. The Town of Montrose Town Board has designated the Town Chair or any person approved by the Town Board to serve any citations for the Town of Montrose upon issuance. Any person specifically authorized by the Town Board to issue citations by the Town Board of the Town of Montrose may also serve such citations.

SECTION VII – RELATIONSHIP TO OTHER LAWS

The adoption and authorization for use of a citation under this ordinance does not preclude the Town Board of the Town of Montrose from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or any other matter. The issuance of a citation under this ordinance does not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter does not preclude the issuance of a citation under this ordinance.

SECTION VIII – SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION IX – EFFECTIVE DATE

This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. [60.80](#), Wis. stats.

Adopted this 6th day of August, 2013.

Roger Hodel, Town Chairperson

Randy Francois, 1st Town Supervisor

Dan Palmer, 2nd Town Supervisor

Attest: _____

Julie L. Bigler, Town Clerk