

CHAPTER I

GENERAL PROVISIONS

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1.01 CONFLICT OF PROVISIONS.

1. If the provisions of different ordinances conflict with each other, the provisions of each individual ordinance shall control all issues arising out of the events and persons intended to be governed by that ordinance.
2. If the provisions of different sections of the same ordinance conflict with each other, the provision which is more specific in its application control over the more general provision.

1.02 SEPARABILITY OF PROVISIONS. If any provision of this Code of Ordinances 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 provision of these ordinances.

1.03 EFFECTIVE DATE.

1. Code. The Code of Ordinances, Town of Beloit, and Rock County Wisconsin shall take effect as provided by state law.
2. Subsequent Ordinances. All ordinances adopted by the Town Board subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication or legal posting per [Section 60.80](#), Wis. Stats.

1.04 PENALTY.

1. Penalty. Except where a penalty is provided elsewhere in this Code of Ordinances, 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 – Penalty. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), 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.
 - b. Second Offense – Penalty. Any person found guilty of violating any ordinance or part of an Ordinance of this Code 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 Two Hundred Dollars (\$200.00) 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 ninety (90) days.
 - c. Third Offense – Penalty. Any person found guilty of violating any provision of this Code, who shall previously have been convicted of two (2) violations of the same ordinance within one (1) year shall, upon conviction thereof, forfeit not less than Three Hundred Dollars (\$300.00) for each such offense, together with costs of prosecution and, in default of payment, such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding ninety (90) days.

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. Other Remedies. The Town of Beloit shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.
4. Court Authority to Impose Alternative Juvenile Dispositions and Sanctions. For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in [Section 938.343](#) and [938.344](#), Wis. Stats., in accordance with the provisions of those statutes and this ordinance.

1.05 CLERK TO MAINTAIN DOCUMENTS INCORPORATED BY REFERENCE. Whenever any standard code, rule, regulation, statute 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 Town Clerk shall maintain in his/her office a copy of any such material as adopted and as amended from time to time. Materials on file at the Town Clerk's office shall be considered public records open to reasonable examination by any person during the office hours of the Town Clerk subject to such restriction on examination as the Clerk imposes for the preservation of the material.

1.06 DESTRUCTION OF PUBLIC RECORDS.

1. Purpose. Pursuant to [Section 19.21](#), Wis. Stats., this ordinance authorizes the transfer or destruction of obsolete records.
2. Definitions.
 - a. Legal Custodian. The individual responsible for maintaining records pursuant [Section 19.33](#), WI Stats.
 - b. Records. The meaning as defined in [Section 19.32 \(2\)](#), Wis. Stats.
3. General Retention Period. Unless a different retention period is specifically adopted in the Records Retention Schedule or required by Wisconsin Statutes, all records shall be retained at least seven (7) years before destruction.
4. Records Retention Schedule. The schedule of retention periods differing from the period prescribed in Subsection (3) above shall be listed in the Records Retention Schedule of the Town of Beloit, which is adopted by reference as though fully set forth in this ordinance. The official copy of the Records Retention Schedule shall be on file in the office of the Town Clerk, who shall keep the same current at all times by such revision as is required by additions, deletions, and amendments adopted by the Town Board by ordinance from time to time.
5. Notification of State Historical Society. At least 60 days prior to the destruction of any records pursuant to this section, the legal custodian shall notify the State Historical Society of Wisconsin in writing, unless the State Historical Society has waived notice for the type of records to be destroyed as indicated in the Records Retention Schedule.
6. Destruction Pending Litigation. Notwithstanding the above, no record subject to pending litigation shall be destroyed until the litigation is resolved.

1.07 LEGAL CUSTODIAN(S).

1. Each elected or appointed official is the legal custodian of his or her records and records of his or her office, but the official may designate the Town Clerk to act as the legal custodian.
2. Unless provided in Subsection (3), the Town Clerk or Town Clerk’s designee shall act as legal custodian for the Town for any committees, commissions, boards, or other authorities created by Ordinance or resolution of the Town Board. The following offices or authorities shall have as a legal custodian of records and individuals so named:

<u>Authority</u>	<u>Designated Legal Custodian</u>
General Town Records	Town Clerk
Department of Public Works	Director of Public Works
Police Department	Chief of Police
Fire Department	Fire Chief

3. For every authority not specified in Subsections (1) and (2), the authority’s chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as legal custodian.
4. Each legal custodian shall name a person to act as legal custodian in his or her absence, or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the Town Clerk.
5. The Town Clerk shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

1.08 ENFORCEMENT. The Town of Beloit hereby elects to use the citation method of enforcement of ordinances. All Town law enforcement officers and other Town personnel charged with the responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to [Section 60.61\(6\)](#) Wis. Stats., to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

1.09 INFORMATION CONTAINED IN CITATION.

1. The citation shall contain the following:
 - a. The name and address of the alleged violator.
 - b. Factual allegations describing the alleged violation.
 - c. The time and place of the offense.
 - d. The Section of the Ordinance and/or state statute violated.
 - e. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
 - f. The time at which the alleged violator may appear in court.
2. A statement which, in essence, informs the alleged violator:

- a. That a cash deposit based on the schedule established by this ordinance may be made which shall be delivered or mailed to the Clerk of Municipal 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/she is subsequently summoned.
 - c. That, if a cash deposit is made and the alleged violator does not appear in court, he/she will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding him/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 time specified, an action may be commenced to collect the forfeiture.
3. A direction that, if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Subsection (2) above has been read. Such statement shall be sent or brought with the cash deposit.
 4. Such other information as the Town deems necessary.

1.10 SCHEDULE OF DEPOSITS.

1. 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 of this Code, a copy of which is on file with the Town Clerk and Clerk of Municipal Court.
2. Deposits shall be made in cash, money order or certified check to the Clerk of Municipal Court who shall provide a receipt therefore.

1.11 ISSUANCE OF CITATION.

1. Law Enforcement Officer. Any law enforcement officer may issue citations authorized under this ordinance.
2. Town Officials. The following Town officials may issue citations with respect to those specified Ordinances which are directly related to their official responsibilities:
 - a. Building Inspector
 - b. Code Enforcement Officer
 - c. Zoning Administrator
3. Delegated Authority. The Town officials named in Subsection (2) above may delegate their authority to issue citations to their subordinates or law enforcement officers, provided such delegation is authorized by the Town Board.

1.12 PROCEDURE. Section [806.12](#) Wis. Stats., relating to violator's options and procedure on default is hereby adopted and incorporated herein by reference.

1.13 NONEXCLUSIVITY.

1. 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 relating to the same or other matter.
2. Other Remedies. The issuance of a citation hereunder shall not preclude the Town 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.

1.14 REVIEW OF ADMINISTRATIVE DETERMINATIONS. Any person aggrieved by an administrative determination of the Town Board or a board, commission, committee, agency, officer or employee of the Town of Beloit or agent acting on its behalf may have such determination reviewed as provided in this ordinance and pursuant to [Section 68.01](#), Wis. Stats. The remedies under this ordinance shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

1.15 DETERMINATIONS REVIEWABLE.

1. The following determinations are reviewable under this ordinance and pursuant to [Section 68.02](#), Wis. Stats.:
 - a. The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.
 - b. The suspension, revocation or non-renewal of an existing permit, license, right, privilege or authority, except as provided in Section 1.15(1) (d).
 - c. The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.
 - d. The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.
 - e. The suspension or removal of a Town officer or employee except as provided in Section 1.16 (1) (b) and (g).

1.16 DETERMINATIONS NOT SUBJECT TO REVIEW.

1. The following determinations are not reviewable under this ordinance pursuant to [Section 68.03](#), Wis. Stats.:
 - a. A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Town Board.
 - b. Any action subject to administrative or judicial review procedures under state statutes or other provisions of this Code.
 - c. The denial of a tort or contract claim for money required to be filed with the Town under [Section 62.26](#), Wis. Stats.
 - d. The grant, denial, suspension or revocation of a fermented malt beverage license under [Chapter 125](#), Wis. Stats.
 - e. Judgments and orders of a court.
 - f. Determinations made during municipal labor negotiations.
 - g. Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.

- 1.17 MUNICIPAL AUTHORITY DEFINED.** “Municipal authority” includes the Town Board, commission, committee, agency, officer, employee or agent of the Town making a determination under Section 1.14, and every person, committee or agency of the Town to make an independent review under Section 1.21 (2).
- 1.18 PERSONS AGGRIEVED.** A person aggrieved includes any individual, partnership, corporation, association, public or private organization; officer, department, board, commission or agencies of the Town, whose rights, duties or privileges are adversely affected by a determination of a municipal authority. No department, board, commission, agency, officer or employee of the Town who is aggrieved may initiate review under this ordinance of a determination of any other department, board, commission, agency, officer or employee of the Town, but may respond or intervene in a review proceeding under this ordinance initiated by another pursuant to sections [68.01](#) and [68.08](#), Wis. Stats.
- 1.19 REDUCING DETERMINATION TO WRITING.** A determination may be reduced to writing pursuant to [Section 68.07](#), Wis. Stats.
- 1.20 REQUEST FOR REVIEW OF DETERMINATION.** Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within thirty (30) days of notice to such person of such determination. Requests are to be made pursuant to [Section 68.08](#), Wis. Stats.
- 1.21 REVIEW OF DETERMINATION.**
1. Initial Determination. If a request for review is made under Section 1.20, the determination to be reviewed shall be termed an initial determination.
 2. Who Shall Make Review. A review under this Section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of such determination by another person, committee or agency of the Town (“municipal authority”), appointed by the Chairperson without confirmation, shall be provided if practicable.
 3. When to Make Review. The municipal authority shall review the initial determination within fifteen (15) days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.
 4. Right to Present Evidence and Argument. The person aggrieved may file with his request for review, or within the time agreed with the municipal authority, written evidence and argument in support of his position with respect to the initial determination.
 5. Decision on Review. The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority’s decision on review which shall state the reasons for such decision. The decision shall advise the person aggrieved of his/her right to appeal the decision, that appeal may be taken within thirty (30) days, and the office or person with whom notice of appeal shall be filed pursuant to [Section 68.09](#), Wis. Stats.

1.22 ADMINISTRATIVE APPEAL.

1. From Initial Determination or Decision on Review.
 - a. If the person aggrieved had a hearing substantially in compliance with Section 1.23 when the initial determination was made, he/she may elect to follow Sections 1.19 through 1.21, but is not entitled to a further hearing under Section 1.23 unless granted by the municipal authority. He may, however, seek judicial review under Section 1.25.
 - b. If the person aggrieved did not have a hearing substantially in compliance with Section 1.23 when the initial determination was made, he/she shall follow Sections 1.19 through 1.21 and may appeal under this Section from the decision made under Section 1.21.
2. Time within Which Appeal May Be Taken Under This Section. Appeal from a decision on review under Section 1.21 may be taken within thirty (30) days of notice of such decision.
3. How Appeal May Be Taken. An appeal under this ordinance may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review written notice of appeal.

1.23 HEARING ON ADMINISTRATIVE APPEAL.

1. Time of Hearing. The Town shall provide the appellant a hearing on an appeal under Section 1.22 within fifteen (15) days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least ten (10) days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the Town Attorney, who shall forthwith advise the Chairperson of such appeal.
2. Conduct of Hearing. At the hearing, the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Chairperson shall appoint, without confirmation, an impartial decision maker who may be an officer, committee, board or commission of the Town or the Town Board who did not participate in making or reviewing the initial determinations, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Chairperson to conduct the hearing and report to the decision maker.
3. Record of Hearing. The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant, shall cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the Town.
4. Hearing on Initial Determination. Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this Section before making such determination.

1.24 FINAL DETERMINATION.

1. Within twenty (20) days of completion of the hearing conducted under Section 1.23 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons thereof. Such determination shall be a final determination.
2. A determination following a hearing substantially meeting the requirements of Section 1.23 or a decision on review under Section 1.21 following such hearing shall be a final determination, judicial review of which may be obtained under Section 1.25.

1.25 JUDICIAL REVIEW.

1. Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within thirty (30) days of receipt of the final determination.
2. The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his expense. If the person seeking review established impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the Town and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

1.26 LEGISLATIVE REVIEW.

1. Seeking review pursuant to this ordinance does not preclude a person aggrieved from seeking relief from the Town Board or any of its boards, commissions, committees or agencies which may have jurisdiction.
2. If, in the course of legislative review under this Section, a determination is modified, such modification and any evidence adduced before the Town Board, board, commission, committee or agency shall be made part of the record on review under Section 1.25.
3. The Town Board, board, commission, committee or agency conducting a legislative review under this ordinance need not conduct the type of hearing required under Section 1.23.

1.27 DEFINITIONS.

1. The following definitions shall be applied in the interpretation of Ordinances codified in this Code of Ordinances unless such definition would be clearly inconsistent with the plain meaning or intent of the ordinances:
 - a. Acts by agents. When an ordinance requires an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.
 - b. Code and Code of Ordinances. The words “Codes”, “Code of Ordinances”, “ordinance” and “Municipal Code” when used in any Section of this Code shall refer to this Code of Ordinances of the Town of Beloit unless the context of the Section clearly indicates otherwise.

- c. Computation of time. In computing any period of time prescribed or allowed by these ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Section, “legal holiday” means any statewide legal holiday specified by state law.
- d. Fine. The term “fine” shall be the equivalent of the word “forfeiture”, and vice versa.
- e. Gender. Every word in these ordinances referring to gender shall be gender neutral. When “he/she” is used, this shall be construed to mean both sexes.
- f. General rule. All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to technical or special meaning if such is the intent of the ordinances.
- g. Person. The word “person” shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.
- h. Repeal. When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.
- i. Singular and plural. Every word in these ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these ordinances referred to the plural number shall also be construed to apply to one (1) person or thing.
- j. Tense. The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- k. Town. The term “Town” shall mean the Town of Beloit, Rock County, Wisconsin.
- l. Wisconsin Statutes. The term “Wisconsin Statutes” and its abbreviation as “Wis. Stats.” shall mean, in these ordinances, the Wisconsin State Statutes as revised or renumbered from time to time.
- m. Wisconsin Administrative Code. The term “Wisconsin Administrative Code” and its abbreviation as “Wis. Adm. Code” shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.