

## **108.1 Citation Ordinance**

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### **SECTION I – TITLE AND PURPOSE**

The title of this ordinance is the Town of Berry Citation Ordinance 108.1. The purpose of this ordinance is to authorize the Town Board of the Town of Berry, or its designees, to issue citations for violations of Town of Berry ordinances, including ordinances with statutory counterparts.

### **SECTION II – AUTHORITY**

The Town Board of the Town of Berry, 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 Berry 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 reference section, subsection, paragraph, or subdivision.

### **SECTION V – COVERAGE**

- A. Except as provided in subsections D and E, the form for citations to be issued in the Town of Berry by the Town Board, or its designees, for violations of the Town of Berry 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 of 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 cash deposits that are required for the various Town of Berry ordinance violations, shall be one half the sum of the minimum and maximum fine applicable, together with the costs, fees, and surcharges imposed under chapter 814, Wis. Stats.
- C. The Town Board names the Dane County Clerk of Courts to receive cash deposits and requires that receipts shall be given for cash deposits.
- 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 Berry in lieu of the citation form described in subsection A.

- E. The Town Board requires that in actions for violations of the Town of Berry 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.

#### **SECTION VI – ISSUANCE AND SERVICE OF CITATION**

- A. Town of Berry citations may be issued by the Town Clerk, upon affirmative vote of the Town Board of the Town of Berry, or the Town Board of the Town of Berry may designate certain Town of Berry, Dane County, or other municipal officials, with their written approval, to issue such citations.
- B. The Town of Berry Town Board has designated the Town Chair or any person approved by the Town Board to serve any citations for the Town of Berry upon issuance. Any person specifically authorized by the Town Board to issue citations by the Town Board of the Town of Berry 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 Berry 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.

Dated this 18th day of May, 2009

Published: April 30, 2009  
May 28, 2009

Brenda Kahl, Clerk/Treasurer  
Timothy Henneman, Sr., Supervisor  
Jim Laubmeier, Supervisor

Anthony Varda, Chair  
Chris Upper, Supervisor  
Susan Studz, Supervisor