

## TITLE I

### GENERAL PROVISIONS

Chapter 1	Use and Construction
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### CHAPTER 1

#### Use and Construction

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1-1-2	Principles of Construction
1-1-3	Conflict of Provisions
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#### **SEC. 1-1-1 TITLE OF CODE: CITATION.**

These collected Ordinances shall be known and referred to as the "Code of Ordinances, Town of Fond du Lac, Fond du Lac County, Wisconsin." References to the Code of Ordinances, Town of Fond du Lac, Wisconsin, shall be cited as follows: "Sec. 2-1-1, Code of Ordinances, Town of Fond du Lac, Wisconsin."

#### **SEC. 1-1-2 PRINCIPLES OF CONSTRUCTION.**

The following rules or meanings shall be applied in the construction and interpretation of Ordinances codified in this Code of Ordinances unless such application 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 "Code," "Code of Ordinances" and "Municipal Code" when used in any Section of this Code shall refer to this Code of Ordinances of the Town of Fond du Lac unless the context of the Section clearly indicates otherwise.
- a) **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 statute.

- b) **Fine.** The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.
- c) **Gender.** Every word in these Ordinances referring to gender shall be gender neutral.
- d) **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 that 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.
- e) **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.
- f) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- g) **Town.** The term "Town" shall mean the Town of Fond du Lac, Fond du Lac County, Wisconsin.
- h) **Wisconsin Statutes.** The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the Wisconsin Statutes for the year 2001-02, as amended.
- i) **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.

### **SEC. 1-1-3 CONFLICT OF PROVISIONS.**

- a) If the provisions of different Chapters conflict with each other, the provisions of each individual Chapter shall control all issues arising out of the events and persons intended to be governed by that Chapter.

- b) If the provisions of different Sections of the same Chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

#### **SEC. 1-1-4 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 provisions of these Ordinances.

#### **SEC. 1-1-5 EFFECTIVE DATE OF ORDINANCES.**

- a) **Code.** The Code of Ordinances, Town of Fond du Lac, Fond du Lac County Wisconsin, shall take effect as provided by state statute.
- b) **Subsequent Ordinances.** All Ordinances passed 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.

#### **SEC. 1-1-6 GENERAL PENALTY.**

- a) **General 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:
- 1) **First Offense: Penalty.** Any person who violates any provision of this Code shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) 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.
  - 2) **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 One Hundred Dollars (\$100.00) 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 six (6) months.
- b) **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.

- 1) Other Remedies. The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.
  
- 2) Court Authority to Impose Alternative Juvenile Dispositions and Sanctions.
  1. For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in Sec. 938.343 and 938.344, Wis. Stats.
  2. For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under Sec. 938.343 or 938.344, Wis. Stats., a court is authorized to impose any of the sanctions listed in Sec. 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.
  3. This Section is enacted under the authority of Sec. 938. 17(2)(cm), Wis. Stats.

**SEC. 1-1-7 CLERK TO MAINTAIN COPIES OF 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 restrictions on examination as the Clerk imposes for the preservation of the material.

**CHAPTER 2**  
**Citation Enforcement**

1-2-1	Statutory Authority
1-2-2	Form of Citation
1-2-3	Schedule of Deposits
1-2-4	Issuance of Citation
1-2-5	Procedure
1-2-6	Nonexclusivity

**SEC. 1-2-1 STATUTORY AUTHORITY.**

Pursuant to Sec. 66.0113, Wis. Stats., the Town Board hereby elects to use the citation method to enforce the provisions of this Code.

**SEC. 1-2-2 FORM OF CITATION.**

- a) The citation shall contain the following information:
- 1) The name and address of the alleged violator;
  - 2) Date of birth of the alleged violator;
  - 2) The factual allegations describing the alleged violation;
  - 3) The time and place of the offense;
  - 4) The section of the ordinance violated;
  - 5) A designation of the offense in such manner as can readily be 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 which in essence informs the alleged violator:
    - a. That a cash deposit based on the schedule established by this Chapter may be made which shall be delivered or mailed to the Clerk of Court prior to the time of the scheduled court appearance.
    - b. That if a deposit is made, no appearance in court is necessary unless the defendant is subsequently summoned.
    - c. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, and submitted to a

forfeiture with applicable penalty assessment, or if the court does not accept the plea of no contest, a summons will be issued commanding him 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 the court may issue a summons or warrant for the defendant’s arrest or consider the non-appearance to be a plea of no contest and enter judgment, or an action may be commenced to collect the forfeiture.
- 8) 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 (7) above has been read. Such statement shall be sent or brought with the cash deposit;
- 9) A statement that if the court finds that the violation involves an offense that prohibits conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation results in property damage or physical injury to a person other than the alleged violator, the court may summon the defendant into court to determine if restitution shall be ordered under Wis. Stats. Sec. 800.093; and
- 10) Such other information as the town deems necessary.

**SEC. 1-2-3 SCHEDULE OF DEPOSITS.**

- a) The following schedule of cash deposits is established for use with citations under this Chapter:

<b>ORDINANCE TITLE AND CHAPTER</b>	<b>OFFENSE</b>	<b>DEPOSITS AND COSTS</b>
Title 3 Chapter 5	Violation	\$300 plus current court costs
Title 5 Chapter 2	Violation	\$100 plus current court costs
Title 6 Chapter 7	Violation	\$200 plus current court costs
Title 7 Chapter 1 Sections 1-16	Violation	\$50 plus current court costs
	Violation (Subsequent Offenses)	\$350 plus current court costs
Title 7 Chapter 9	Violation	\$250 plus current court costs
Title 8 Chapter 3	Violation	\$50 plus current court costs
	Violation (2 <sup>nd</sup> Violation)	\$100 plus current court costs
	Violation (3 <sup>rd</sup> and all other subsequent)	\$2,000 plus current court costs

Title 9 Chapter 6	Violation	\$1,000 plus current court costs
Title 10 Chapter 1	Violation (Moving)	Forfeiture consistent with Wis. Stat. § 814.63(1) and (2) or Wis. Stat. § 814.65(1) and Wis. Stat. § 346.655 when applicable
Title 10 Chapter 1	Violation (Parking)	\$15 plus current court costs.
Title 10 Chapter 1	Violation (size and load)	\$25 plus current court costs
Title 10 Chapter 3	Violation	\$300 plus current court costs
Title 11 Chapter 4 Section 1	Violation	\$100 plus current court costs
	Violation (second in 12 months)	\$500 plus current court costs
Title 11 Chapter 4 Section 2	Violation	\$250 plus current court costs
Title 11 Chapter 4 Section 3	Violation	\$50 plus current court costs
	Violation (second in 12 months)	\$100 plus current court costs
	Violation (third or more in 12 months)	\$150 plus current court costs
Title 11 Chapter 4 Section 6	Violation	\$100 plus current court costs
Title 11 Chapter 4 Section 7	Violation	\$100 plus current court costs
Title 11 Chapter 7	Violation	\$200 plus current court costs
Title 13 Chapter 1	Violation	\$100 plus current court costs
Title 14 Chapter 1	Violation	\$100 plus current court costs
Title 15 Chapter 2 Section 1	Violation	\$100 plus current court costs
Title 15 Chapter 2 Section 2	Violation	\$500 plus current court costs
Title 15 Chapter 5	Violation	\$100 plus current court costs
Resolutions Declaring Emergencies under applicable law	Each Violation	\$250 plus current court costs

- b) For all offenses that do not include increased deposit amounts for second and subsequent violations, each second offense shall be subject to a deposit in an amount two times the deposit amount described above. For third and subsequent offenses, the deposit amount will be triple the deposit described above.

**SEC. 1-2-4 ISSUANCE OF CITATION.**

Any law enforcement officer or the following officials may issue citations with respect to those specified Code provisions which are directly related to their official responsibilities.

<b>ORDINANCE TITLE AND CHAPTER</b>	<b>ENFORCEMENT OFFICIAL</b>
Title 3 Chapter 5	Town Board Member
Title 5 Chapter 2	Town Board Member/Fire Chief
Title 6 Chapter 7	Town Board Member
Title 7 Chapter 1 Sections 1-16	Town Board Member/ Permit Issuer
Title 7 Chapter 9	Town Board Member/ Permit Issuer
Title 8 Chapter 3	Town Board Member
Title 9 Chapter 6	Town Board Member
Title 10 Chapter 1	Town Board Member
Title 10 Chapter 1	Town Board Member
Title 10 Chapter 1	Town Board Member
Title 10 Chapter 3	Town Board Member
Title 11 Chapter 4 Section 1	Town Board Member
Title 11 Chapter 4 Section 2	Town Board Member
Title 11 Chapter 4 Section 3	Town Board Member
Title 11 Chapter 4 Section 6	Town Board Member
Title 11 Chapter 4 Section 7	Town Board Member
Title 11 Chapter 7	Town Board Member
Title 13 Chapter 1	Town Board Member/Permit Issuer
Title 14 Chapter 1	Town Board Member/ Building Inspector/ Permit Issuer
Title 15 Chapter 2	Town Board Member/ Building Inspector
Title 15 Chapter 2	Town Board Member/ Building Inspector
Title 15 Chapter 5	Town Board Member/ Building Inspector
Resolutions Declaring Emergencies under applicable law	Town Board Member



**SEC. 1-2-5 PROCEDURE.**

Wis. Stats. Sec. 66.0113(3) relating to violator's options and procedures on default is hereby adopted and incorporated by reference.

**SEC. 1-2-6 NONEXCLUSIVITY.**

- a) Other Provisions. This Chapter does not preclude the Town Board from providing for enforcement of any other law or ordinance relating to the same or some other matter.
- b) Other Remedies. The issuance of a citation hereunder shall not preclude the Town Board or any authorized office from proceedings under any other part of this Code.

## CHAPTER 3

### Municipal Court

1-3-1	Court Established
1-3-2	Qualifications, Oath and Bond, Salary
1-3-3	Elections
1-3-4	Jurisdiction
1-3-5	Municipal Court – Hours, Employees and Location
1-3-6	Collection of Forfeitures and Costs
1-3-7	Contempt of Court
1-3-8	Stipulations and/or Deposits
1-3-9	Abolition
1-3-10	Penalty

#### **SEC. 1-3-1 COURT ESTABLISHED.**

Pursuant to the authority granted by Chapter 755 of the Wisconsin Statutes, there is hereby created and established a joint municipal court to be designated Lakeside Municipal Court shall take effect and be in full force and effect from and after its passage by the municipalities that are party to the agreement and publication as required by law.

#### **SEC 1-3-2 QUALIFICATIONS, OATH AND BOND AND SALARY.**

- a) Qualifications: The joint court shall be under the jurisdiction of and presided over by a municipal judge who resides in one of the municipalities that is a party to the agreement forming this joint court.
- b) Oath and Bond: The Judge shall, after election or appointment to fill a vacancy, take and file the official oath as prescribed in §757.02(1), Wis. Stats., and at the same time execute and file an official bond in the amount of \$1,000, or an appropriate insurance policy of not less than \$20,000 as prescribed in §66.0609(4), Wis. Stats. The judge shall not act until the oath and bond and/or appropriate insurance policy have been filed as required by §19.01(4)(c), Wis. Stats., and the requirements of §755.03(2), Wis. Stats., have been complied with.
- c) Salary: The salary of the municipal judge shall be fixed by the Village Board of Village of North Fond du Lac which shall be in lieu of fees and costs. No salary shall be paid for any time during the term during which such Judge has not executed the official bond or appropriate insurance policy and official oath, as required by §755.03, Wis. Stats., and filed pursuant to §19.01(4)(c), Wis. Stats.

#### **SEC. 1-3-3 ELECTIONS.**

- a) Term: The municipal judge shall be elected at large in the spring election for a term of four years commencing on May 1. All candidates for the position of municipal judge shall be nominated by nomination papers as provided in §8.10, Wis. Stats., and selection at a primary

election if such is held as provided in §8.11, Wis. Stats. The Fond du Lac County Clerk shall serve as filing officer for the candidates.

- b) Electors: Electors in all municipalities that are parties to the agreement shall vote for judge.

**SEC. 1-3-4 JURISDICTION.**

- a) The municipal court shall have jurisdiction over incidents occurring on or after July 15, 2020, as provided in Article VII, §14 of the Wisconsin Constitution, §755.045 and §755.05, Wis. Stats., and as otherwise provided by State Law. In addition, it shall have exclusive jurisdiction over actions in the municipalities that are parties to the agreement seeking to impose forfeitures for violations of municipal ordinances, resolutions and by-laws.
- b) The municipal judge may issue civil warrants to enforce matters under the jurisdiction of the municipal court under §755.045(2), §66.0119, Wis. Stats.
- c) The municipal court has jurisdiction over juvenile offenders when a municipality that is party to the agreement enacts an ordinance under the authority of §938.17(2)(cm), Wis. Stats.
- d) Court authority to impose alternative juvenile dispositions and sanctions.
- e) For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in §938.343 and §938.344, Wis. Stats., in accordance with the provisions of those statutes.
  - 1) For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under §938.343 or §938.344, Wis. Stats., the municipal court is authorized to impose any of the sanctions listed in §938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.

**SEC. 1-3-5 MUNICIPAL COURT – HOURS, EMPLOYEES AND LOCATION.**

- a) Hours: Lakeside Municipal Court shall be open as determined by order of the Municipal Judge.
- b) Employees: The Judge shall, in writing, appoint such an Administrator, clerks, deputy clerks and assistants as are authorized by the Village Board of North Fond du Lac.
- c) Location: The Municipal Judge shall keep his/her office at a location provided by the Board of Trustees of the Village of North Fond du Lac and shall hold court at locations agreed to by members of Lakeside Municipal Court. The Municipal Judge may issue, process and perform ministerial functions any place in the State of Wisconsin.

**SEC. 1-3-6 COLLECTION OF FORFEITURES AND COSTS.**

Collection of Forfeitures and Costs: The Municipal Judge may impose punishment and sentences as provided by Wis. Stats. Chapters 800 and 938 and as provided in ordinances of the municipalities

that are parties to the agreement. All forfeitures, fees, assessments, surcharges and costs shall be paid to the treasurer of the Village of North Fond du Lac in accordance with State Statute. At such time, the Municipal Court shall report to the treasurer the title, nature of offense and total amount of judgments imposed in actions and proceedings in which such monies are collected.

**SEC. 1-3-7 CONTEMPT OF COURT.**

The Municipal Judge, after affording an opportunity to the person accused to be heard in defense, may punish for contempt as provided in §800.12, Wis. Stats., and impose a forfeiture and/or a jail sentence in accordance with State Statute.

**SEC. 1-3-8 STIPULATIONS AND/OR DEPOSSITS.**

- a) Deposits for Ordinance Violations: The Municipal Judge shall establish and submit to the City Councils or Town or Village Boards of the member municipalities for approval in accordance with §800.037, Wis. Stats., a schedule of deposits for violations of each ordinance, resolutions and by-laws.
- b) Deposits for Traffic and Boating Violations: The deposit schedule established by the Wisconsin Judicial Conference and the procedures set forth in Chapters 23 and 345, Wis. Stats., shall apply to stipulations and deposits for violations of traffic regulations enacted in accordance with §345.11, Wis. Stats., and boating regulations enacted in accordance with §30.77, Wis. Stats.
- c) Stipulations and Deposits in Lieu of Court Appearance: Persons cited for violations of the member municipalities ordinances, resolutions or by-laws or violations of traffic or boating regulations for which a deposit has been established, shall be permitted to make a stipulation of no contest and a deposit in lieu of court appearance as provided in §800.035, Wis. Stats., §800.045, Wis. Stats., §800.09, Wis. Stats., unless personal appearance is required.

**SEC. 1-3-9 ABOLITION.**

The Municipal Court hereby established shall not be abolished while the §755.01(4), Wis. Stats., agreement is in effect.

**SEC. 1-3-10 PENALTY.**

Any person violating the provisions of this Ordinance shall be subject to the penalty provided in Section 1-1-6 of the Code.