

**66.0113 Citations for certain ordinance violations.****(1) ADOPTION; CONTENT.**

- (a) Except as provided in sub. (5), the governing body of a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district may by ordinance adopt and authorize the use of a citation under this section to be issued for violations of ordinances, including ordinances for which a statutory counterpart exists.
- (b) An ordinance adopted under par. (a) shall prescribe the form of the citation which shall provide for 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 offense.
  4. The section 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 which in essence informs the alleged violator:
    - 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 such a 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 ch. 814, 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 sub. (3) (d), or the municipality may commence an action against the alleged violator to collect the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.
    - 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.
  8. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under subd. 7. and shall send the signed statement with the cash deposit.
  9. Such other information as may be deemed necessary.
- (c) An ordinance adopted under par. (a) shall contain a schedule of cash deposits that are to be required for the various ordinance violations, plus costs, fees, and surcharges imposed under ch. 814, for which a citation may be issued. The ordinance shall also specify the court, clerk of court, or other official to whom cash deposits are to be made and shall require that receipts be given for cash deposits.

**(2) ISSUANCE; FILING.**

- (a) Citations authorized under this section may be issued by law enforcement officers of the county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district. In addition, the governing body of a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district may designate by ordinance or resolution other county, town, city, village, town sanitary district or public inland lake

protection and rehabilitation district officials who may issue citations with respect to ordinances which are directly related to the official responsibilities of the officials. Officials granted the authority to issue citations may delegate, with the approval of the governing body, the authority to employees. Authority delegated to an official or employee shall be revoked in the same manner by which it is conferred.

- (b) The issuance of a citation by a person authorized to do so under par. (a) shall be deemed adequate process to give the appropriate court jurisdiction over the subject matter of the offense for the purpose of receiving cash deposits, if directed to do so, and for the purposes of sub. (3) (b) and (c). Issuance and filing of a citation does not constitute commencement of an action. Issuance of a citation does not violate s. 946.68.

**(3) VIOLATOR'S OPTIONS; PROCEDURE ON DEFAULT.**

- (a) The person named as the alleged violator in a citation may appear in court at the time specified in the citation or may mail or deliver personally a cash deposit in the amount, within the time, and to the court, clerk of court, or other official specified in the citation. If a person makes a cash deposit, the person may nevertheless appear in court at the time specified in the citation, but the cash deposit may be retained for application against any forfeiture or restitution, plus costs, fees, and surcharges imposed under ch. 814 that may be imposed.
- (b) If a person appears in court in response to a citation, the citation may be used as the initial pleading, unless the court directs that a formal complaint be made, and the appearance confers personal jurisdiction over the person. The person may plead guilty, no contest, or not guilty. If the person pleads guilty or no contest, the court shall accept the plea, enter a judgment of guilty, and impose a forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the court finds that the violation meets the conditions in s. 800.093 (1), the court may order restitution under s. 800.093. A plea of not guilty shall put all matters in the case at issue, and the matter shall be set for trial.
- (c) If the alleged violator makes a cash deposit and fails to appear in court, the citation may serve as the initial pleading and the violator shall be considered to have tendered a plea of no contest and submitted to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly or reject the plea. If the court finds that the violation meets the conditions in s. 800.093 (1), the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093. If the court accepts the plea of no contest, the defendant may move within 10 days after the date set for the appearance to withdraw the plea of no contest, open the judgment, and enter a plea of not guilty if the defendant shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect. If the plea of no contest is accepted and not subsequently changed to a plea of not guilty, no additional costs, fees, or surcharges may be imposed against the violator under s. 814.78. If the court rejects the plea of no contest, an action for collection of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, may be commenced. A city, village, town sanitary district, or public inland lake protection and rehabilitation district may commence action under s. 66.0114 (1) and a county or town may commence action under s. 778.10. The citation may be used as the complaint in the action for the collection of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814.
- (d) If the alleged violator does not make a cash deposit and fails to appear in court at the time specified in the citation, the court may issue a summons or warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment accordingly if service was completed as provided under par. (e) or the county, town, city, village, town sanitary district, or public inland lake protection and rehabilitation district may commence an action for collection of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814. A city, village, town sanitary district, or public inland lake protection and rehabilitation district may commence action under s. 66.0114 (1) and a county or town may commence action under s. 778.10. The citation may be used as the complaint in the action for the collection of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the court considers the nonappearance to be a plea of no contest and enters judgment accordingly, the court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow the defendant not less than 20 days from the date of the judgment to pay any forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the defendant moves to open the judgment

within 6 months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect, the court shall reopen the judgment, accept a not guilty plea and set a trial date.

- (e) A judgment may be entered under par. (d) if the summons or citation was served as provided under s. 968.04 (3) (b) 2. or by personal service by a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district employee.
- (4) **RELATIONSHIP TO OTHER LAWS.** The adoption and authorization for use of a citation under this section does not preclude the governing body 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 section 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 section.
- (5) **MUNICIPAL COURT.** If the action is to be in municipal court, the citation under s. 800.02 (2) shall be used.

**History:** 1975 c. 201, 421; 1977 c. 29, 305; 1979 c. 32 s. 92 (8), (17); 1979 c. 151, 355; 1987 a. 27, 389; 1989 a. 107; 1991 a. 39, 40, 128, 189, 315; 1993 a. 16, 167; 1995 a. 349; 1997 a. 27; 1999 a. 9; 1999 a. 150 ss. 274 to 277; Stats. 1999 s. 66.0113; 2001 a. 16; 2003 a. 139.

**Cross-reference:** As to (3) (d), see s. 800.093 regarding municipal court authority to order restitution.

Sub. (3) (b) only authorizes the use of citations for violations of ordinances other than those for which a statutory counterpart exists. 76 Atty. Gen. 211.

A judgment for payment of a forfeiture can be docketed, accumulates interest at 12%, and may be enforced through collection remedies available in other civil proceedings. OAG 2-95.