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**CHAPTER 4**

**TRAFFIC CODE AND SNOWMOBILE REGULATIONS**

**4.01 WISCONSIN STATE TRAFFIC CODE AND STATE SNOWMOBILE CODE AND REGULATIONS ADOPTED BY REFERENCE [Recreated 2/14/05]**

**(1) TRAFFIC CODE**

Under the authority of WI Stats. 349, this traffic code as now implemented and dated and adopted by the municipality, covers all known State traffic law changes, through the WI Stats. Year 2004, and any session laws adopted through the 2004 session of the legislature. Therefore, except as otherwise provided in this chapter, the statutory provisions of Chapter 340 through 348, of the WI Stats. and Section 941.01 WI Stats. describing and defining regulations with respect to vehicles in traffic, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is defined or term of imprisonment is defined are hereby adopted and by reference made a part of this Code, as hereinbefore set forth and as if fully set forth herein. Any act required to be performed or prohibited by any Statute incorporated herein by reference is required or prohibited by this code. Any future amendments, revisions or modifications of the statutes incorporated herein are then to be made a part of this code in order to secure uniform state-wide regulation of traffic on the highways, streets and alleys of the State of Wisconsin, and the municipality.

**(2) SNOWMOBILES**

- (a) State Snowmobile Laws Adopted. Under the authority of WI Stats., Chapter 349 and Chapter 350, the State Snowmobile Laws are hereby adopted. Except as otherwise specifically provided in this chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the State of Wisconsin as set forth in 350.01 to 350.19 WI Stats., are hereby adopted by reference and made part of this section as if fully set forth herein. The acts required to be performed or prohibited by such statutes are required or prohibited by this section.
- (b) Applicability of Rules of the Road to Snowmobiles. The operator of a snowmobile on a roadway, shall in addition to the provisions of Chapter 350 WI Stats., be subject to Sections 346.04 to 346.94 of the Wisconsin Statutes and are hereby adopted by reference and made part of this section.
- (c) Permitting Operation by Improper Persons Prohibited. No owner or person having charge or control of a snowmobile shall authorize or permit

any person to operate such snowmobile who is not permitted under State law to operate such snowmobile or who is under the influence of an intoxicant or a dangerous or narcotic drug.

- (d) Operation While Under Influence Prohibited. Section 346.63, WI Statutes shall apply to the operation of a snowmobile anywhere within the Town.
- (e) Written Consent of Owner Required. The consent required under Sections 350.10(6), (11) and (13), WI Statutes shall be written consent dated and limited to the year in which the consent is given. If the property is owned or leased by more than one person, the consent of each shall be obtained.

**4.02 SPEED ZONES**

- (1) The maximum permissible speed at which vehicles may be operated on the various Town of Menasha streets is as follows, contingent upon erection of proper signing:
  - (a) 25 miles per hour. All streets in the Town of Menasha except the following:
    - (1) State, Federal and County highways (limits set by other jurisdictions).
    - (2) 10 miles per hour.
      - (a) All roads within Town of Menasha parks.
    - (3) 15 miles per hour:
      - (a) Elru Drive
      - (b) East/West Portion of Brighton Beach Road
      - (c) Happy Valley Drive
      - (d) Paradise Lane
      - (e) Sleepy Hollow
    - (4) 30 miles per hour:
      - (a) Calumet Street, between Oneida Street westerly to the City of Appleton municipal boundary.
      - (b) North Lake Street from Blair Avenue southerly to the City of Neenah municipal boundary.
    - (5) 35 miles per hour:
      - (a) Airport Road from Racine Street and State Trunk Highway 47.
      - (b) American Drive between Prospect and Copperhead Drive.
      - (c) American Drive between Green Bay Road and .10 miles north of Jacobsen

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- Road.
  - (d) Cold Spring Road between American Drive and Allison Drive.
  - (e) East Shady Lane between American Drive and Municipal Drive.
  - (f) Irish Road between Jacobsen Road and Mimosa Lane. *[Amended 12/15/08]*
  - (g) Jacobsen Road between American Drive and Clayton Avenue. *[Amended 12/15/08]*
  - (h) Northern Road.
  - (i) Stroebe Road between Northern Road and Harry's Gateway.
  - (j) West Butte des Morts Beach Road from Lake Street northerly to the point where Millbrook Creek crosses West Butte des Morts Beach Road.
- (6) 40 miles per hour:
- (a) Jacobsen Road between American Drive and Lake Street.
  - (b) North Lake Street between Jacobsen Road and Blair Avenue.
- (7) 45 miles per hour:
- (a) Clayton Avenue between Prospect Avenue (CTH BB) and Winchester Road.
  - (b) Cold Spring Road between Allison Drive and Prospect Avenue (CTH BB).
  - (c) East Shady Lane from Municipal Drive to Irish Road.
  - (d) Irish Road between Prospect Avenue (CTH BB) and Mimosa Lane. *[Amended 12/15/08]*
- (8) 55 miles per hour:
- (a) East Shady Lane between Irish Road and Clayton Avenue.
  - (b) Special Speed Limits
    - (1) 15 miles per hour:
      - (a) Marked school zones
      - (b) Marked construction zones
    - (c) State of Wisconsin Statutes
- Chapter 346.57 WI Stats. is hereby adopted by reference, as applicable.
- (2) Modification of Speed Restrictions. All modifications of any existing speed restriction within the Town of Menasha (excluding limits set by other jurisdictions - state, federal and county highways) shall require the following: *[Adopted 1/22/90]*
- (a) There shall be a completed engineering and traffic investigation which states the change is reasonable, safe and prudent, and the engineering and traffic investigation shall be completed by

the state, or any other qualified engineer approved by the Town Board.

- (b) Any increase or decrease in the speed limit of more than 10 mph shall require approval of the State of Wisconsin Department of Transportation; and no signs giving notice of a modification of the speed limit shall be erected until such approval has been received.

**4.03 ARTERIAL STREETS**

Arterial Streets shall be designated by stop signs or other appropriate signs and every operator of a vehicle approaching such sign shall comply with Section 346.46, WI Stats.

**4.04 PARKING, STOPPING AND STANDING**

- (1) Additional parking limitations may be adopted by either resolution of the Town of Menasha Board of Supervisors or action of the Town Administrator under Section 4.06, with copies of all such action to be kept on file with the Town Clerk for the Town of Menasha. The posting of regulations adopted hereunder shall be in conformity with Section 4.06 of this ordinance.

- (2) All night parking regulations:

- (a) No commercial vehicle shall be parked on any Town road or street or Town right-of-way between the hours of 2:00 a.m. and 5:00 a.m. No commercial vehicle shall be parked on any Town road or street at any other times for a period longer than necessary to service or provide service or materials at the location where parked or standing.
- (b) "Commercial Vehicles" shall be defined as any motor vehicle ordinarily used or designed for the delivery of goods, wares, merchandise, or material of any kind or for the transporting of people, supplies or tools in the conduct of any occupation, employment or business including all trucks and buses (school or charter) of any nature used as described herein.

- (c) These regulations shall be effective after passage, publication and after signs have been erected at or reasonably near the corporate limits of the Town as provided in Section 349.13, WI Stats.

- (3) All Night Parking Prohibited. When signs have been erected at or reasonably near the corporate limits of the Town as provided in Section 349.13, WI Stats., no person shall park any motor vehicle on any street or road in the Town of Menasha between the hours of 2:00 a.m. and 5:00 a.m., except physicians and other emergency calls and vehicles, from November 1 of each year to April 1 of the following year. This section

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shall regulate both private and commercial vehicles when in effect and is in addition to the regulations of Section (2) above.

(3.5) Snow Emergency

- (a) It shall be the duty of the Town Administrator, or in their absence, the Town Chairperson or designated Supervisor, during the periods of snow emergency and immediately thereafter, to declare a state of public emergency and the duration thereof by public proclamation, which may be done through the mediums of radio, placards, newspapers, or other means of communication.
  - (b) An emergency snowstorm is one in which snow is falling in such a manner as to produce a congestion of traffic or impede the operation of emergency vehicles.
  - (c) Emergency vehicles shall include police squad cars, fire fighting apparatus, ambulances, rescue squad cars, Town-owned or hired snowplows, snow removal equipment and machinery.
  - (d) During a snow emergency, no person shall park or abandon any vehicle, load or unload any merchandise or freight truck or vehicle on any Town road, alley, street or lane, until such time as said snow emergency has been declared over.
- (4) In addition to the penalty set forth, any police officer may cause any vehicle parked in violation of this section to be moved to a public parking lot or garage, and the cost of moving and storage shall be paid by the owner or operator of said vehicle, and the law enforcement authority of the Town of Menasha shall hold said vehicle until all charges of moving and storage have been paid.
- (5) Removal of Illegally Parked Vehicles. Any vehicle illegally parked under this section may be removed by a police officer to a position permitted under these sections and WI Stats., but such moving shall not relieve the operator of liability for forfeiture for the offense.
- (6) No Parking shall be permitted at any time in a cul-de-sac, if appropriate "No Parking" signs are in place and visible in said cul-de-sac designating the area where parking is prohibited. Such "No Parking" signs may be ordered installed by Town of Menasha Board of Supervisor action, following mailed notification to affected property owners.
- (7) Nonmoving Violation and Registration Program Adopted (See Sec. 4.14(8))

**4.045 RESTRICTING THE USE OF RECREATIONAL VEHICLES ON SCHOOL OR MUNICIPALLY OWNED PROPERTY**

- (1) It shall be unlawful for any person to operate any motor driven recreational vehicle on any Town of Menasha park property or on other public properties owned or leased by the Town of Menasha, or on any property of the Neenah Joint School District, or on any other school grounds or property whether a public or a private school.
- (2) Exemptions:
  - (a) Licensed vehicles on public streets shall be exempt from this ordinance.
  - (b) This ordinance section shall not apply to the maintenance equipment operated or authorized by the Town of Menasha, the Neenah Joint School District, or other owner of public or private school property.
- (3) Definition. "Motor driven recreational vehicle" shall mean any vehicle propelled by power (other than human power), designed to travel on or along the ground by the use of wheels, treads, tracks, runners, or slides, which shall include without limitation, automobiles, trucks, trailers, motorcycles, trail bikes, mini bikes, all-terrain vehicles, go-carts, tractors, buggies, wagons, snowmobile, and mopeds.

**4.05 ACCIDENT REPORTS**

The operator of any vehicle involved in an accident within the corporate limits of the Town of Menasha shall, within ten (10) days after such accident file with the Town Police Department a copy of the report required by Section 346.66 to 346.73, WI Stats., if any. If the operator is unable to make such report, any occupant of the vehicle at the time of the accident capable of making such report shall have a duty to comply with this section. Such reports shall be subject to the provisions and limitation in Chapter 346.66 to 346.73, WI Stats.

**4.06 OFFICIAL TRAFFIC SIGNS AND SIGNALS**

- (1) The Town Administrator, upon the recommendation of either the Police Chief or the Street Superintendent of roads is hereby authorized and delegated to have procured, erected and maintained appropriate standard traffic signals, signs and marking conforming to the rules of the State Highway Division giving such notice of the provisions of this notice as required by State Law. Signs shall be erected in such location and manner as the Town Administrator shall determine will best affect the purpose of this ordinance and give adequate warning to users of the streets, highways and roads of the Town of Menasha as specified in WI Stats 346.02(7). Disobedience of regulations emplaced by the Town Administrator, marked and posted according to this chapter, shall violate such regulations as adopted in this Chapter. The Town Administrator shall have authority under this ordinance Subsection to provide for the installation of yield signs, stop signs, traffic signals at intersections, and regulations concerning stopping, standing or parking of vehicles. The Street Superintendent, when proceeding under the authority of this chapter, shall within 48 hours thereafter, file notice with the Town Clerk and the Town of Menasha Police Department, as to any traffic signs authorized and posted pursuant to this ordinance subsection.
- (2) Removal of Unofficial Signs and Signals. The Town Police Department shall have the authority granted by Section 349.09 WI Stats., and is hereby directed to order the removal of a sign, signal, marking or device placed, maintained or displayed in violation of this ordinance or Section 346.41, WI Stats. Any charge imposed on the premises for removal of such an illegal sign, signal or device shall be reported to the Town Board of Supervisors at its next regular meeting for review and certification.
- (3) Notification to Town Board. The Town Administrator shall notify the Town Board of all intended installations of said signs such that the Town Board may take action if so desired.

**4.07 OBEDIENCE TO SCHOOL CROSSING GUARDS**

No operator of a vehicle shall fail or refuse to stop for a school crossing guard when in the performance of his or her duties, the school crossing guard so directs by use of sign or signal. The provisions of WI Statutes 346.46 and 346.465 are hereby adopted as Town ordinance and hereby incorporated by reference.

**4.075 OBSTRUCTING CROSSING BY TRAINS**  
*[Effective 1/18/00]*

- (1) No person shall cause or permit any railroad train, locomotive, car or combination thereof, whether on the same track or not, to block any highway crossing, street crossing, or sidewalk crossing in the Town of Menasha for longer than ten minutes.
- (2) Any conductor, engineer, brakeman or other person having charge of or directing the movements of any railroad train, locomotive, car or combination thereof who violates this Section shall be subject to penalty as provided in the penalty Section of the Chapter.
- (3) In the event that the blocking of a crossing is caused by accident, mechanical difficulty or other circumstances solely beyond the control of the railroad and its employees and such blocking is or shall continue for longer than ten minutes, then the conductor, engineer, brakeman or other person having charge of the train shall notify the Winnebago County 911 Center so that arrangements can be made for emergency and other vehicles and shall further cooperate by "breaking" the train, when practical at the crossing for the purpose of allowing the flow of traffic.
- (4) For any conductor, engineer, brakeman or other person having charge of the movements of the railroad train, locomotive, car or combination thereof, who fails to notify the Winnebago County 911 Center where there is a blocking caused by accident, mechanical difficulties or other circumstances within 10 minutes of such blockage shall be subject to the penalties as provided in the penalty section of this chapter.

**4.08 – 4.09 (Reserved)**

**4.10 UNREGISTERED MOTOR DRIVEN CYCLES PROHIBITED FROM OPERATION WITHIN THE TOWN**

- (1) As used in this section, motor driven cycles, motor bicycles, all-terrain vehicles (A.T.V.'s), snowmobiles and motorcycles shall have the definitions applicable under Chapter 340, WI Stats., except that they shall be motor driven vehicles, not capable of registration under Chapter 341, WI Stats., and also where such motor driven vehicles do not meet the equipment requirements in Chapter 347, WI Stats.
- (2) No person shall operate a motor driven vehicle not registered or not properly equipped under Subsection (1) within or on any lands, public or private, within the Town except in areas specified in (6). No person shall operate and no owner shall consent to being operated on any public right of way or street of the Town or upon any public or private lands including parks within the Town, any motor driven vehicle which does

not meet the registration requirements and is not registered pursuant to Chapter 341, WI Stats., or similarly, is not equipped and suitable for registration under Chapter 347, WI Stats. No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of this section.

- (3) This section shall not apply to the loading and unloading of a motor driven cycle, motor bicycle, motorcycle, A.T.V. or snowmobile, on or off the trailer when upon the private property of the owner of such vehicle.
- (4) This section shall not apply to the retail dealer's preparation or maintenance of a vehicle described in this section, provided operation or maintenance by a retail dealer does not cause or constitute a nuisance.
- (5) No owner or person having charge or control of a vehicle defined under this section shall authorize or permit any person to operate such vehicle upon private or public lands within the Town nor permit a person to operate such a vehicle who is not permitted under State law to operate any such vehicle or who is under the influence of an intoxicant or any dangerous or narcotic drug.
- (6) Exceptions to Ordinance 4.10

Motorized vehicles designed or modified for, and being used for;

- (a) Lawn care
- (b) Gardening
- (c) Agriculture
- (d) Snow removal
- (e) Maintenance purposes in multi-family developments
- (f) Town of Menasha Park maintenance
- (g) Other officially authorized/permitted town purposes
- (h) Motor bicycle being operated by person in possession of valid permit issued by Chief of Police. Permits will be reviewed annually.

**4.11 ALLOWING NEIGHBORHOOD ELECTRIC VEHICLES** *(Added 9/8/2008)*

**(1) Authority.**

Pursuant to the authority granted to the Town of Menasha by Wisconsin Statute 349.26(2), the following sections are hereby created to read as follows.

**(2) Definition.**

*Neighborhood Electric Vehicle* shall have the definition provided in Wisconsin Statutes Section 349.26(1), including any amendments thereto.

**(3) Regulation.**

- (a) Neighborhood electric vehicles may be operated on all streets and connecting highways within the municipal boundary of the Town of Menasha, except as limited by State law and this section.
- (b) Each person operating a neighborhood electric vehicle on a public street in the Town of Menasha shall possess a valid driver's license.
- (c) Each person operating a Neighborhood Electric Vehicle on a public street in the Town of Menasha shall be granted all of the rights and be subject to all of the duties applicable to a driver of any motor vehicle in the State of Wisconsin, including maintaining insurance as required by State law, except as to the special regulations in this section, and except as to those provisions which by their nature do not apply to the operation of a neighborhood electric vehicle.
- (d) Each person operating a neighborhood electric vehicle on a public street in the Town of Menasha shall observe all traffic laws and local ordinances regarding the rules of the road. A neighborhood electric vehicle shall not be operated on any public roadway with a posted speed limit greater than thirty-five (35) miles per hour.
- (e) The Town shall create, and the Community Development Department shall, at all times, maintain a map highlighting those roadways within the Town boundaries on which neighborhood electric vehicle use is prohibited.

**4.12 UNATTENDED SNOWMOBILES**

No person shall leave or allow a snowmobile to remain unattended on any public highway or public property while the motor is running or with the starting key in the ignition.

**4.13 SNOWMOBILE RENTER'S LICENSE**

- (1) No person shall engage in the business of renting or leasing of snowmobiles to the public or of renting or leasing use of a snowmobile track or other private property to the public for the operation of snowmobiles thereon in the Town of Menasha unless they first obtain a license as provided in this section.
- (2) Application for snowmobile renters' licenses shall be filed with the Town Clerk and shall include the name of the owner of the premises on which such business will be conducted, the proposed period and hours of operation, the name of the person, firm or corporation which will conduct such business, the state registration number of such commercial owner, if any, and the registration numbers of any snowmobiles to be leased

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by such business and such other information as the Town Board shall require to consider such application. The application shall be accompanied by a fee set forth in Appendix B Fee Schedule, reference this code section, to cover the cost of investigation and issuance of the license. *[Amended 11/28/05]*

- (3) No license shall be issued unless approved by the governing body after public hearing. Notice of such hearing shall be given as a Class 1 notice under Chapter 985, WI Stats. The Town Board shall approved issuance of the license only if it determines that the public health, safety and welfare will not be adversely affected thereby and that the following requirements are met:
  - (a) Applicants must have on file with the Town Clerk proof of liability insurance in force covering the premises to be licensed and the operation of any snowmobile thereon or to be rented or offered for use to the public by the business with limits of \$50,000 per person, \$300,000 per accident, and \$10,000 property damage.
  - (b) If snowmobiles are to be used on the licensed premises, such use must be restricted to areas located at least 700 feet from any dwellings not owned or occupied by the applicant.
  - (c) Snowmobiles shall be operated on the premises only between the hours of 7:00 a.m. and 10:30 p.m.
  - (d) The licensing period shall be for one (1) year from September 1 to August 31.
  - (e) The Clerk shall issue a renewal license to any person, firm, or corporation holding a valid license under this section upon payment of the annual license fee, provided however, any such applicant who has been convicted within the preceding twelve (12) months of a violation of this ordinance or any state statute regulating or restricting the use of snowmobiles or snowmobile renters shall not be entitled to a license renewal until approved by the Town Board after a public hearing as required under subsection (c) of this section.

**4.14 PENALTY**

The penalty for violation of any provision of this ordinance shall be forfeiture as provided, together with the costs of prosecution imposed as provided in Sections 345.20 to 345.53, WI Stats. as adopted by Section 4.01 of this ordinance.

- (1) **Uniform Offenses.** Except as provided in Section 4.13(3) for parking and nonmoving traffic offenses, forfeitures for violation of any provision of Chapters 341 through 348 and 350.01 through 350.19 WI Stats.

incorporated and adopted by reference in Section 4.01 of this ordinance shall conform to forfeitures for violations of comparable state offense, including any variations or increases for second offenses. Penalties set forth in Wisconsin Statutes and published by the Wisconsin Judicial Conference are hereby adopted by reference. See Section 4.14 of this chapter for uniformity of deposits, court costs and suit tax.

- (2) **Special Local Regulations.** The forfeitures for violation of Sections 4.045, 4.075, 4.10, 4.11 and 4.12 of this ordinance shall not be as set forth in Appendix C Fines and Penalties, reference this code section, together with the costs of prosecution. *[Amended 11/28/05]*
- (3) **Parking.**
  - (a) The minimum forfeitures for violations of parking regulations in Section 4.04, snow emergency violations in Section 4.04(3.5), and handicap parking (WI Stats. 346.505), shall not be less than an amount set forth in Appendix C Fines and Penalties, reference this code section, together with the costs of prosecution. *[Amended 11/28/05]*
  - (b) **Non-Moving Traffic Offenses.** The forfeitures for offenses described in Sections 346.50 to 346.55, WI Stats., adopted by reference in Section 4.01 of this ordinance shall be set forth in Appendix C Fines and Penalties, reference this code section. *[Amended 11/28/05]*
  - (c) With the exception of handicap parking violations and snow emergency violations, forfeitures (fines) issued for the minimum penalty under this ordinance that are not paid within ten (10) days will double. If not paid within twenty (20) days, the fine increases. Fines for handicap violations and snow emergency violations, issued for the minimum penalty under this ordinance will be increased by an amount if unpaid after ten (10) days, and doubled if unpaid after twenty (20) days. Fines are set forth in Appendix C Fines and Penalties, reference this code section. *[Amended 11/28/05]*
- (4) Upon conviction of any alcohol-related offense for which the Town has expended funds or incurred expense for the withdrawal or testing of blood or urine, the cost of such service to the Town shall be added to any forfeiture, court costs, and fees imposed by the court. *[Amended 4/24/06]*

**4.15 ENFORCEMENT**

- (1) **Enforcement Procedure.** This chapter shall be enforced according to Section 66.1341 and Sections 345.20 to 345.53, WI Stats.
- (2) **Uniform Citation for Highway Violations.** The uniform traffic citation promulgated under Section 345.11, WI Stats., shall be used for violations of this ordinance relating to highway use except as herein provided, and shall be used for enforcement of violations of rules of the road relating to parking of vehicles adopted by reference in Section (4.01) of this ordinance.
- (3) **Other Violations.** All violations of this ordinance shall be enforced in accordance with Sections 66.0101 to 66.0115 of the WI Stats. Stipulations of guilt or no contest may be made as provided in Section 66.0113, WI Stats., in substantially the form provided in the uniform traffic citation within five (5) days of the date of the citation for such violation. Bail deposits may also be made as provided under Section 66.0113, WI Stats.
- (4) **Notice of Demerit Points and Receipt.** Every officer accepting a forfeited penalty or money deposit under this section shall receipt therefore in triplicate as provided in Section 345.26(3)(b) WI Stats. Every officer accepting a stipulation under the provisions of the section shall comply with the provisions of Sections 343.27, 343.28, 345.26(1)(a) and 345.27(2), WI Stats., and shall require the alleged violator to sign a statement of notice in substantially the form contained on the uniform traffic citation and complaint promulgated under Section 345.11, WI Stats.
- (5) **Forfeited Penalties and Deposits.** The deposit schedule adopted by the Wisconsin Judicial Conference and published as the Revised Uniform State Traffic Deposit Schedule shall be required as the forfeited penalties and deposits or bail not including costs or fees. For violations of this ordinance not provided in the Uniform Schedule the deposit (not including costs or fees) shall be set forth in Appendix C Fines and Penalties, reference this code section. See Section 4.045, 4.075, 4.10, 4.11 and 4.12 violations.  
*[Amended 11/28/05]*
- (6) **Stipulation of No Contest.** Any person charged with a violation of this chapter except Sections 346.62(1) and 346.63(1) may make a stipulation of no contest pursuant to Section 345.27, WI Stats., which shall be received at the police station or the office of the Clerk of Court within 10 days of the date of the alleged violation. Such person shall, at the time of entering into the stipulation, make a deposit required under subsection (2) if they have not already done so. A person who has mailed or filed a stipulation under this subsection may, however, appear in court on the appearance date and may be relieved from the stipulation for cause, shown as required in Section 345.37, WI Stats.

- (7) **Parking Citations.** Citations for all nonmoving traffic violations under this chapter shall conform to Section 345.28, WI Stats., and shall permit direct mail payment of the applicable minimum forfeiture to the Town Police Department within 5 days of the issuance of the citation in lieu of court appearance. The issuing officer shall specify the amount of the applicable forfeiture as provided in this chapter.
- (8) Pursuant to the provision of Section 345.28(4) of the WI Stats., the Town does hereby elect to participate in the Nonmoving Traffic Violation and Registration Program of the Wisconsin Department of Transportation and pay the costs established by the Department, which said costs shall, in turn, be assessed against the persons charged with nonmoving traffic violations. The Town of Menasha Police Department, in the matter of unpaid citation, is herein and hereby appointed the "delegated agency" of the Town of Menasha, and the Town Administrator is hereby authorized to file with the State Department of Transportation the appropriate notice of the Town's election to participate in the Nonmoving Violation and Registration Program with the Wisconsin Department of Transportation. All provisions of Section 345.28 concerning the Nonmoving Violation and Registration Program of the Wisconsin Department of Transportation, and Chapter 128 of the Wisconsin Administrative Code concerning the Nonmoving Violation and Registration Program, are hereby incorporated herein at length by reference.

**4.16 ORDINANCE TO BE FILED**

- (1) The Town Clerk shall file a copy of this ordinance upon its enactment and publication with the Wisconsin Department of Natural Resources.

**4.17 UNIFORM CITATION FOR ORDINANCE VIOLATIONS**

- (1) The Town of Menasha in the exercise of its police powers adopting Village powers hereby adopts pursuant to WI Stats. 66.0113, the use and authorization to use the standard or uniform citation prescribed herein for ordinance violations (non-traffic) other than those for which a statutory counterpart exists.
- (2) Adopted herein by reference in its entirety is Section 19.03, Stipulations and Deposits in Municipal Court, Municipal Code, Town of Menasha, and in particular the requirement that the Municipal Court, with the approval of the Town Board of Supervisors establish a scheduled deposit for violation of Town ordinances, resolutions, and by-laws, except in traffic cases and boating violation cases.

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(3) It is hereby prescribed that the form of the citation shall contain the following:

- (a) The name and address of the alleged violator.
- (b) The factual allegations describing the alleged violation.
- (c) The time and place of the offense.
- (d) The section of the ordinance violated.
- (e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
- (f) The date and time at which the alleged violator may appear in Court.
- (g) A statement which in essence informs the alleged violator:

- (1) That they may make a cash deposit based on the schedule established in this chapter to be delivered or mailed to the Office of the Town of Menasha Police Department or the Municipal Judge for the Town of Menasha prior to the time of a scheduled Court appearance.
- (2) That if they make such a deposit, they need not appear in Court unless they are subsequently summoned.
- (3) That if they do not make a cash deposit and do not appear in court, they will be deemed to have tendered a plea of no contest and submitted to a forfeiture not to exceed the amount of the deposit, or they will be summoned into Court to answer the complaint if the Court does not accept the plea of no contest.
- (4) That if no cash deposit is made and they do not appear in Court at the time specified, action might be commenced to collect the forfeiture.
  - (a) A direction that the alleged violator elects to make a cash deposit, they shall sign an appropriate statement which accompanies the citation to indicate they read the statement required under Subsection (g) of this section and shall send the signed statement with the cash deposit.
  - (b) Such other information as may be deemed necessary.
  - (c) Cash deposits shall be as designated by Section 4.16(4) of this ordinance and shall be as published as the Revised

Uniform State Traffic Deposit Schedule published by the Wisconsin Judicial Conference.

(4) Issuance of Citation. Law enforcement officers of the Town of Menasha may issue citations authorized under this chapter.

The following officials are authorized to issue citations for violations of those ordinances, which are directly related to their official responsibilities:

- (a) Deputy Chief/Fire Marshal or Fire Chief
- (b) Building Inspector or Deputy Building Inspector

This issuance of a citation by a person authorized to do so under this paragraph shall be deemed adequate process to give the appropriated 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 subparagraph 6(b) and (c). Issuance and filing of a citation does not constitute commencement of an action. Issuance of a citation does not violate Section 946.68, WI Stats.

(5) 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, he/she may nevertheless appear in Court at the time specified in the citation provided that the cash deposit may be retained for application against any forfeiture which 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 such appearance covers 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 forfeiture. A plea of not guilty shall put all matters in such 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 deemed to have tendered a plea of no contest and submitted to a forfeiture 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 accepts the plea of no contest, the defendant may move within ten (10) days after the date set for their appearance to withdraw the plea of no

contest, open the judgment and enter a plea of not guilty if they show to the satisfaction of the Court that their 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 costs or fees shall be taxed against the violator. If the Court rejects the plea of no contest or if the alleged violator does not make cash deposit and fails to appear in Court at the time specified in the citation, an action for collection of the forfeiture may be commenced. The citation may be used as the complaint in the action for the collection of the forfeiture. The Town of Menasha may commence action under Section 66.12(1), WI Stats.

invalidity or unconstitutionality shall not affect the applications of this ordinance which can be given affect without the invalid or unconstitutional provisions or its application.

- (6) Relationship to Other Laws. The adoption and authorization for use of a citation under this section shall 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 matters. The issuance of a citation under this section shall not preclude the proceeding under any other ordinance or law relating to the same or any other matter. The proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this section.

#### **4.18 COLLECTION OF JUDGMENT OF FORFEITURES, COSTS, FEES, AND SURCHARGES RELATED TO TRAFFIC VIOLATIONS**

- (1) Pursuant to the municipal authority of the Town granted by law and the authority granted under WI Stats. 349, 345.28 and 345.47, the Town hereby adopts and incorporates by reference the authority, policy and procedures as follows:
  - (a) WI Stats. 345.47 judgments of forfeitures, costs, fees, and surcharges.
  - (b) WI Stats. 345.28 non-moving violations.

#### **4.19 EFFECTIVE DATE AND SEVERABILITY**

- (1) Effective Date. This ordinance shall take affect the day following passage and publication as required by law. It is intended that this ordinance shall be updated by an annual publication of the Town Clerk of the Town of Menasha, thereby adopting and revising this ordinance annually for the purpose of uniformity of the traffic regulations of the Town of Menasha with those of the State of Wisconsin.
- (2) Severability. If any of the provisions of this ordinance is deemed or declared to be invalid or unconstitutional or if the application of this ordinance to any person or circumstances invalid or unconstitutional, such