

**CHAPTER 7**

**PUBLIC PROTECTION, ORDERLY CONDUCT  
AND FIREARM/GUN CONTROL**

**7.01 OFFENSES ENDANGERING PUBLIC  
SAFETY [Effective 12/5/88]**

**(1) State Laws Adopted. [Amended 5/22/06]**

The provisions of Sections 939.61, 941.2965, 941.297, 941.34, 943.01, 943.13, 943.22, 943.225, 943.45, 943.455, 943.46, 943.47, 943.55, 944.21(3)(4), 947.012(2), 947.013(1M), 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.095, 951.10, 951.11, 951.13, 951.14, 951.15, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.28, 941.29, 941.296 and 939.52 of the Wisconsin Statutes are hereby adopted by reference and made a part of this code so far as applicable. Whenever this ordinance incorporates by reference specific sections of the Wisconsin Statutes or generally refers to them, such reference shall mean the Wisconsin Statutes, as from time to time amended, repealed, or modified by the Wisconsin Legislature.

**(2) Discharging and Carrying Dangerous Weapons as defined in WI Statute 939.22, inclusive of spring and air guns is prohibited. [Amended 5/22/06]**

This Ordinance is adopted to promote the public safety, health and welfare of persons and to protect public and private property.

Provided that the above subsection shall not prohibit the following:

- (a) The maintenance and use of any duly supervised rifle or pistol ranges, shooting galleries or archery ranges.
- (b) State mandated hunter safety training courses.
- (c) Hiring licensed armed security guards certified pursuant to WI Statutes.
- (d) Gun shows, sport shows, and gun store displays.
- (e) Historical reenactments by groups or organizations.
- (f) Museums that include displays of firearms.
- (g) Use of firearms by law enforcement officer acting in their official capacity.

Further provided that the above subsection shall not prohibit any person from carrying out cleaning and maintenance to or for his or her firearm, rifle, spring or air gun, of any description, or bow and arrow, upon his/her private property.

Further provided that the above subsection shall not prohibit any person from engaging in carp fishing by the use of bows and arrows within waterways of the Town of

Menasha, so long as the person is utilizing a feathered arrow.

Further provided that it is acceptable for a property owner to discharge a firearm for the disposal or destruction of their own livestock, or personal property (cattle, dogs, cats, horses) on their own property when prior notification has been given to the Town of Menasha Police Department.

**Exception.** The exception to the above restriction shall be, bows and arrows shall be permitted within parts of Sections 5, 7 and all of Section 6 of the Town of Menasha as set forth on the scale map (Exhibit "A") attached. In addition, the firing and discharge of shotguns, spring or air guns shall be permitted in Section 6 of the Town of Menasha as set forth on the scale map (Exhibit "A") attached. However, this exception, reference shotguns, shall not include a discharge from any such shotgun of a slug, or buckshot. [Amended 10/9/06]

Further provided, that reference the above described sections (Exhibit "A") there shall be no firing or discharge of any firearms, rifle, shotgun, spring or air gun of any description, or bow and arrow, nor the uncased carrying of such defined weapons: [Amended 10/9/06]

- (a) Within one hundred (100) yards of any building, publicly or privately owned
- (b) Within one hundred (100) yards of any then constructed street
- (c) Within six hundred (600) feet of any town owned property
- (d) Within one hundred (100) yards from any railroad right-of-way

The Town Board of Supervisors of the Town of Menasha reserves the right to further amend/restrict the area of Exhibit "A" as that area develops for residential, commercial or industrial purposes hereinafter.

Further provided that Exhibit "A" is understood to be a scale map and description of the approximate boundaries of the area within which the discharging and carrying of dangerous weapons shall be prohibited or regulated, is not a Surveyor's legal description, and any doubt or ambiguity therein as to the boundary line shall be resolved in favor of the Town of Menasha.

Further provided that as each new "Final Subdivision Plat" is approved and placed on record with the Town and with the Winnebago County Register of Deeds, and as the same is then located within and encompassed within the Exhibit "A" area, that following said "Final Subdivision Plat" approval and recording, this new platted area shall then be deleted from the permissible area of Exhibit "A": wherein the carrying and discharge of bows and arrows is otherwise permitted.

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**(3) Carrying Concealed Weapons Prohibited.** *[Revised 10/13/97]*

No person, except a peace officer, shall carry or wear concealed upon his/her person any pistol, revolver, firearm, slingshot, crossknuckle of lead, brass or other metal, bowie knife, nunchaku or "numchuck" sticks, throwing stars or "shurikens", dirk, dagger or other dangerous or deadly weapon within the Town of Menasha.

**7.01A CHEMICAL PROPEL**

- (1) No person may sell, possess, use or transport any tear gas bomb, canister, spray, or any other container of any kind or character into which tear gas, mace, pepper mace or any similar substance is used or placed for use to cause bodily discomfort, panic, or irritation to any person or animal. *[Adopted 4/12/93]*
- (2) This section does not apply to any law enforcement officer of the Town, County, or State or of any person duly authorized by the Chief of Police.

**7.02 THROWING OR SHOOTING OF STONES OR OTHER MISSILES PROHIBITED**

No person shall throw or shoot any object, stone, snowball or other missile or projectile, by hand or by any other means at any person, or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Town of Menasha.

**7.02A SALE OF DANGEROUS WEAPONS TO MINORS PROHIBITED**

No person shall buy for, sell or give away to any minor any dangerous weapon except household purpose knives or knives having blades less than three (3) inches long without first having obtained the written consent of the parent or guardian of such minor. The term "dangerous weapon" shall mean and include the following instruments: blackjack, billy, sandclub, pistol, revolver, any instrument which impels a missile by compressed air, spring, or other means, any weapon in which loaded or blank cartridges are used, crossknuckles of any metal, barbed or blade type bowie knife, nunchaku or "numchuck" sticks, throwing stars or "shurikens", dirk knife, dirk, dagger, switch blade knife, or any knife which has a blade itself but is automatically opened by a slight pressure on the handle or some other part of the knife and is commonly known as a switch knife, or straight edge razor or any other knife having a blade three (3) inches or longer.

**7.03 OBSTRUCTING STREETS, SIDEWALKS & ROADS PROHIBITED**

No person shall stand, loiter, or congregate in any street or upon any sidewalk, bridge, road, crossing or other public place so as to obstruct the same, or hinder, prevent or

annoy persons passing or attempting or desiring to pass therein or thereupon or into or out of any building, private or public; nor shall any person make remarks, gestures, noises, signs or the like to disturb, annoy or insult any person being upon or passing along any street, sidewalk, building, crossing or other public carrier, provided this shall not apply to acts made lawful by Statutes.

**7.04 DISORDERLY CONDUCT PROHIBITED**

No person shall within the Town of Menasha:

- (a) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.
- (b) Intentionally cause, provoke, or engage in any fight, brawl, riot, or noisy altercation other than a bona fide athletic contest.

**7.05 LOUD AND UNNECESSARY NOISE PROHIBITED**

- (1) No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private residence.
- (2) Operation of Motor Vehicles. It shall be a violation of this section for a person to operate a motor vehicle so as to cause the tires thereof to squeal, the horn to blow excessively or the motor to race excessively.

**7.06 FALSE FIRE ALARMS PROHIBITED**

No person shall give, send or cause to be given, or sent in any manner, any alarm of fire which he knows to be false.

**7.07 GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES PROHIBITED**

All forms of gambling, lotteries and fraudulent devices, and practices are prohibited within the limits of the Town. Any peace officer or policemen of the Town is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the Town and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.

**7.08 VAGRANCY AND LOITERING PROHIBITED**

No person shall within the Town loiter or loaf about any public building, place or premises or wander about the streets, alleys, parks or other public places either by day or night, whose actions give rise to a suspicion of wrongdoing and who is unable to give a satisfactory account of himself, or who, having the physical ability to work, is without any visible means of support and does not seek employment or who derives part of his support from begging, prostitution, pandering, fortune telling or as a similar impostor.

**7.08A LOITERING BY MINORS**

(1) Definitions. As used in this section:

*"Loitering"* means remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger aimlessly; to stay; to saunter; to delay; to stand around, and shall also include the colloquial expression, "hanging around."

*"Minor"* means any person less than 18 years of age.

(2) Loitering of Minors (Curfew Hours). It shall be unlawful for any minor to loiter at any location or place in the Town of Menasha (except upon the minor's parents or legal custodian/guardian's home property), either on foot or in any means of transportation being driven or parked thereon, between the hours of 10:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday, and between 11:00 p.m. and 5:00 a.m. Friday and Saturday, unless accompanied by his or her parent, guardian or adult person having legal custody or control.

(3) Responsibility of Parents. It shall be unlawful for the parent, guardian or other adult person having legal custody or control of any minor to suffer or permit or by inefficient control to allow such minor to violate this section unless the said minor is accompanied by his or her parent, guardian or other adult person having legal custody or control.

(4) Penalty, Minor/Parent. Any minor and/or parent who violates this section shall be penalized pursuant to Section 7.21 of this code.

**7.09 INDECENT CONDUCT AND LANGUAGE PROHIBITED**

No person shall use any indecent, vile, profane or obscene language or conduct themselves in any indecent, lewd lascivious or obscene manner within the Town.

**7.10 DESTRUCTION OF PROPERTY PROHIBITED**

(1) No person shall intentionally cause damage to any physical property of another without his consent. Violation of this subsection shall be a fine as provided in Section 7.21 of this code.

(2) Any person violation subsection (1) under the following circumstances shall be fined a penalty set forth in Appendix C Fines and Penalties, reference this code section. *[Amended 11/28/05]*

(a) The property damaged is a vehicle or highway as defined in WI Statutes. 941.03(2) and the damage is of a kind which is likely to cause injury to a person or further property damage

(b) The property damaged belongs to a public utility or common carrier and the damage is of a kind which is likely to impair the services of the public utility or common carrier.

(3) If the total property damaged in violation of this Section is reduced in value by a predetermined amount, the person may be fined an amount set forth in Appendix C Fines and Penalties, reference this code section. For the purposes of this Subsection, property is reduced in value by the amount which it would cost either to repair or replace it, whichever is less. *[Amended 11/28/05]*

(4) Where more than one item of property is damaged pursuant to a single intent and design, the damage to all the property may be prosecuted as a single violation.

(5) In any case of damage involving more than one act of damage but prosecuted as a single violation, it is sufficient to allege generally damage to property committed between certain dates. On the trial, evidence may be given of any such damage committed on or between the dates alleged.

**7.11 LITTERING PROHIBITED**

No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the Town or upon any private property not owned by him or upon the surface of any body of water within the Town.

**7.12 OBSCENE LITERATURE**

No person shall within the Town sell, offer for sale, give away, exhibit or possess any obscene book, pamphlet, paper, card, picture, toy or device.

**7.13 INDECENT ADVERTISING PROHIBITED**

No person shall within the Town display any indecent advertisement.

**7.14 OBSCENE SHOWS AND EXHIBITIONS PROHIBITED**

- (1) **Prohibition.** No person in any public place shall participate in any obscene show, performance, or exhibition, nor shall any person, firm, or corporation in the operation of its business direct or cause or allow to be performed in connection with its business any obscene show performance or entertainment.
- (2) **Determination.** The Chief Officer shall determine in all cases when a show, performance, or exhibition, or any portion of a show, performance or exhibition is obscene and in violation of this ordinance. The standard for determination of what is obscene shall be as follows:
  - (a) When the dominant theme of the show, performance or exhibition taken as a whole appeals to a prurient interest in sex
  - (b) The material is patently offensive because it affronts contemporary community standards relating to the representation of sexual matters
  - (c) The material is utterly without redeeming social value
- (3) **Enforcement.** Having determined that the show performance, exhibition or any part thereof is obscene and in violation of this ordinance, the Chief Officer shall issue a written order of such show, performance, or exhibition to cease. If the order is not obeyed within the time specified in the order, the Chief Officer shall charge such person with a violation of this ordinance.

**7.15 LICENSED PREMISES (INTOXICATING LIQUORS) - REGULATION OF ATTIRE, CONDUCT AND ENTERTAINMENT**

- (1) **Attire and Conduct.** The following acts or conduct on licensed premises are deemed contrary to public welfare and morals and therefore no on-sale license shall be held at any premises where such conduct or acts are permitted.
  - (a) To employ or use any person in the sale or service of alcoholic beverages in or upon the

licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

- (b) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph (a) above.
  - (c) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other persons.
  - (d) To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.
- (2) **Entertainers and Conduct.** Acts or conduct on licensed premises in violation of this rule, are deemed contrary to public welfare and morals, and therefore no on-sale license shall be held at any premises where such conduct or acts are permitted.
- Live entertainment is permitted on any licensed premises, except that:
- (a) No licensee shall permit any person to perform acts of or acts which simulate:
    - (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
    - (2) The touching, caressing or fondling on the breast, buttocks, anus or genitals.
    - (3) The displaying of the pubic hair, anus, vulva or genitals.
  - (b) Subject to the provisions of subdivision (1) hereof, entertainers whose breasts and/or buttocks are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.

No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

No licensee shall permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.

- (c) **Visual Displays.** The following acts or conduct on licensed premises are deemed contrary to public welfare and morals, and therefore no on-

sale license shall be held at any premises where such conduct or acts are permitted.

The showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

- (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (2) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
- (3) Scenes wherein a person displays the vulva or the anus or the genitals.
- (4) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

**7.16 CLIMBING ON MOTOR VEHICLES PROHIBITED**

No person shall climb, lay or sit upon the motor vehicle of another person without permission from the owner or person in charge of such vehicle while such vehicle is parked or standing upon the public streets, public parking lots or other public area of the Town.

**7.17 RESIST, OBSTRUCT, INTERFERE, FAIL TO OBEY**

- (1) No person, shall without reasonable excuse or justification, resist or in any way interfere with any officer of the Town while such officer is doing any act in their official capacity and with lawful authority.
- (2) No person shall knowingly resist or obstruct an officer of the Town while such officer is doing any act in their official capacity and with lawful authority. "Obstruct" includes without limitation knowingly giving false information to the officer with intent to mislead him/her in the performance of their duty including the service of any summons or civil process.
- (3) No person shall fail or refuse to comply with any lawful order, signal, or direction of an officer. "Lawful Order" includes a 15-day vehicle equipment violation notice.
- (4) In this section:
  - (a) "Officer" means a peace officer according to WI Statutes. 939.22 or other public officer or public employee having the authority by virtue of their office or employment to take another into custody.

- (b) Whoever by violating this section hinders, delays or prevents an officer from properly serving or executing any summons or civil process, is civilly liable to the person injured for any actual loss caused thereby and to the officer or their superior for any damages and adjusted against either of them by reason thereof.

**7.18 ASSISTING ESCAPE OF PRISONER**

No person shall intentionally aid any prisoner or person to escape from the lawful custody of the Chief Officer or other police officer of the Town.

**7.19 PETTY THEFT (SHOPLIFTING)**

- (1) No person shall take and carry away, use, transfer, conceal, alter indicia of price or value, or retain possession of moveable property of another, the value of which does not exceed \$50.00 without his consent and with the intent to deprive the owner permanently of possession, or the full purchase price, of such property.
- (2) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchased price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of such person or concealed by a person.
- (3) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to peace officer, or to his parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he shall not be interrogated or searched against his will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this Subsection entitles the merchant or his employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

**7.20 TRESPASS TO LAND**

- (1) No person shall do any of the following or he may be fined pursuant to 7.21 of this code:
  - (a) Enters any enclosed or cultivated land of another with intent to catch or kill any birds, animals, or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any of those activities
  - (b) Enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on said premises
  - (c) Hunts, shoots, fishes or gathers any product of the soil on the premises of another, or enters said premises with intent to do any of the foregoing after having been notified by the owner or occupant not to do so
  - (d) Enters any enclosed or cultivated land of another with a vehicle of any kind without the express or implied consent of the owner or occupant.
- (2) A person has received notice from the owner or occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted. For land to be posted, a sign at least 11 inches square must be placed in at least 2 conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as herein provided were erected or in existence upon the premises to be protected within 6 months prior to the event complained of shall be prima facie proof that the premises to be protected were posted as herein provided.
- (3) Whoever erects on the land of another signs which are the same as or similar to those described in subsection (2) without obtaining the express consent of the lawful occupant of or holder of legal title to such land may be fined under this ordinance.
- (4) Nothing in this section shall prohibit a representative of a labor union from conferring with any employee provided such conference is conducted, in the living quarters of the employee and with the consent of the employee occupants.

Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with him in the housing area he occupies.

**7.21 PENALTIES**

Any person who shall violate any provision of this ordinance shall upon conviction thereof be punished as follows: *[Amended 11/28/05]*

- (1) For a violation of Section 7.03 of this ordinance he shall forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section, plus the costs of prosecution and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until the forfeiture and costs of prosecution are paid, but not exceeding 5 days, provided that for a first offense any person under 18 years of age who shall be found violating the provisions of said Section shall be warned of the penalty for such violation by any police officer of the Town and shall be taken and delivered to the custody of the person having legal custody over him and for a second or subsequent offense he shall be dealt with according to the provisions of Chapter 48 of the WI Statutes.
- (2) For a violation of any other provision of this chapter, except Sections 7.03, 7.10, 7.15 and 7.16 of this ordinance any person shall upon proof and conviction thereof, forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section, together with the costs of prosecution, and in default of the forfeiture and costs of prosecution, or either of them, such convicted person shall be committed to and confined within the County Jail of Winnebago County, Wisconsin, until such fine and costs of prosecution are paid, but not to exceed 60 days.
- (3) Any person, firm or corporation that shall violate either Sections 7.15 or 7.16 of the provisions of this ordinance shall forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section, plus the costs of prosecution, and in default of payment of the fine and costs of prosecution, shall be imprisoned in the County Jail until said fine and the costs of prosecution are paid, but not to exceed thirty (30) days. Each day's violation of the provisions of this ordinance shall constitute a separate offense.

**7.22 UNIFORM CITATIONS/NON-TRAFFIC**

The Town hereby adopts the use of uniform citations for the issuance of violations of Town ordinances for which no Wisconsin statutory counterpart exists, being primarily for non-traffic violations under Chapter 7.

- (1) The Town Board of Supervisors prescribes that the form of the uniform citation, as utilized by the Town Police Department, shall provide the following information contained therein:
  - (a) The name and address of the alleged violator
  - (b) The factual allegations describing the alleged violation

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- (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 time at which the alleged violator may appear in Court
  - (g) A statement which in essence informs the alleged violator
    - (1) That he may make a cash deposit of a specified amount to be mailed to a specified official within a specified time
    - (2) That if he makes such a deposit, he need not appear in court unless subsequently summoned
    - (3) That if he does make a cash deposit and does not appear in court, either he 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 he will be summoned into court to answer the complaint if the court does not accept the plea of no contest
  - (h) That if he does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against him to collect the forfeiture
  - (i) A direction that if the alleged violator elects to make a cash deposit, he shall sign an appropriate statement which accompanies the citation to indicate that he read the statement required under Subsection 7 and shall send the signed statement with the cash deposit
  - (j) Such other information as may be deemed necessary
- (2) Schedule of Cash Deposit/Bond Schedule.
- (a) The schedule of cash deposits on file in the office of the Town Clerk is adopted by reference and is in force as if fully set forth herein.
  - (b) Cash deposits may be made, with a receipt given, to the Municipal Judge or to the Town Police Department.
- (3) It is provided that Section 7.21 shall be inapplicable to the violations on file in the office of the Town Clerk and that the schedule of cash deposits as adopted by the Town and the Town Board of Supervisors shall be the penalty provisions where a plea of no contest is accepted by the court. In all other cases of matters triable and at issue Section 7.21 shall be applicable.
- (4) Uniform citations authorized under this section shall be issued by any full time police officer or auxiliary officer.
  - (5) Violators' Options; Procedure on Default. A person named as the alleged violator on a uniform citation issued under this Section may appear in court at the time specified in the uniform citation, or deliver personally or mail a cash deposit in amount, within the time and to the Municipal Judge or Police Department for the Town as specified in the uniform citation. If an alleged violator makes the cash deposit, he may nevertheless appear in court at the time specified in the uniform citation, provided that the cash deposit may be retained for application against the forfeiture which may be imposed after the issue is tried.
  - (6) If an alleged violator makes a cash deposit and fails to appear in court, the citation shall serve as the initial pleading, and the alleged violator shall be deemed to have tendered a plea of no contest and submitted to a forfeiture not exceeding the amount of the cash deposit.
  - (7) If a plea of no contest is accepted and not subsequently changed to a plea of not guilty, no additional costs or fees shall be taxed against the alleged violator.
  - (8) The adoption and authorization for the use of uniform citations under this section of the Municipal Code shall not preclude the governing body from adopting or having heretofore adopted any other ordinance or providing for enforcement of any other law or ordinance relating to the same or other matter. *(Created by ordinance #6-23, series of 1980, adopted June 23, 1980.)*

**7.23 FALSE ALARMS** [Adopted 7/22/91]

(1) Definitions. For purposes of this False Alarm Ordinance, the following definitions shall apply:

- (a) **User:** The owner and/or occupants of any building.
- (b) **Private alarm system:** Any system designed to detect and/or extinguish a fire, including but not limited to heat detectors, smoke detectors, sprinklers/standpipe systems, etc. "Private alarm system" is also defined as any system which elicits a response by the police department for a crime in progress or any unauthorized entry.
- (c) **False alarm:** Any activation of a private alarm system because of human, mechanical, lack of maintenance, negligent or electrical error.

(2) Equipment and Testing. All private alarm systems located in the Town of Menasha shall comply with the following requirements as to equipment and testing:

- (a) No person shall sell, use or install a private alarm system which, upon activation, emits a sound the same as or similar to emergency vehicle sirens or civil defense sirens.
- (b) No person, firm or cooperation shall use or cause to be used any telephone or electronic device or attachment that automatically selects a public primary telephone trunk line of the Police Department, Fire Department or any other department of the Town of Menasha, and then reproduces any pre-recorded message to report any burglary or other emergency.
- (c) All alarm systems shall be regularly tested, inspected and maintained in accordance with the manufacturer's recommendations, to insure such equipment is in proper operating condition. This process shall occur at least annually, irrespective of manufacturer's recommendations which may dictate otherwise.
- (d) No alarm system designed to transmit emergency messages directly to Winnebago County 911 communications center shall be tested or demonstrated without first notifying the Winnebago County 911 communications center.
- (e) Any person who shall violate any provision of this ordinance reference Equipment and Testing as described above, shall, upon conviction thereof, forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section, together with the cost of prosecution and any other applicable court costs. [Amended 11/28/05]

(3) False Alarms - Fire Department. Section 60.55(2)(b), WI Statutes., provides the Town Board may charge property owners a fee for the cost of fire protection

provided to their property according to a written schedule established by the Town Board. Furthermore, Section 60.55(2)(d) provides that the Town Board may levy taxes on property served by a particular source of fire protection to support the source of protection. Therefore, all users of private alarm systems in the Town of Menasha shall be subject to the following:

(a) The user of any private alarm system which, upon activation, elicits a response from the Fire Department of the Town of Menasha, which is a false alarm, shall be subject to a fine set forth in Appendix C Fines and Penalties, reference this code section, for each false alarm per any 12-month period: [Amended 11/28/05]

- (1) First two false alarms per any 12-month period: no charge.
- (2) Third and fourth false alarms per any 12-month period: Fee per alarm.
- (3) Fifth through eighth false alarms per any 12-month period: Fee per alarm.
- (4) Ninth and subsequent false alarms per any 12-month period: Fee per alarm.

(b) All fees described above shall be a special charge pursuant to Section 60.55(2)(b) and Section 66.60(16), WI Statutes. All assessed fees (i.e. special charges) pursuant to this ordinance shall be a lien on the property of the building owner pursuant to Section 66.60(15) & (16), WI Statutes. All assessed fees shall be paid in full within 30 days of receipt of notice of the fee amount. Any fees payable to the Town which are delinquent shall accrue simple interest per annum at a rate set forth in Appendix C Fines and Penalties, reference this code section. [Amended 11/28/05]

(c) Any property owner receiving a special charge for fees as described above, shall have the right to request a review of the special charge fee before the Town Board of Supervisors provided the owner files a written petition for review with the Town Clerk on or before 10 days after receiving notice of the special charge fee. The matter shall then be scheduled at the next Town Board Meeting, and the Town Board of Supervisors shall have the discretion to uphold the special charge fee or modify it as the Town Board so desires, and the Town Clerk shall notify the owner of the Town Board's decision in writing. Any property owner shall have the right to appeal the Town Board decision provided a written petition for appeal is filed within 30 days of receipt of written final determination of the Town Board by a writ of certiorari directed to the Circuit Court of Winnebago County.

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- (d) All fees described above shall not be imposed when an unauthorized person is on the premises or was seen leaving the premises immediately before the alarm was activated or fresh evidence of a forceful entry or attempted forceful entry is present. Furthermore, all fees described above shall not be imposed if it can be determined that the alarm was activated by violent weather conditions or other natural catastrophes.
  - (e) All fees described hereinabove shall be imposed whether the Town of Menasha Fire Department receives notification of the alarm directly or indirectly.
- (4) False Alarms - Police Department. Section 60.60(16), WI Statutes., provides the Town Board may impose special charges for current services rendered by allocating all or a part of the cost to the property served. Furthermore, any delinquent special charge shall become a lien on the property against which it is levied. Therefore, all users of private alarm systems in the Town of Menasha shall be subject to the following:
- (a) The user of any private alarm system which, upon activation, elicits a response from the Police Department of the Town of Menasha, which is a false alarm, shall be subject to a fine set forth in Appendix C Fines and Penalties, reference this code section, for each false alarm per any 12-month period: *[Amended 11/28/05]*
    - (1) First two false alarms per any 12-month period: no charge.
    - (2) Third and fourth false alarms per any 12-month period: Fee per alarm.
    - (3) Fifth through eighth false alarms per any 12-month period: Fee per alarm.
    - (4) Ninth and subsequent false alarms per any 12-month period: Fee per alarm.
  - (b) All fees described above shall be a special charge pursuant to Section 66.55(2)(b) and Section 66.60(16), WI Statutes. All assessed fees (i.e. special charges) pursuant to this ordinance shall be a lien on the property of the building owner pursuant to Section 66.60(15) & (16), WI Statutes. All assessed fees shall be paid in full within 30 days of receipt of notice of the fee amount. Any fees payable to the Town which are delinquent shall accrue simple interest per annum at a rate set forth in Appendix C Fines and Penalties, reference this code section. *[Amended 11/28/05]*
  - (c) Any property owner receiving a special charge for fees as described above, shall have the right to request a review of the special charge fee before the Town Board of Supervisors provided the

owner files a written petition for review with the Town Clerk on or before 10 days after receiving notice of the special charge fee. The matter shall then be scheduled at the next Town Board Meeting, and the Town Board of Supervisors shall have the discretion to uphold the special charge fee or modify it as the Town Board so desires and the Town Clerk shall notify the owner of the Town Board's decision in writing. Any property owner shall have the right to appeal the Town Board decision provided a written petition for appeal is filed within 30 days of receipt of the written final determination of the Town Board by a writ of certiorari directed to the Circuit Court of Winnebago County.

- (d) All fees described above shall not be imposed when an unauthorized person is on the premises or was seen leaving the premises immediately before the alarm was activated or fresh evidence of a forceful entry or attempted forceful entry is present. Furthermore, all fees described above shall not be imposed if it can be determined that the alarm was activated by violent weather conditions or other natural catastrophes.
- (e) All fees described hereinabove shall be imposed whether the Town of Menasha Police Department receives notification of the alarm directly or indirectly.

**7.24 CIGARETTES OR TOBACCO PRODUCTS, POSSESSION BY MINORS** *[Adopted 10/25/93]*

- (1) **Definitions.** In this section:

**Cigarette:** Has the meaning given in Section 139.30(1), WI Stats.

**Distributor:** A person specified under Section 139.30(3) or 139.75(4), WI Stats.

**Identification card:** A license containing the photograph issued under Chapter 343, WI Stats., an identification card issued under Section 343.50, WI Stats., an identification card issued under Section 125.08, WI Stats. (1987).

**Jobber:** Has the meaning given in Section 139.30(6), WI Stats.

**Law enforcement officer:** Has the meaning given in Section 30.50(4), WI Stats.

**Manufacturer:** Any person specified under Sections 139.3(7) or 139.75(5), WI Stats.

**Place of business:** Any place where cigarettes or tobacco products are sold, manufactured, or stored for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

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**Retailer:** Any person licensed under Section 134.65(l), WI Stats.

**School:** Has the meaning given in Section 118.2S7(l)(c), WI State Stats.

**Subjobber:** Has the meaning given in Section 139.75(11), WI Statutes.

**Tobacco products:** Has the meaning given in Section 139.75(12), WI Statutes.

**Vending machine:** Has the meaning given in Section 139.30(14), WI Statutes.

**Vending machine operator:** Has the meaning given in Section 139.30(15), WI Statutes.

(2) **Restrictions.**

- (a) Except as provided in sub. (3), no person under the age of 18 may buy or attempt to buy any cigarettes or tobacco products, falsely represent his or her age for the purpose of receiving any cigarette or tobacco product, or possess any cigarette or tobacco product.
- (b) Except as provided in sub. 4 (c), no retailer or adult over 18 years of age, with the exception of a parent or guardian, may sell or give cigarettes or tobacco products to any person under the age of 18.
  - (1) A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.
  - (2) A retailer shall put a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this ordinance or comparable state law.
  - (3) No person may place a vending machine within 500 feet of a school.
  - (4) No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of 18.
- (3) A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Sec. 134.65(l) WI Stats.

- (4) Proof of all the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of sub. (2)(b) above:
  - (a) That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card; and
  - (b) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18; and
  - (c) That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.
- (5) A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of this ordinance committed in his or her presence.
- (6) **Penalty.**
  - (a) Any person under the age of 18 who shall violate the provisions of this ordinance shall upon conviction be subject to a forfeiture set forth in Appendix C Fines and Penalties, reference this code section, plus any and all court costs. *[Amended 11/28/05]*
  - (b) Any person under the age of 18 who violates any provision of this ordinance may, upon conviction, at the sole discretion of the court, be offered the opportunity to have the citation dismissed upon attendance in a tobacco use education program approved by the court. This opportunity will be available at the sole discretion of the court, irrespective of the number of citations any individual receives.
  - (c) No citation may be issued for violation of a minor having possession of any cigarette or tobacco product unless personally observed by the issuing officer.
  - (d) Any person who shall violate (2)(b) of this ordinance shall upon conviction forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section, together with the costs of prosecution, and in default of the forfeiture and costs of prosecution, or either of them, such convicted person shall be committed to and confined with the County Jail of Winnebago County, Wisconsin, until such fine and costs of prosecution are paid, but not to exceed 30 days. *[Amended 11/28/05]*

**7.25 UNIFORM CONTROLLED SUBSTANCES ACT** *[Adopted 11/8/93] [Amended 10/10/05]*

- (1) **Chapter 961 of the WI Statutes** - Uniform Controlled Substances Act. All provisions of Chapter 961 of the Wisconsin Statutes, Uniform Controlled Substances Act, are incorporated herein at length by reference and made a part of the Town of Menasha Municipal Code as a local Town of Menasha Ordinance.
- (2) **Controlled Substances.** It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 961, of the Wisconsin State Statutes.
- (3) **Possession of Marijuana.** No person shall possess any amount of marijuana tetra-hydrocannabinoids or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose.
- (4) **Drug Paraphernalia.** All provisions of Chapter 961 of the Uniform Controlled Substances Act concerning drug paraphernalia (Sections 961.571-.577) are incorporated herein at length by reference and made a part of the Town of Menasha Municipal Code as the local Town of Menasha Ordinances.
- (5) **Penalty.** Any person violating Section 7.25(3), Possession of Marijuana, shall forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section. Any person violating Section 7.25(4), Drug Paraphernalia, shall forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section, together with the costs of prosecution. Any person in default of payment of any amount described above shall be imprisoned in the Winnebago County Jail until such fines and costs are paid, provided such imprisonment shall not exceed 90 days. Each day of a violation of either Section 7.25(3) or Section 7.25(4) shall be considered a separate offense. With the exception of the above-described penalties for possession of marijuana and drug paraphernalia, all other penalties, fines and forfeitures for all other substances and violations set forth in Chapter 961 of the Uniform Controlled Substances Act shall apply. *[Amended 11/28/05]*

**7.26 HARASSMENT OF POLICE ANIMALS** *[Adopted 7/24/95]*

(1) **Prohibited Acts**

All provisions of Section 951.095 of WI Stats are incorporated herein at length by reference and made a part of the Town of Menasha Municipal Code as a local Town of Menasha ordinance.

(2) **Penalties**

Any person firm or corporation that shall violate Section 7.26 of the provisions of this ordinance shall forfeit an amount set forth in Appendix C Fines and Penalties, reference this code section, plus the costs of prosecution, and in default of payment of the fine and costs or prosecution, shall be imprisoned in the County Jail until said fine and the costs of prosecution are paid, but not to exceed (30) days. Each day's violation of the provisions of this ordinance shall constitute a separate offense. *[Amended 11/28/05]*

The court imposing fines for forfeitures under this section shall require a violator to pay restitution to a person, including any local humane society or county or municipal pound or a law enforcement officer, for any pecuniary loss suffered by the person as a result of the harassment including expenses in keeping any animal that is involved in the harassment. If restitution is ordered, the court shall consider the financial resources and future ability of the violator to pay and shall determine the method of payment. Upon the application of any interest party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph. The determination of financial or pecuniary loss shall be in addition to the value of the animal including time, cost and expense necessitated in training and preparation of the animal for police work.

**7.27 THEFT** *[Adopted 9/11/95]*

(1) **Prohibited Acts**

All provisions of Section 943.20 and 943.21 of WI Statutes are incorporated herein at length by reference and made a part of the Town of Menasha Municipal Code as a local Town of Menasha ordinance. *[Amended 10/9/06]*

(2) **Penalties**

Any person or corporation that shall violate any provision of this section shall forfeit, upon conviction thereof not less than an amount set forth in Appendix C Fines and Penalties, reference this code section, plus the costs of prosecution, and in default of payment of the fine and costs of prosecution shall be imprisoned in the county jail until said fines and costs of prosecution are paid, but not to exceed 60 days. Each day's violation of the provisions of this ordinance shall constitute a separate offense. *[Amended 11/28/05]*

**7.28 TRUANCY AND HABITUAL TRUANCY**

*[Effective 7/18/99] [Moved 10/10/05]*

- (1) **Definitions:** All terms herein, to the extent not specifically defined shall have the same meaning as those terms used in context of the Wisconsin Statutes referred to below.

**Acceptable Excuse:** Permission of the parent/guardian/legal custodian of a pupil, within limits of policies on truancy established by the school in which the pupil is enrolled. Except in emergencies of unforeseeable circumstances, such permission is expected to be communicated in writing from the parent/guardian/legal custodian to the school prior to the absence. In emergencies or unforeseeable circumstances, such communication is expected to be as soon as practicable following the absence.

**Truant:** A pupil who is absent from school without an acceptable excuse under Wisconsin Statutes 118.15 and 118.16(4) for part or all of any day on which school is held during the school semester.

**Habitual Truant:** A pupil who is absent from school without an acceptable excuse under Wisconsin Statutes 118.15 for part or all of five (5) or more days on which school is held during a school semester.

- (2) **Prohibited Acts.** It shall be a violation of this section for a child to be a truant or habitual truant. Any child violating this section shall be subject to one or more of the penalties provided in subsections (c) and (d) below, respectively.

- (3) **Truancy Penalties.** For a child under the age of eighteen (18) who is found to be truant:

(a) A forfeiture of not more than an amount set forth in Appendix C Fines and Penalties, reference this code section, plus costs, for a first violation, or a forfeiture for any second or subsequent violation committed within twelve (12) months of a previous violation, subject to Wisconsin Statutes 938.37 and subject to a maximum cumulative forfeiture amount for all violations committed during a school semester. All or part of the forfeiture, plus costs, may be assessed against the person, parents or guardian of the person, or both if the parents or guardian have, by any act or omission, knowingly encouraged or contributed to the person's truancy pursuant to Wisconsin Statutes 948.45. *[Amended 11/28/05]*

(b) An order for the person to attend school.

- (4) **Habitual Truancy Penalties.** For a child under the age of eighteen (18) who is found to be a habitual truant:

(a) Suspension of the child's operating privilege, as defined in Wisconsin Statutes 340.01(40), for not less than thirty (30) days, nor more than one (1)

year. Any license so suspended shall be immediately taken by the Court, and forwarded to the Department of Transportation together with a notice stating the reason for and the duration of the suspension.

(b) A forfeiture of not more than an amount set forth in Appendix C Fines and Penalties, reference this code section, plus costs. *[Amended 11/28/05]*

(c) An Order for the person to attend school.