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TOWN OF MENASHA  
MUNICIPAL CODE

**Chapter 21 – Public Health**

21.01 Smoking Ban Adopted

**CHAPTER 21**

**PUBLIC HEALTH**

**21.01 SMOKING BAN ADOPTED**

*[Added 7/12/10]*

- (a) **Smoking Ban Adopted.** The Town hereby adopts, by reference, the provisions of WI Stat. §101.123, Smoking Prohibited pertaining to the state-wide smoking ban with the exclusion of §101.123, sections (8)(a), (8)(d), (8)(dm) and (8)(em), and instead hereby adopts the forfeitures established in the Town of Menasha Municipal Code Appendix C Fines & Penalties schedule by reference of this code section.
- (b) **Definitions.** For purposes of enforcing the smoking ban in the Town of Menasha, the following definitions shall apply:
  - (1) **“Enclosed place”** means a structure or area that has a roof and more than two substantial walls.
  - (2) **“Substantial Wall”** means any retractable or fixed divider, window, door, or other physical barrier, whether opened or closed, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.
- (c) **Exception:** Temporary Wind Break. Between November 1 and April 1, windbreaks consisting of a minimum 3/16-inch thick clear acrylic material meeting all local and state codes and referenced standards may be installed on the perimeter of the outdoor premises. The temporary wind break shall comply with the requirements of Wis. Stat. §101.123 so that the outdoor premises does not become an enclosed space as defined in Wis. Stat §101.123(1)(ak) when the temporary wind break is installed. No obstructions of any kind may be posted on the clear acrylic material.
- (d) **Inspection and Enforcement.** The Town of Menasha Police Department and/or Building Inspector shall have the power to enter any premises subject to the smoking ban under state law to ascertain whether the premises are in compliance with this section and take appropriate enforcement action pursuant to WI Stat. §101.123.
- (e) **Severability.** In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Town Board that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.