

## Article E: Enforcement and Penalties

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### Sec. 10-1-50 Penalties.

(a) **Forfeiture Penalty; Restitution.**

(1) **Generally.** The penalty for violation of any provision of this Chapter shall be a forfeiture as hereinafter provided, together with court costs and fees prescribed by Sections 814.63(1) and (2), Wis. Stats., the penalty assessment for moving traffic violations and the driver improvement surcharge imposed by Sections 165.87 and 346.655, Wis. Stats., where applicable.

(2) **Enforcement Costs; Court Costs; Fees; Restitution; Assessments and Surcharges.**

a. Upon a conviction for a violation under this Chapter, pursuant to Section 346.63(1)(a) or (b), Wis. Stats., a court may impose restitution of all actual costs chargeable to the Village of Elk Mound as a disbursement associated with the traffic ordinance violation, including, but not limited to, costs for the withdrawal and/or analysis of blood, breath, and/or urine, and, in all cases, actual costs of service of process. This includes, but is not limited to, restitution of costs associated with traffic forfeitures involving blood alcohol concentration, operating while intoxicated, or operating under the influence of a controlled substance.

b. The Village of Elk Mound elects by municipal ordinance to authorize restitution with traffic forfeitures for damage to property, whether private or municipal, caused by such traffic violations, such as, but not limited to, damage caused to the roadway, hit and run property damage, or similar such destruction of property. Such restitution shall be paid to the property owner.

(3) **Suspension of Payment; Penalties for Non-Payment.** Payment of the judgment and applicable court costs, fees, assessments, restitution and surcharges may be suspended by the sentencing court for not more than sixty (60) days. Any person eighteen (18) years of age or older who shall fail to pay the amount of forfeiture, court costs, restitution, penalty assessment or surcharge, or other penalty imposed for violation of any provision of this Chapter may, upon order of the court entering judgment therefor and having jurisdiction of the case, be imprisoned until such forfeiture, court costs, fees, assessments, restitution, and surcharges are paid, but not for a period exceeding ninety (90) days.

(b) **Other Sanctions.**

(1) **By Court.** Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes to suspend or revoke the operating privileges of the defendant, order the defendant to submit to assessment and rehabilitation programs or to attend traffic safety school in addition to payment of a monetary penalty or in lieu of imprisonment.

- (2) **By Municipality.** No person who has been convicted of a violation of any provision of this Chapter shall be issued a license or permit by the Village of Elk Mound, except a dog license, until the forfeiture imposed for such violation and any penalty assessment, court costs and fees or surcharge is paid.
  - (3) **Alcohol-Related Offenses.** Upon conviction of any alcohol-related offense for which the Village has expended funds or incurred expense for the withdrawal or testing of blood or urine, the cost of such service to the Village of Elk Mound shall be added to any forfeiture, court costs, and fees imposed by the court.
- (c) **Forfeitures for Violation of Uniform Moving Traffic Regulations.** Forfeitures for violations of any moving traffic regulation set forth in the Wisconsin Statutes adopted by reference in Section 10-1-1 shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable Wisconsin Statute, including any variations or increases for subsequent offenses; provided, however, that this Subsection shall not be construed to permit prosecution under this Chapter for any offense described in Chapters 341 to 350, Wis. Stats., for which an imprisonment penalty or fine may be imposed upon the defendant.
- (d) **Forfeitures for Parking Violations.**
- (1) **Forfeitures for Uniform Statewide Parking, Stopping and Standing Offenses.** Minimum and maximum forfeiture for violation of non-moving traffic violations adopted by reference in Section 10-1-1 as described in Chapter 341 to 350, Wis. Stats., shall be as found in the current edition of the Revised Uniform State Traffic Deposit Schedule.
  - (2) **Parking of Trucks.** Any person found to have violated Section 10-1-28 shall forfeit an amount not to exceed One Hundred Dollars (\$100.00) nor less than Fifteen Dollars (\$15.00), plus costs and disbursements.
  - (3) **Penalty for Other Parking Violations.** The forfeiture for violation of all other parking regulations shall be:
    - a. A forfeiture of Twenty-five Dollars (\$25.00) if paid within seventy-two (72) hours of the issuance of the citation.
    - b. After seventy-two (72) hours and before one hundred seventy-seven (177) hours, the forfeiture shall be Thirty-five Dollars (\$35.00).
    - c. Thereafter legal process shall be issued, and the forfeiture shall be Twenty Dollars (\$20.00) plus the costs of the action.
- (e) **Other Violations.** Any person who shall violate any special local regulation of this Chapter for which a penalty is not otherwise established by this Section shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Fifty Dollars (\$250.00) for the first offense and not less than Thirty Dollars (\$30.00) nor more than Five Hundred Fifty (\$550.00) for any second offense within two (2) years.
- (f) **Unpaid Parking Fines.** In default of payment of such fine and the costs of prosecution, towing and storage, the license plate will be suspended by the State of Wisconsin through the Traffic Violation and Registration Program (TVRP). A charge of Twenty-five Dollars

(\$25.00) is then made in order for the owner of the vehicle to release the suspension of his/her license plate.

## **Sec. 10-1-51 Enforcement.**

### **(a) Enforcement Procedures.**

- (1) **How Enforced.** This Chapter shall be enforced in accordance with the applicable provisions of the Wisconsin Statutes and this Section.
- (2) **Applicable Court Procedures.** Except where otherwise specifically provided by the laws of the State of Wisconsin or the Village of Elk Mound Code of Ordinances, the traffic regulations in this Code of Ordinances shall be enforced in accordance with the provisions of Sec. 345.20(2)(b) and Chapter 800, Wis. Stats.

### **(b) Citations.**

- (1) **Uniform Citation and Complaint.** The Wisconsin Uniform Traffic Citation and Complaint described and defined in the Wisconsin Statutes shall be used for enforcement of all provisions of this Chapter except those provisions which describe or define non-moving traffic violations and violations of Sections 346.71 through 346.73, Wis. Stats. Violations of Sections 346.71 through 346.73, Wis. Stats., shall be reported to the District Attorney and the Wisconsin Uniform Traffic Citation shall not be used in such cases except upon written request of the District Attorney.
- (2) **Parking Citations.** The Police Department and Village Attorney shall recommend to the Village Board a citation for use in enforcing the non-moving traffic offenses in this Chapter. Such citation shall be used for enforcement of non-moving traffic regulations created or adopted by this Chapter, including violations of non-moving traffic regulations defined and described in the Wisconsin Statutes, adopted by reference in Section 10-1-1, and all provisions regarding non-moving traffic violations in this Chapter. The citation for non-moving traffic violations shall contain a notice that the person cited may discharge the forfeiture for violation of a non-moving traffic regulation and penalty thereof by complying with Subsection (c)(2) of this Section. Non-moving traffic citations may be issued by law enforcement officers or by civilian employees of the Village of Elk Mound Police Department.

### **(c) Deposits and Stipulations.**

#### **(1) Uniform Traffic Offenses.**

- a. **Who May Make.** Persons arrested or cited for violation of moving traffic offenses created by this Chapter shall be permitted to make deposits and stipulations of no contest or released by the arresting officer in accordance with the applicable provisions of the Wisconsin Statutes. Stipulations of guilt or no contest may be made by persons arrested for violations of this Chapter in accordance with Sec. 66.12(1)(b), Wis. Stats., whenever the provisions of Sec. 345.27,

Wis. Stats., are inapplicable to such violations. Stipulations shall conform to the form contained in the uniform traffic citation and complaint under Sec. 345.11, Wis. Stats., and may be accepted within five (5) days of the date of the alleged violation. Stipulations may be accepted by the Police Department.

- b. ***Delivery or Mailing of Deposit and Stipulation.*** Any person stipulating guilt or no contest under the preceding Subsection must make the deposit required under Sec. 345.26, Wis. Stats., or, if the deposit is not established under such Statute, shall deposit a forfeited penalty as provided in the schedule approved by the Village Board. Deposits, including those for moving and nonmoving violations, shall be brought or mailed to the Police Department or Village Clerk-Treasurer within five (5) days of the issuance of the citation in lieu of court appearance.
- c. ***Receipt Required.*** Every officer accepting a stipulation under the provisions of this Chapter shall comply with the provisions of Sec. 343.27, 343.28, 345.26(1)(a) and 345.27(2), Wis. 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 Sec. 345.11, Wis. Stats. The official or person receiving the deposit shall furnish and deliver or mail an original receipt for such deposit to the alleged violator and shall deliver the deposit the stipulation, and a copy of the receipt within seven (7) days to the Clerk of Courts.

(2) ***Non-moving Traffic Offenses.***

- a. ***Direct Payment of Penalty Permitted.*** Persons cited (summons not issued) for violation of non-moving traffic offenses described and defined in this Chapter may discharge the penalty thereof and avoid prosecution by mailing or forwarding within five (5) days of the issuance of the citation to the Police Department the minimum forfeiture specified for the violation. When payment is made as provided herein, no court costs shall be charged.
- b. ***Court Prosecution.*** If the alleged violator does not deliver or mail a deposit as provided in Subsection a. within ten (10) days of the date of the citation, the Police Department shall forward a copy of the citation to the Village Attorney for possible prosecution.
- c. ***Registration Suspension.*** If the alleged violator does not pay the forfeiture or appear in court in response to the citation for a non-moving traffic violation on the date specified in the citation or, if no date is specified on the citation, within twenty-eight (28) days after the citation is issued, the Village may ask the Wisconsin Department of Transportation to suspend the registration of the vehicle involved or refuse registration of any vehicle owned by the person pursuant to the provisions of Sec. 345.28(4), Wis. Stats., and Subsection (c)(3) below.
- d. ***Deposits Returned to Clerk-Treasurer.*** Officers receiving deposits for non-moving traffic violations under this Subsection shall pay over such deposits to the Village Clerk-Treasurer on or before the last Thursday of the month of receipt.

Such payment shall be accompanied by an itemized statement for each deposit of the offense charged and the name of the depositor.

- e. **Bond.** Any official authorized to accept deposits under Sec. 345.26, Wis. Stats., or this Section, shall qualify by taking the oath prescribed by Sec. 19.01, Wis. Stats.
- (3) **Notice of Demerit Points and Receipt.** Every officer accepting a forfeited penalty or money deposit under this Section shall receipt therefor as provided in Sec. 345.26(3)(b), Wis. Stats. Every officer accepting a stipulation under the provisions of this Section shall comply with the provisions of Sections 343.27, 343.28, 345.26(1)(a) and 345.27(2), Wis. 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 Sec. 345.11, Wis. Stats.
  - (4) **Registration Suspension Program.**
    - a. The Village of Elk Mound shall participate in the Wisconsin Department of Transportation Traffic Violation and Registration Program as set forth in Sec. 345.28, Wis. Stats., and TRANS 128, Wis. Adm. Code, and all amendments or changes thereto.
    - b. The Police Department is hereby designated as a delegated authority for purposes of Sections 85.13 and 345.28, Wis. Stats., and TRANS 128, Wis. Adm. Code. The Police Department is authorized to perform, on behalf of the Village of Elk Mound, all functions required of a local authority under said Statutes and Administrative Code including, but not limited to:
      1. Preparing and completing all forms and notices, notifying the Wisconsin Department of Transportation of unpaid citations for non-moving traffic violations;
      2. Specifying whether the registration of vehicles involved in unpaid citations for non-moving traffic violations should be suspended and/or whether registration should be refused for any vehicle owned by persons with unpaid citations for non-moving traffic violations;
      3. Determining the method by which the Village will pay the Wisconsin Department of Transportation for administration of the program; establishing the effective date for participation;
      4. And taking such other action as is necessary to institute and continue participation in the Wisconsin Department of Transportation Traffic Violation and Registration Program.
    - c. The Village Board is hereby authorized to assign a member of the Police Department to perform such acts as are necessary to effectuate this Subsection.
    - d. In addition to all applicable fines and court costs, the cost of using the Wisconsin Department of Transportation Traffic Violation and Registration Program shall be assessed as permitted by Sec. 345.28(4)(d), Wis. Stats. The Village may

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refuse to notify the Wisconsin Department of Transportation of payment on a citation until all applicable fines and costs, including costs assessed under the preceding sentence, are paid.

- e. This Subsection shall not be interpreted as requiring that all unpaid citations for non-moving traffic violations be processed through the Wisconsin Department of Transportation Traffic Violation and Registration Program. The Village's participation in such program shall be in addition to any and all other means legally available to enforce such citations.

*State Law Reference:* Sec. 345.28, Wis. Stats.; Chapter TRANS 128, Wis. Adm. Code.