



POLICY & PROCEDURE

ELKHART LAKE POLICE DEPARTMENT

SUBJECT: **OPERATION OF POLICE VEHICLES**

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statutes: 340.01, 346.03,
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INDEX AS: Authorized Emergency Vehicle Situations
Emergency Lights/Sirens, Use of
Operation of Emergency Vehicles
Operation of Police Vehicles
Police Vehicle Operation
Response to Routine and Emergency Calls
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Use of Warning Devices and Safety Devices

PURPOSE: The purpose of this Policy & Procedure is to establish procedures for the members of the Elkhart Lake Police Department for the operation of police vehicles under emergency and non-emergency circumstances, the use of emergency equipment, and to identify the responsibilities of Officers while driving a police vehicle.

This Policy & Procedure consists of the following numbered sections:

- I. DEFINITIONS
- II. POLICY
- III. PROCEDURE
- IV. USE OF SPECIAL PURPOSE VEHICLES

- V. PARKING
- VI. SAFETY RESTRAINING DEVICES

I. DEFINITIONS

- A. POLICE VEHICLE: Any vehicle owned, rented or leased by the Village and operated by a police Officer.
- B. EMERGENCY VEHICLE: Any police vehicle equipped with one or more revolving or flashing red lights, or red and blue lights in combination, and an audible siren.
- C. SPECIAL PURPOSE VEHICLES: A police vehicle, including a police bicycle that may or may not be equipped with emergency lights and descriptive identifiers on the side, but not equipped with a siren. The vehicles are primarily used for the transportation of passengers or property, for undercover investigations, or dedicated bicycle patrol.
- D. EMERGENCY ASSIGNMENT:
 - Response to a call in which it may be reasonably inferred that a person's life is in jeopardy or that a person is seriously injured and needs immediate aid.
 - Response to an "Assist Officer" call.
 - Response to a "Felony-in-Progress" call.
 - Pursuit of an actual or suspected violator of the law.
- E. VIOLATOR OF THE LAW: An individual who has committed or is suspected of committing a felony or misdemeanor involving substantial harm to person or property or has committed traffic violations of a nature that would indicate unusual risk to the driver, passenger, pedestrians or other vehicles.
- F. EMERGENCY LIGHTS: Per Sec. 347.25(lm)(b), Wis. Stats., on a marked police vehicle, the blue light shall be mounted on the passenger side of the vehicle and the red light shall be mounted on the driver's side of the vehicle. When in use on an unmarked police vehicle, the blue light shall be displayed on the passenger side of the vehicle and the red light shall be displayed on the driver's side of the vehicle.

The lights shall be designed and displayed so as to be plainly visible and understandable from a distance of five hundred (500) feet during normal daylight and during hours of nighttime darkness.

- G. EMERGENCY VEHICLE PRIVILEGES: Authority is granted to emergency vehicles in Chapter 346.03(1), Wis. Stats. This Section states that emergency vehicles may exercise privileges granted to them under the following circumstances:

- When responding to an emergency call.
- When in pursuit of an actual or suspected violator of the law.
- When responding to, but not on returning from, a fire alarm.

II. POLICY

- A. Although the operation of emergency vehicles by Officers of the Elkhart Lake Police Department is inherent to the law enforcement function, the following policy is established to ensure the safety of all concerned and to ensure the most appropriate response by employees of the Department.
- B. All vehicles will be operated with the highest regard for the safety of all persons and in conformity with all traffic laws except under the circumstances described in this policy.
- C. Drivers of emergency vehicles will be held to a standard of due care under the circumstances.
- D. In any situations where the Officer doubts the need to operate a vehicle in violation of the traffic laws, the risks involved shall be weighed and resolved in favor of safety.

III. PROCEDURE

A. Operation of Emergency Vehicles

1. An Officer shall, in all cases, drive with due regard to the safety of all persons and shall carefully weigh the risks inherent in disregarding the traffic laws against the nature of the end promoted by such violation. In case of doubt, the Officer shall opt for safety.
2. Unmarked vehicles are subject to the same restrictions as marked vehicles with the additional requirement that they display a rotating/flashing light when required to disregard traffic regulations, except when clocking speeders.
 - a) Officers driving unmarked vehicles must exercise special care since their vehicles tend to be less visible.
3. Intersections present a special hazard to emergency vehicles. Officers will slow when approaching an intersection and be able to stop should the need arise.
4. In many situations, a number of emergency vehicles may be responding to the scene at the same time. All Officers shall be especially alert in these situations to ensure safe arrival at the scene.

5. Consistent with Wisconsin State Statute 346.03 an Officer may violate traffic laws if:
 - a) The Officer is responding to a call in which the Officer believes a felony is in progress or has just occurred.
 - b) A misdemeanor is in progress and the violator is armed or is threatening serious bodily harm.
 - c) An immediate and substantial danger to the safety of a person exists.
 - d) The Officer is pursuing a fleeing vehicle which has been signaled to stop.
 - e) The Officer is gathering evidence of a speeding violation (this justifies only violations of mile per hour limit).
 - f) The Officer is trying to notify a driver who has broken a traffic law that he/she must stop.

B. Authorized Emergency Vehicle Situations.

Emergency vehicles may be operated in the following situations:

1. In response to calls of an emergency nature.
2. In pursuit of an actual or suspected violator of the law.
3. While obtaining evidence of a speeding violation [See Section 3(c)].

C. Use of Warning Devices and Safety Devices.

1. Warning lights (red or red/blue) shall be activated whenever an Officer, in the course of duty, stops, stands or parks an assigned vehicle contrary to the rules of the road.
2. Sirens shall be used whenever an Officer, in the course of duty, passes through a stop sign or signal, operates contrary to regulations governing direction of movement or turning, or exceeds the speed limit.
3. Officers may exceed the speed limit without using the warning lights and siren when obtaining evidence of a speeding violation but shall activate this equipment and attempt to stop the violator once sufficient evidence is obtained for the violation.
4. Unmarked vehicles are subject to the same restrictions as marked vehicles. If a choice is available as to using a marked or unmarked police vehicle, the marked police vehicle shall be the primary unit.
5. In addition to the operation of emergency warning devices as indicated above, Officers will insure that safety belts/harnesses are utilized by all persons riding in the front seat of a police vehicle whenever the vehicle is in operation.

D. Use of an Emergency Vehicle.

1. The policy of this Department is to use emergency (red/red-blue) lights and siren when responding to an emergency call for service. Various State Statutes provide that before an emergency vehicle is entitled to its special status under the law it must display a flashing red/red-blue light or sound a siren; and some laws require both.

Unless the vehicle displays the flashing lights or siren, the law does not permit such a vehicle to disregard regulations governing movement or turning, proceed past a red light or stop sign without stopping, exceed the maximum speed limit, and disregard parking or standing requirements. Also, other drivers are not required to yield the right-of-way to an emergency vehicle unless it displays the flashing lights and siren.

2. It is essential that all law enforcement Officers fully understand the law governing the use of an emergency vehicle. The purpose of this policy is to establish and provide guidelines for the use of emergency lights and sirens on emergency vehicles.
3. The general objectives of this policy and procedure are:
 - a) To maximize the safety of the responding Officer and the public.
 - b) To understand all privileges granted to an emergency vehicle under the law and how to exercise them.
 - c) To understand how to use the emergency lights and siren to their maximum effectiveness.
4. Privileges. The privileges set forth for emergency vehicles are found in Sec. 346.03(2), Wis. Stats. The operator of an emergency vehicle may:
 - a) Stop, stand or park, irrespective of provisions found in Chapter 346, Wis. Stats. Sec. 346.03(3) states: in order for the operator to exercise this privilege he/she must give a visual signal by means of at least one flashing, oscillating or rotating red light or by means of a blue light and a red light which are flashing oscillating or rotating.
 - b) Proceed past a red or stop signal, or stop sign, but only after slowing down as may be necessary for safe operation.
 - c) Exceed the speed limit.
 - d) Disregard regulations governing direction of movement or turning in specified directions.

NOTE: Sec. 346.03(3) states: in order for the operator to exercise the privileges set forth in Subsections (1) through (4) above, he/she must give both visual signal and an audible signal by means of a siren.

COMMENTARY:

These are the only privileges given to an emergency vehicle. Unless stated, the Officer must obey all the other provisions of Chapter 346. "The exemptions are strictly applied, and unless specific exception is found in statute, none exists.

The police Officer is held subject to the rule prohibiting overtaking and passing another vehicle at an intersection, even when in pursuit of a law violator, when it was not specifically exempt."

White v. Doe, 207 Va. 267, 148 S.E.2d 797, 799 (1966).

5. Exceptions - Due Regard. Sec. 346.03(4) (intro), Wis. Stats., states: A law enforcement Officer operating a police vehicle shall otherwise comply with the requirements of sub. (3) relative to the giving of audible and visual signals but may exceed the speed limit without giving audible and visual signals under the following circumstances:
 - a) Sec. 346.03(4)(a) states: if the Officer is obtaining evidence of a speed violation.
 - b) Sec. 346.03(4)(b) states: if the Officer is responding to a call which the Officer reasonably believes involves a felony in progress and the Officer reasonably believes any of the following:
 - (1) Knowledge of the Officer's presence may endanger the safety of a victim or other person.
 - (2) Knowledge of the Officer's presence may cause the suspected violator to evade apprehension.
 - (3) Knowledge of the Officer's presence may cause the suspected violator to destroy evidence of a suspected felony or may otherwise result in the loss of evidence of a suspected felony.
 - (4) Knowledge of the Officer's presence may cause the suspected violator to cease the commission of a suspected felony before the Officer obtains sufficient evidence to establish grounds for arrest.

COMMENTARY:

Sec. 346.03(4) (intro), Wis. Stats., is very clear; exceeding the speed limit is the only privilege given without giving audible and visual signals under the listed circumstances.

- c) It is the policy of this Department that its Officers utilize emergency lights and siren when responding to any of the "exception-circumstances" set forth in Sec. 346.03(4)(b). However, in such exception-circumstances, Officers are authorized to discontinue the use of emergency lights and siren when necessary to conceal their arrival in the area of an incident.
- d) Due Regard. Sec. 346.03(5) states: The exemptions granted the operator of an authorized emergency vehicle by this Section do not relieve such operator from the duty to drive with due regard under the circumstances for the safety of all persons nor do they protect such operator from the consequences of his or her reckless disregard for the safety of others.

COMMENTARY:

"The intent of the statute is protection of life and property, and is served by extending a privilege with one hand, and tempering it with another. Presumably it is in the best interests of society that emergency vehicles be granted extraordinary right-of-way privileges, but our own legislature saw fit to insert a provision that extraordinary care be taken by the drivers of such vehicles that life and property would not be endangered by the very privileges granted for their protection."

Clark v. Sterrett, 220 N.W.2d 779, 781 (Ind. App. 1966).

- e) Considerations. In all cases when an Officer decides to exercise any of the exceptions set forth in Sec. 356.03, the Officer shall consider the following factors and shall drive accordingly:
 - (1) Severity of Reported Crime. The Officer must reasonably believe that the reported crime is a felony and also reasonably believe any of the four (4) circumstances set forth in Sec. 346.03(4)(b) exists. In the case of obtaining evidence of speed violations, the Officer shall take into consideration the seriousness of the perceived violation.
 - (2) Road Conditions. Such as: the presence of rain, slush, snow, ice, fog or any combination thereof.
 - (3) Time of Day. Concerned with such things as: light conditions, visibility, level of citizens' presence and activity.
 - (4) Density of Population. Concerned with areas such as residential areas, school zones, business areas, main-traveled roadways, side streets.

COMMENTARY:

The decision, responsibility and method of response rests with the individual Officer. In deciding, the Officer must exercise sound judgment and carefully consider (a) the facts; (b) seriousness of the offense; (c) possible consequences and; (d) safety of the citizens whose protection is his/her responsibility.

E. Public Duties. The following are regulations that define the duties of the public when approached by an emergency vehicle:

1. Sec. 346.04(3), Obedience to traffic Officers.

No operator of a vehicle, after having received a visual or audible signal from a traffic Officer or marked police vehicle, shall knowingly flee or attempt to elude any traffic Officer by willful or wanton disregard of such signal so as to interfere with or endanger the operation of the police vehicle or the traffic Officer or other vehicles or pedestrians. Nor shall he/she increase the speed of his/her vehicle or extinguish the lights of his/her vehicle in an attempt to elude or flee.

COMMENTARY:

Intent to elude an unmarked police car is difficult to prove since many authorized non-police emergency vehicles resemble such cars. (65 Atty. Gen. 27.)

2. Emergency Vehicle Approach.

a) Sec. 346.19. What to do on approach of emergency vehicle.

Upon the approach of an authorized emergency vehicle giving audible signal by siren, the operator of a vehicle shall yield the right-of-way and shall immediately drive such vehicle to a position as near as possible, and parallel to, the right curb or right-hand edge of the shoulder of the roadway clear of any intersection and, unless otherwise directed by a traffic Officer, shall stop (and remain standing in such a position) until the authorized emergency vehicle has passed.

b) Sec. 346.90. Following an emergency vehicle.

The operator of any vehicle (other than one on official business) shall not follow an authorized emergency vehicle responding to a call or alarm closer than 500 feet, or drive or park his/her vehicle within the block where (or within 300 feet of the driveway entrance or similar point of access to a driveway or road) on which fire apparatus has stopped in response to an alarm.

F. Use of Siren Modes for Maximum Effectiveness. Siren modes such as wail, yelp, and high-low should be used to suit existing traffic conditions:

1. Wail Mode. The wail mode should be used for the majority of emergency driving, with others reserved for special circumstances due to traffic.

2. Yelp Mode. The yelp mode should be used when intersections, congestion, or sluggish traffic is noticed ahead.
This mode changes pitch more frequently than the other modes making it easier to attract the attention of even the most inattentive driver.
3. High-Low Mode. Since the high-low mode only hits two frequencies, it does not produce as much change as the other two modes. It is likely to go unnoticed. Still, if an inattentive driver does not respond to the other modes, he/she may respond to this one.

COMMENTARY:

An Officer should not assume that other drivers hear the siren. At higher speeds the emergency vehicle may "outrun" the siren's effectiveness. Other factors may also minimize the effectiveness of the siren; noise in the driver's compartment of other vehicles, radios, conversation, and hearing disabilities, whether or not the windows are open or closed on other vehicles in traffic.

G. Use of Emergency Lights for Maximum Effectiveness.

1. Marked Patrol Units. The entire Department's marked patrol units are equipped with at least two (2) red and blue flashing, oscillating or rotating red-blue lights. For maximum effectiveness, all the bulbs in the lights should be operational and the lenses should be kept as clean as practicable due to weather conditions.
2. Unmarked Units.
 - a) The unmarked vehicle is less observable as an emergency vehicle than is the marked unit. Thus, it is all the more important that the red or red-blue lights be used to their maximum effectiveness for safe operation.
 - b) The front dash, oscillating or rotating red light should be clear from any movable obstructions which, when placed on the dashboard, obstruct the light's visibility when in operation.
 - c) If the unmarked unit is equipped with a "pop-up" rear-seat light, rear-deck light and/or grill lights, they should be used with the dash light when the unit is being operated as an emergency vehicle.
3. Other Lights.
 - a) Head lamps may be used during hours of daylight to augment the emergency lights for additional visibility.
 - (1) Squad cars may be equipped with flashing headlights and/or flashing taillights to increase visibility.

- b) The Officer may wish to use the four-way flashers on the unit as an additional warning device. The four-way flashers may augment the emergency lights but cannot replace them to fulfill the requirements of statutory law. Also, the four-way flashers may not interfere with required signals for turns as specified in Chapter 346, Wis. Stats.

H. Summary. The use of an emergency vehicle is a privilege which is granted by statute. The Officer must comply with the law to become eligible for the privileges and exemptions granted to an emergency vehicle. Due regard for the safety of others and for the safety of other's property must be practiced when operating an emergency vehicle.

IV. USE OF SPECIAL PURPOSE VEHICLES

A. Special purpose vehicles are not designed or equipped for regular motorized patrol duty or emergency responses. All general rules for safe and lawful operation of police vehicles found in this Policy & Procedure are applicable to special purpose vehicles.

1. BICYCLES: Use of the police equipped mountain bicycle is restricted to members of the bicycle patrol unit who are outfitted for, and trained in, their operation.
2. UNDERCOVER VEHICLES: The vehicles are used for surveillance and other undercover investigation activities.
3. UNMARKED VEHICLES: Used by department personnel for non-emergency assignments. The vehicles may be equipped with a portable (or moveable) red flashing (or red/blue flashing) emergency light. If so equipped, and as necessity dictates, the vehicle can be parked in accordance with the Parking section of this Policy & Procedure.

V. PARKING

- A. Police vehicles shall not be left unattended unless the transmission is in the "Park" position. The emergency brake may be applied when the vehicle is parked on an incline and the vehicle shall be parked in such a manner as to provide safety to both surrounding traffic and the police vehicle.
- B. Police vehicles shall be parked in a legal manner unless an emergency situation exists or it is necessary to alert traffic of a hazard. In such situations, the emergency lights and/or flashing warning lights shall be operating. When the emergency or hazard is no longer present, and the Officer must remain at the scene, the vehicle shall be properly parked and the emergency and warning lights turned off.
- C. When leaving a police vehicle unattended for any reasons, the keys shall be removed from the ignition. Unless exigent circumstances prevent it, windows shall be closed and the vehicle locked whenever a police vehicle is to be left unattended.

VI. SAFETY RESTRAINING DEVICES

- A. Pursuant to Sec. 347.48, Wisconsin Statutes, the use of seat belts by Officers shall be required. Additionally, any Officer or person who operates or rides as a passenger, or is transported as a passenger, in a Village owned police vehicle shall wear a properly adjusted and fastened seat belt unless the person is medically unable or is combative and securing the safety belt would place the Officer at great risk.

- B. Police Officers shall be permitted to exercise the statutory exception for seat belt use. This exception affords Officers the option of not wearing seat belts where their use, in a specific articulable situation, could endanger the safety of the Officer or another. These exceptions are;
 - 1. A specific situation where an Officer's personal safety may be at risk when approaching or leaving a scene involving high risk situations;
 - 2. Under a specific circumstance in which compliance could endanger the safety of the Officer or passenger;
 - 3. A person in a seating position that is not equipped with a seat belt;
 - 4. A driver or passenger who must exit and enter a vehicle on a frequent basis, more than 10 stops per mile; and
 - 5. Anyone who has filed written notice from a physician that they are unable to wear a seat belt for medical or physical reasons.

- C. Children under the age of four will be transported in a child safety seat.

Michael Meeusen
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

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