

TITLE 9

Offenses and Nuisances

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CHAPTER 1

State Statutes Adopted

- § 9-1-1 Offenses Against State Laws Subject to Forfeiture.

SEC. 9-1-1 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the municipality provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

- 29.038(3) Local Regulation of Wild Animals
- 29.288 Throwing Refuse in Waters
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- 941.22 Possession of a Pistol by a Minor
- 941.23 Carrying Concealed Weapon
- 941.235 Carrying a Firearm in a Public Building
- 941.24 Possession of Switchblade Knife
- 941.33 Hazing
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- 943.11 Entry Into Locked Vehicle

943.13 Criminal Trespass to Land 943.14 Criminal Trespass to Dwellings
 943.20 Theft of Property
 943.21 Fraud on Innkeeper
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 943.24 Worthless Checks
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 943.37 Alteration of Property Identification Marks
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 945.01 Definitions Relating to Gambling
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 946.69 Falsely Assuming to Act as Public Officer or Employee
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 946.72 Tampering with Public Records and Notices
 947.01 Disorderly Conduct
 947.011 Disrupting a Funeral or Memorial Service
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 947.013 Harrassment
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 948.015 Construction and Application
 948.02 Mistreating Animals
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 948.05 Transportation of Animals
 948.06 Use of Poisonous and Controlled Substances
 948.07 Use of Certain Devices Prohibited
 948.08 Instigating Fights Between Animals
 948.09 Shooting at Caged or Staked Animals
 948.10 Sale of Baby Rabbits, Chicks and Other Fowl
 948.11 Artificially Colored Animals; Sale
 948.13 Providing Proper Food and Drink to Confined Animals
 948.14 Providing Proper Shelter
 948.15 Animals; Neglected or Abandoned; Police Powers

§ 9-1-1 Amended: Ord. 1036, 5/10/12

§ 9-1-1 Amended: Ord. 1041, 8/2/13

§ 9-1-1 Amended: Ord. 1045, 9/9/14

CHAPTER 2

Offenses Against Public Safety and Peace

- § 9-2-1 Discharging and Carrying Firearms and Guns Prohibited
- § 9-2-2 Firearms Restricted in Certain Buildings
- § 9-2-3 Throwing or Shooting of Arrows, Stones, and Other Missiles Prohibited
- § 9-2-4 Unlawful Telephone Use
- § 9-2-5 Sale and Discharge of Fireworks Restricted
- § 9-2-6 Obstructing Streets and Sidewalks Prohibited
- § 9-2-7 Regulation of Display and Sale of Instruments Used for Inhaling or Ingesting Controlled Substances
- § 9-2-8 Loitering Prohibited
- § 9-2-9 Loud and Unnecessary Noise Prohibited
- § 9-2-10 Curfew
- § 9-2-11 Disorderly Conduct
- § 9-2-12 Possession of Marijuana Prohibited
- § 9-2-13 Unauthorized Presence on School Property Prohibited
- § 9-2-14 Possession of Firearms in Public Buildings and Business Establishments Prohibited
- § 9-2-15 Purchase or Possession of Tobacco, Nicotine Products or Vaping Paraphernalia by Minors
- § 9-2-16 Harboring of Minor Runaways
- § 9-2-17 Truancy and Dropouts
- § 9-2-18 Regulation of Smoking
- § 9-2-19 Bicycles, Skateboards, Scooters, Roller Blades, Roller Skates or Roller Skis

SEC. 9-2-1 DISCHARGING AND CARRYING FIREARMS AND GUNS PROHIBITED.

- (a) No person, except a sheriff, police officer or their deputies, shall fire or discharge any firearm, rifle, spring or air gun of any description, or tipped arrow, within the City of Neillsville or have any firearm, compound or strung bow, rifle, spring or air gun in his possession or under his control unless it is unloaded and enclosed or encased within a carrying case or other suitable container. The following exceptions shall apply to this section:
 - (1) Title 7, Chapter 14, Neillsville Code of Ordinances.
 - (2) a. Those parcels of property on which hunting activities were previously allowed by action of the City and those parcels where hunting activities took place prior to the 2008 annexation of islands, and thus are grand fathered. Such parcels are as follows:

<u>Parcel #</u>	<u>Current Owner(s)</u>
042.0321.000	William III and Jill Neville
261.1370.000	John C. and Karen J. Gaier
261.1372.000	Mark W. and Sharon Vandenberg
261.1373.000	Mark W. and Sharon Vandenberg
261.1374.000	Mark W. and Sharon Vandenberg
261.1393.000	Jon M. and Julie A. Counsell

 - b. On such parcels all persons are required to obey all state and federal rules and regulations relating to hunting and/or the discharge of firearms.
 - c. This exception is subject to review based on a change in the Current Owner(s) use of the property, changes in circumstances surrounding the property, or a change in ownership of the property.
- (b) No person shall, in the territory adjacent to the City, discharge any firearm in such manner that the discharge shall enter or fall within the City.

- (c) This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries or archery ranges approved by the Chief of Police, where proper safety precautions are taken.

Amended: Ord. 1028, 09/08/09

SEC. 9-2-2 FIREARMS RESTRICTED IN CERTAIN BUILDINGS.

- (a) Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.
- (1) Firearm – means a weapon that acts by force of gunpowder.
 - (2) Law enforcement – means any person employed by the State of Wisconsin or any political subdivision of this state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the law or ordinances he or she is employed to enforce.
 - (3) Weapon – means a handgun, an electronic weapon as defined at Wis. Stats. §941.295(1c)(a), a knife, other than a switchblade knife under §941.24, or a billy club.
 - (4) Controlled-access facility – means a facility or area that has designated entrances for ingress and egress controlled by a door, gate, attendant or other means to limit entry while the facility is open and can be locked or secured when closed, or in the instance of temporary events of less than three weeks, designated entrances may be either secured when closed or the controlled-access facility removed at the termination of the temporary event.
- (b) In addition to the provisions of Wisconsin Statutes enumerating places where the carrying of a weapon or firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer or other City officer or official designated by the Neillsville Chief of Police to enter the following City of Neillsville municipal buildings, facilities or locations while carrying a weapon or firearm:
- (1) City Hall;
 - (2) Neillsville Public Library;
 - (3) Fire Station;
 - (4) Police Station;
 - (5) City Wells, Pump Houses, and all related buildings;
 - (6) Wastewater Treatment Plant, Lift Stations, and related buildings; and,
 - (7) Any and all other municipal buildings or controlled-access facilities owned or operated by the City of Neillsville, whether now in existence or later constructed or leased.
- (c) It shall be unlawful for any person other than a law enforcement officer to enter any building, facility, or location open to the public that is posted as a no firearms or concealed weapons location while possessing, carrying, or concealing a firearm or weapon, whether with or without a state permit.
- (d) Signs meeting the requirements of Wis. Stats. §943.13(2)(b)1 shall be posted in prominent places near public entrances of all buildings, structures or locations that restrict or prohibit firearms or concealed weapons.
- (e)
- (1) Signs of at least 5 inches by 7 inches in size shall be posted in prominent places near public entrances to all licensed premises selling alcohol for on-premise consumption to advise patrons firearms are prohibited on such premises except with a valid concealed weapons permit pursuant to Wis. Stats. §941.237(2), and so long as the permit holder does not consume alcohol.
 - (2) Licensees that prohibit all firearms and concealed weapons on the premise and post signs complying with sub (d) above shall be exempt from this requirement.
 - (3) The City Clerk shall have signs meeting these requirements produced and available for licensees. Licensees shall post such signs or signs substantially similar of comparable size, font and content.

- (f) Any person violating any of the provisions of this Section shall, upon conviction thereof, forfeit not less than \$100 nor more than \$500, plus court and other costs, for each separate violation, and shall further be subject to penalty for trespass under §943.13 Wis. Stats.
- (g) City of Neillsville employees shall be prohibited from using or possessing a firearm or weapon while on duty, except law enforcement officers and those authorized by the Chief of Police.
- (h) City of Neillsville shall further require that any special event within the municipality, which requests an alcohol license, shall post the event as firearm and concealed weapons prohibited, pursuant to subsection e) 1) above.

Recreated: Ord. 1047, 3/24/15

SEC. 9-2-3 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.

No person shall throw or shoot any object, arrow, 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 City, except as provided in Title 7, Chapter 14, Neillsville Code of Ordinances.

SEC. 9-2-4 UNLAWFUL TELEPHONE USE.

Whoever of the following shall be subject to the penalty as provided in this Municipal Code:

- (a) **HARASSING OR OBSCENE TELEPHONE CALLS.**
 - (1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent;
 - (2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
 - (3) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
 - (4) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers.
 - (5) Knowingly permits any telephone under his control to be used for any purpose prohibited by this section;
 - (6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.
- (b) **IMPROPER USE OF 911 EMERGENCY PHONE SYSTEM.** No person shall:
 - (1) Intentionally dial the telephone number "911" to report an emergency, knowing that the fact situation which he or she is reporting does not exist.
 - (2) Intentionally dial the number "911" for no legitimate purpose.
 - (3) Intentionally dial the number "911" for a non-emergency reason. For the purposes of the section "emergency" shall mean a situation in which property of human life are in jeopardy and the prompt summoning of aid is essential.
 - (4) Intentionally dial the number "911", but fails to report an emergency or fails to hang up, causing an open line.

Amended: Ord. 1050, 6/9/15

SEC. 9-2-5 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.

- (a) **PRIVATE USE AND SALE.** No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless he shall be authorized by a fireworks permit as hereinafter provided. The term "fireworks" as used in this section shall be defined as provided in Section 167.10(1), Wisconsin Statutes, and shall be deemed to include all rockets or similar missiles containing explosive fuel.
- (b) **FIREWORKS PERMITS.** Fireworks, other than those prohibited by the laws of the State of Wisconsin, may be used and displayed in open field, parks, rivers, lakes and ponds by public organizations and other groups of individuals when a permit for such display has been granted by the Common Council. All applications shall be referred to the Fire Chief for investigation and no permit shall be granted unless the Common Council, from the report of the Chief, determines that the applicant will use the fireworks in a public exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner. Before granting any fireworks permit, the Common Council shall require the applicant to post with the City Clerk-Treasurer an approved indemnity bond in the sum of Two Thousand (\$ 2,000.00) Dollars for the payment of all claims that may arise by reason of injuries to persons or property from the handling, use or discharge of fireworks under such permit.

SEC. 9-2-6 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, bridge or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.

SEC. 9-2-7 REGULATION OF DISPLAY AND SALE OF INSTRUMENTS USED FOR INHALING OR INGESTING CONTROLLED SUBSTANCES.

- (a) **LICENSE REQUIRED.**
- (1) It shall be unlawful for any person or persons as principal, clerk, agent or servant to sell any items, effect, paraphernalia, accessory or thing which is designed or marketed for use with illegal cannabis or drugs, as defined by the Wisconsin Statutes, without obtaining a license therefor. Such licenses shall be in addition to any or all other licenses held by applicant. The annual fee for such license shall be Fifty (\$ 50.00) Dollars.
- (2) The following guidelines define, in part, the scope of the terminology in subsection (1) above of "items, effect, paraphernalia, accessory or thing which is designed or marketed for use with illegal cannabis or drugs":
- a. "Paper" - White paper or tobacco-oriented paper not necessarily designed for use with illegal cannabis or drugs may be displayed under this Section. Other paper of colorful design, names oriented for use with illegal cannabis or drugs and displayed are covered by this Section and are unlawful to sell.
- b. "Roach Clips" - Roach clips are designed for use with illegal cannabis or drugs and therefore covered by this Section and are unlawful to sell.

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- c. "Pipes" - Pipes if displayed away from the proximity of nonwhite paper or tobacco-oriented paper and not displayed within proximity of roach clips or literature encouraging illegal use of cannabis or illegal drugs are not covered by this Section; otherwise covered.
 - d. "Paraphernalia" - Paraphernalia if displayed with roach clips or literature encouraging illegal use of cannabis or illegal drugs is covered by this Section and is illegal to sell.
- (b) **APPLICATION.** Application to sell any item, effect, paraphernalia, accessory or thing which is designed or marketed for use with illegal cannabis or drugs shall be accompanied by affidavits by the applicant, and each and every employee authorized to sell such items, that such person has never been convicted of a drug-related offense.
- (c) **MINORS.** It shall be unlawful to sell or give items as described in Subsection (a) in any form to any male or female minor under eighteen (18) years of age.
- (d) **RECORDS.** Every licensee shall keep a record of every item, effect, paraphernalia, accessory or thing which is designed or marketed for use with illegal cannabis or drugs which is sold. This record shall be open to the inspection of any police officer at any time during the hours of business. Such record shall contain the name and address of the purchaser, the name and quantity of the product, the date and time of the sale, and the licensee or agent of the licensee. Such records shall be retained for not less than two (2) years.

SEC. 9-2-8 LOITERING PROHIBITED.

No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall prior to any arrest for an offense under this Section afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true, and, if believed by the police or peace officer at the time, would have dispelled the alarm.

SEC. 9-2-9 LOUD AND UNNECESSARY NOISE PROHIBITED.

- (a) **LOUD AND UNNECESSARY NOISE PROHIBITED.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise.
- (b) **TYPES OF LOUD AND UNNECESSARY NOISES.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:
- (1) **Horns, signaling devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the City for longer than three (3) seconds in any period of one minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use

of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

- (2) Radios, phonographs, similar devices. The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.
- (3) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
- (4) Animals, birds. The keeping of any animal or bird which by causing frequent or long continued unnecessary noise.
- (5) Steam whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper City authorities.
- (6) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) Construction or repair of buildings. The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the City Clerk-Treasurer shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.
- (8) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.
- (9) The provisions of this section shall not apply to:
 - a. Any vehicle of the City while engaged in necessary public business.
 - b. Excavations or repairs of streets or other public construction by or on behalf of the City, County, State at night when public welfare and convenience renders it impossible to perform such work during the day.
 - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

(c) STATIONARY NOISE LIMITS.

(1) Maximum Permissible Sound Levels.

- a. Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the property line.

<u>Zone</u>	<u>Noise Rating-Daytime</u>	<u>Noise Rating-Nighttime</u>
Residential	60 db	50 db
Commercial	70 db	70 db
All Other Zones	75 db	75 db

- b. Ambient noise is the all-encompassing noise associated with a given source, usually being a composite of sounds with many sources near and far, but excluding the noise source being measured. Ambient noise is a factor and the subject noise shall exceed the ambient noise by 5 db in any octave band to be designated excessive.
- c. Pure tones and impulsive noises are factors. five noise rating numbers shall be taken from the table in Subsection "a" above, if the subject noise consists primarily of a pure tone or if it is impulsive in character.
- (2) Construction Noise. Construction equipment in any zone may be operated between the hours of 7:00 a.m. to 7:00 p.m. provided that said equipment does not exceed a maximum sound pressure level of 80 dB(a) measured at the property line of the location at which said equipment is in use.
- (3) Noise in Residential Districts. In Residential Zones, the person in violation of this Section shall be ordered to reduce the sound pressure to acceptable levels immediately by the monitoring officer.
- (4) Operation of Certain Equipment. Lawnmowers, chainsaws, powered garden equipment, electric insect killing/repelling devices, and other non-construction maintenance equipment shall be operated only during the hours between 7:00 a.m. and 9:00 p.m. unless within the specified noise levels measured at the property line of the location at which said equipment is in use.
- (5) Exemptions. Operation of emergency equipment shall be exempt from this Chapter. Snowblowers not operated on a commercial basis shall be exempt from this Chapter when used to gain access to a City street. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the City of Neillsville.
- (6) Methods of Measuring Noise.
- a. Equipment. Noise measurement shall be made with a sound level meter.
- b. Location of Noise Meter. Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three (3) feet above the ground and at least three (3) feet away from walls, barriers, obstructions, and all other sound reflective surfaces.
- (7) Control of Nighttime Noise Emitted From Residential Air Conditioners.
- a. No person shall install, operate, or use any residential air-conditioner which creates a noise level in a sleeping room in any dwelling unit located on any adjacent premises in the excess of five decibels above the ambient noise level at the location being measured.
- b. Upon receiving a complaint, the Police Department will conduct a noise survey through the use of a sound level meter. The sound pressure level should be measured in a sleeping room in the complainants premises with the sound level

measuring microphone placed three (3) feet from an open window nearest to the source of the noise and not less than three (3) feet above the floor of the room in which the measurement is made.

- (8) Appeals. The Common Council may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Chapter for existing industries.

SEC. 9-2-10 CURFEW.

- (a) It shall be unlawful for any person seventeen (17) years of age or under to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the City of Neillsville between the hours of 10:00 p.m. and 6:00 a.m. unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian, or other person having legal custody, is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefore.
- (b) EXCEPTIONS.
- (1) This section shall not apply to a child:
- Who is performing an errand as directed by his parent, guardian or person having lawful custody.
 - Who is on his own premises or in the areas immediately adjacent thereto.
 - Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
 - Who is returning home from a supervised school, church or civic function.
- (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- (c) It shall be unlawful for any parent, guardian, or other person having the lawful care, custody and control of any person under the age of seventeen (17) years to allow or permit such person to violate the provisions of (a) and (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this ordinance occurring within 30 days of the present offense shall be prima facia evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian, or custodian herein who shall have made a missing person notification to the police department shall not be considered to have allowed or permitted any person under the age of seventeen (17) years to violate this section.
- (d) It shall be unlawful for any person, firm or organization operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit any minor under the age of seventeen (17) to loiter, loaf, or idle in such place during the hours prohibited by this Section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this Section shall find persons under the age of seventeen (17) years loitering, loafing, or idling in such place of business, he shall immediately order such person to leave and if such person refuses to leave said place of business, the operator shall immediately notify the police department and inform them of the violation.

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- (e) Every law enforcement officer is hereby authorized to detain any minor violating the provisions above, until such time as the parent, guardian, or person having legal custody of the minor shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the minor and shall sign a release for him or her. If no response is received, the Police shall take whatever action is deemed necessary, in the best interest of the minor.
- (f) **WARNING.** The first time a minor, parent, guardian, or person having legal custody of a minor that is detained by a law enforcement officer of the City of Neillsville, as provided in Subsection (e), such minor, parent, guardian or person having such legal custody, shall be advised, personally, if known or by registered mail, as to the provisions of this Section, and further advised that any violation of this Section occurring thereafter by this minor or any other minor under his or her care of custody shall result in a penalty being imposed as hereinafter provided.
- (g) **GENERAL PENALTY.**
 - (1) Any parent, guardian or person having legal custody of a child described in Subsections (a) and (e) who has been warned in the manner provided in Subsection (f) and who thereafter violates any of the provisions of this section shall be subject to a penalty as provided in Sec. 1-1-7 of this Municipal Code.
 - (2) Any child who violates this section after being detained and released under Subsection (e) shall be dealt with under Chapter 48, Wis. Stats.

§ 9-2-10(a) - Amended: Ord. 909, 4/13/93

SEC. 9-2-11 DISORDERLY CONDUCT.

- (a) **DISORDERLY CONDUCT PROHIBITED.** No person, within the City of Neillsville, shall:
 - (1) 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 annoy or disturb any other person.
 - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
- (b) **DISORDERLY CONDUCT WITH MOTOR VEHICLE.** No person shall make unnecessary and annoying noises with a motor vehicle, including motorcycles and all-terrain vehicles, by squealing tires, excessive acceleration of the engine, or by emitting unnecessary and loud muffler noise.
- (c) **DEFECATING OR URINATING IN PUBLIC PLACES.** It shall be unlawful for any person to defecate or urinate, outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the City, or upon any private property in open view of the public, or in the halls, stairways or elevators of public or commercial buildings.

SEC. 9-2-12 POSSESSION OF MARIJUANA PROHIBITED.

- (a) **DEFINITIONS.** For the purpose of this section, the following definitions shall apply:
 - (1) "Marijuana" means all parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does

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not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

- (2) "Practitioner" means:
- a. A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this City.
 - b. A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this City.
- (b) It is unlawful for any person to possess and/or use marijuana, unless the marijuana was obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by Chapter 161, Wisconsin Statutes.
- (c) Section 961.573, Wis. Stats., relating to Possession of Drug Paraphernalia, is hereby adopted by reference, provided the penalty for commission of such offense hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the State Statutes shall be incorporated herein by reference and are intended to be made part of this Code.

Created: Ord. 984, 07/10/01

SEC. 9-2-13 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY PROHIBITED.

- (a) It shall be unlawful for any person, except as provided in subsection (b) hereof, to be present in, loiter or enter into any public school building, school parking lot or on any public school grounds without the permission of the school principal, custodian or other person in charge thereof between 7:30 a.m. and 4:30 p.m. on official school days.
- (b) This Section shall not apply to:
- (1) Students regularly enrolled in public schools who have not been properly ordered by the school principal, custodian or other person in charge thereof, to leave the school building or school grounds;
 - (2) Persons coming into the school building or school grounds for the purpose of attending scheduled school or civic functions, or making use of the recreational facilities located upon or within school premises, but as to such attendance or use, this except shall apply only to the portion of the premises on which such facilities are located and during the hours such facilities are specifically open to the general public or an invited portion thereof;
 - (3) Parents or legal guardians of a regularly enrolled student. However, such parent or legal guardian may be required to register at the school office.
- (c) The exceptions set forth in subsection (b) shall not apply to any person who, while in school buildings or on school grounds, commits or attempts to commit any act prohibited by statute or ordinance.
- (d) All entrances to the school buildings shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited." All school grounds shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited."

SEC. 9-2-14 POSSESSION OF FIREARMS IN PUBLIC BUILDINGS AND BUSINESS ESTABLISHMENTS PROHIBITED.

- (a) **DEFINITIONS.**
- (1) "Firearm" means any rifle, shotgun, handgun, spring gun, airgun or bow and arrow device.
 - (2) "Law enforcement officer" means any person employed by the state or any political subdivision of the state for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.
- (b) No person, except a law enforcement officer, shall have in his or her possession, carry or bear any firearms within any publicly owned building or business establishment open to the public within the City.
- (c) This section shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell or trade firearms to or from a retailer.

SEC. 9-2-15 PURCHASE OR POSSESSION OF TOBACCO NICOTINE PRODUCTS OR VAPING PARAPHERNALIA BY MINORS.

- (a) **Statement of Purpose.** The City Council for the City of Neillsville determines that prohibiting the sale, furnishing or giving away of vapor devices and products to minors and prohibiting the possession, purchasing and use of such devices and products is in the public interest and will promote the public health, safety and welfare.
- (b) **DEFINITIONS.** The following definitions are applicable in this Section:
- (1) **Cigarette.** Has the meaning given in Sec. 139.30(1), Wis. Stats.
 - (2) **Distributor.** A person specified under Secs. 139.30(3) or 139.75(4), Wis. Stats.
 - (3) **E-Liquid.** A liquid product, whether or not it contains nicotine, that is intended to be vaporized and inhaled using a vapor product or device.
 - (4) **Identification Card.** A license containing a photograph issued under Ch. 343, Wis. Stats., an identification card issued under Sec. 343.50, Wis. Stats., or an identification card issued under Sec. 125.08, Wis Stats.
 - (5) **Jobber.** Has the meaning given in Sec. 139.30(6), Wis. Stats.
 - (6) **Law Enforcement Officer.** Has the meaning given in Sec. 30.50(4s), Wis. Stats.
 - (7) **Manufacturer.** Any person specified under Secs. 139.30(7) or 139.75(5), Wis. Stats.
 - (8) **Minor.** An individual who is less than eighteen (18) years of age.
 - (9) **Nicotine Product.** Has the meaning given in Sec. 134.66(1)(f), Wis. Stats.
 - (10) **Person Who Sells Tobacco Products at Retail.** A person whose ordinary course of business consists, in whole or part, of the retail sale of tobacco products subject to the state sales tax.
 - (11) **Person Who Sells Vapor Products or Devices at Retail.** A person whose ordinary course of business consists, in whole or part, of the retail sale of vapor products or devices.
 - (12) **Possession of a Tobacco or Vaping or Device.** Means either actual physical control of the tobacco or vaping product or devices without necessarily owning that product/device, or the right to control the tobacco or vaping product/device even though the item is in a different place or room than where the person is physically located.

- (13) **Retailer.** Any person licensed under Sec. 139.65(1), Wis. Stats., in regard to tobacco products, or, in the case of vaping, any person offering for sale vaping related products or devices.
- (14) **School.** Has the meaning given in Sec. 118.257(1)(c), Wis. Stats.
- (15) **Subjobber.** Has the meaning given in Sec. 139.75(11), Wis. Stats.
- (16) **Tobacco Products.** Has the meaning given in Sec. 139.75(12), Wis. Stats., and further means, but is not limited to, any substances containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.
- (17) **Use a Tobacco or Vapor Product.** To smoke, chew, such, inhale, or otherwise consume a tobacco product or vapor product.
- (18) **Vapor or Vaping Product or Device.** Any product or device containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking through the delivery of nicotine or any other substance through inhalation of vapor from the product. Included are any devices, regardless of shape or size, which employ a mechanical heating element, battery, or electronic circuit and that can be used to heat or dispense a liquid solution as a vapor which is intended for human consumption through inhalation. The term includes, but is not limited to, any device marked as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, vapes, tank systems, electronic nicotine delivery systems, electronic smoking device, or under any similar product name or description. Such devices may be similar in appearance to tobacco cigarettes, cigars or pipes, while others may resemble pens, USB sticks or flash drives, and other everyday items. Also includes any component part of such product or associated paraphernalia whether or not sold separately, such as, but not limited to, any vapor cartridge, solution, or other container, that may or may not contain nicotine, that is intended to be used with a vaping device. Not included is any product that has been approved by the FDA for sale as a tobacco cessation product or is being marketed and sold solely for such approved purpose.
- (19) **Vaping.** The use of an electronic or other device that creates an aerosol or vapor from a vapor product, in any manner or in any form or the use of any oral vapor or smoking device.
- (20) **Vending Machine.** Has the meaning given in Sec. 139.30(14), Wis. Stats.
- (21) **Vending Machine Operator.** Has the meaning given in Sec. 139.30(15), Wis. Stats.
- (c) **Prohibition Against Sale of or Availability of Cigarettes, Tobacco Products, and Nicotine Products to Minors.** It shall be a violation of this Section for any retailer to sell or give away any cigarettes, tobacco products, or nicotine products to any person under the age of eighteen (18) except as provided in Sec. 254.92(2), Wis. Stats. A vending machine operator is not liable for the purchase of cigarettes, tobacco products, or nicotine products from his/her vending machine operator was unaware of the purchase.
- (d) **Prohibited Conduct.** Consistent with Sec. 254.92, Wis. Stats., a minor shall not do any of the following:
- (1) Consistent with Sec. 254.92, Wis. Stats., a minor shall not do any of the following:
 - a. Purchase or attempt to purchase a tobacco product, nicotine product, or vaping device or product.
 - b. Possess or attempt to possess a tobacco product, nicotine product, or vaping device or product.

- c. Use a tobacco product, nicotine product or vaping device or product in a public place.
 - d. Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his/her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product, nicotine product, or vaping device or product.
- (2) No individual, regardless of age, who is enrolled in public school may use, possess or attempt to possess a tobacco product, nicotine product, or vaping device or product on school grounds and property.
- (e) **Exceptions.** Subsection (d) above does not apply to a minor participating in any of the following:
- (1) An undercover operation in which the minor purchases or receives a tobacco product, nicotine product or vapor product under the direction of a law enforcement agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product, nicotine product or vapor product or device by the minor was not under the direction of a law enforcement agency and was not part of the undercover operation.
 - (2) An undercover operation in which the minor purchases or received a tobacco product, nicotine product, or vapor product or device under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored enforcement action.
 - (3) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted with the prior approval of a law enforcement agency.
 - (4) A minor may possess or handle tobacco product, nicotine product, or vapor device of product for the sole purpose of resale in the course of employment during his/her normal working hours if employed by a retailer licensed under Sec. 134.65(1), Wis. Stats.
- (f) **Defense of Retailers.**
- (1) Proof of all the following facts by a retailer who sells tobacco product, nicotine products, or vapor devices or products to a minor is a defense to any prosecution for a violation of Subsection (d) above:
 - a. That the purchaser falsely represented that he/she had attained the age of eighteen (18) and presented a fraudulent identification card.
 - b. 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 eighteen (18).
 - (2) A retailer or vending machine operator shall post a sign(s) in areas within his/her retail premises where tobacco products, nicotine products, or vapor products or devices are sold to consumers stating that the sale of any tobacco product, nicotine product, or vapor product or device to a person under the age of eighteen (18) is unlawful under this Section or comparable state laws.
- (g) **Furnishing to Minors.** Consistent with the requirements of Sec. 134.66 Wis. Stats.:
- (1) No person shall sell, furnish or give any tobacco product, nicotine product, or vapor product or device to a minor, including, but not limited to, through a vending machine.
 - (2) Before selling, offering for sale, giving, or furnishing a tobacco product, nicotine product, or vapor product or device to an individual, such person shall verify that the individual is at least eighteen (18) years of age by doing one of the following:

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- a. Examining a government-issued photographic identification that establishes that the individual is at least eighteen (18) years of age.
 - b. For sales made through the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification of the personal information entered by the individual during the ordering process that establishes that the individual is eighteen (18) years of age or older.
- (3) No manufacturer, distributor, jobber, sub-jobber, or retailer, or their employees or agents, may provide cigarettes, tobacco products, nicotine products or vapor devices or products for nominal or no consideration to any person under the age of eighteen (18).
- (h) **Seizure of Products.** A law enforcement officer may seize any tobacco product, nicotine product, or vapor device or product involved in any violation of this Section committed in his/her presence.
- (i) **Penalties.** Any person who violates provisions of this Section shall be subject to the penalties set forth in the general penalties provision of this Code or Ordinances in Sec. 1-1-7, except that where a minor is adjudged to have violated this Section, the court is also authorized to impose any of the dispositions in Secs. 938.343 and 938.344, Wis. Stats.

Recreated: Ord. 1061, 2/11/20

SEC. 9-2-16 HARBORING OF MINOR RUNAWAYS.

It shall be unlawful for any person to knowingly allow, assist, permit, or board any minor child at his or her residence, property, or place of business, or in any other manner whatsoever, where the person knows or should have known the child to be a runaway from his or her parent, guardian, or legal custodian. A runaway is any minor child away from home without permission from his or her parent or legal custodian.

Created: Ord. 910, 11/9/93

SEC. 9-2-17 TRUANCY AND DROPOUTS.

(a) DEFINITIONS.

- (1) "Acceptable excuse" has the meaning as defined in Sections 118.15 and 118.16(4) Wis. Stats.
- (2) "Dropout" means a child who ceases to attend school, does not attend a public or private school, technical college or home-based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse.
- (3) "Habitual truant" means a pupil who is absent from school without an acceptable excuse for part or all of five (5) or more days on which school is held during a school semester.
- (4) "Operating privilege" has the meaning as defined in Section 340.01(4) Wis. Stats.
- (5) "Truant" means a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.

(b) VIOLATION.

- (1) Truant. No person under 18 years of age shall be a truant.
- (2) Habitual truant. No person under 18 years of age shall be a habitual truant.
- (3) Dropout. No person who is at least 16 years of age but is less than 18 years of age may be a dropout.

(c) DISPOSITION.

- (1) Disposition for truancy. Upon a finding that a child is truant, one or more of the following dispositions shall be entered by the court:
 - a. An order for the person to attend school.
 - b. Impose a forfeiture of not more than \$50 plus costs for the first violation, or a forfeiture of not more than \$100 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Section 938.37 Wis. Stats. and subject to a maximum cumulative forfeiture of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person or both.
- (2) Disposition for habitual truancy. Upon a finding that a child is a habitual truant, one or more of the following dispositions shall be entered by the court:
 - a. An order for the person to attend school.
 - b. A forfeiture of not more than \$500 plus costs, subject to Section 938.37 Wis. Stats. All or part of the forfeiture, plus costs, may be assessed against the person, the parents or guardian of the person, or both.
 - c. Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the Wisconsin Department of Transportation together with a notice stating the reason for and the duration of the suspension.
 - d. An order to the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the child is accompanied by a parent or guardian.
 - e. An order placing the person under formal or informal supervision, as described in Section 938.34(2) Wis. Stats. for up to one year.

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- f. An order for the person to participate in counseling or a supervised work program or other community service work as described in Section 938.34(5g) Wis. Stats. The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both.
 - g. An order for the person to attend an educational program as described in Section 938.34(7d) Wis. Stats.
 - h. An order for the Wisconsin Department of Work Force Development to revoke, under Section 103.72 Wis. Stats., a permit under Section 103.70 Wis. Stats. authorizing the employment of the person.
 - i. An order for the person to be placed in a teen court program as described in Section 938.342(1g)(f) Wis. Stats.
 - j. An order for the person's parent, guardian of legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.
 - k. Any other reasonable conditions consistent with this ordinance, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
- (3) Disposition for dropouts. Upon a finding that a child is a dropout, the court may suspend the person's operating privilege until the person reaches the age of 18. The court shall immediately take possession of any suspended license and forward it to the Wisconsin Department of Transportation together with a notice stating the reason for and duration of the suspension.

Created: Ord. 968, 02/08/00

SEC. 9-2-18 REGULATION OF SMOKING.

- (a) Unless otherwise specifically provided in this Code, the statutory provisions in Chapter 101.123 of the Wisconsin Statutes, describing and defining regulations with respect to smoking are hereby adopted, and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any future amendments, revisions or modifications of the statutory regulations in Chapter 101.123 incorporated herein are intended to be made part of this ordinance.
- (b) No person shall smoke in the C. C. Sniteman's Town Square Park Gazebo.
 - (1) DEFINITION. In this Section, "smoking" means carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.
 - (2) Signs prohibiting smoking shall be posted conspicuously in a prominent location in the C. C. Sniteman's Town Square Park Gazebo.
 - (3) It shall be unlawful for any person, not so authorized, to remove, deface, or destroy any "No Smoking" sign located in the Gazebo.
 - (4) Any person who willfully violates Subsection (b), shall be subject to the penalties as set forth in Section 1-1-7 of the Code of Ordinances of the City of Neillsville.

Created: Ord. 976, 11/28/00

Amended: Ord. 1031, 06/22/10

SEC. 9-2-19 BICYCLES, SKATEBOARDS, SCOOTERS, ROLLER BLADES, ROLLER SKATES

- (a) It shall be unlawful for any person to operate or ride a bicycle, skateboard, scooter, roller blades (a/k/a in-line skates), roller skates or roller skis in any of the following places:
 - (1) In or on any portion of the C. C. Sniteman's Town Square Park Gazebo.
 - (2) In or on any portion of any park pavilion.
 - (3) On any private property, unless written permission has been given by the owner or the person in charge of the property.
- (b) Any person who willfully violates this section, shall be subject to the penalties as set forth in Section 1-1-7 of the Code of Ordinances of the City of Neillsville.

Created: Ord. 975, 11/28/00

CHAPTER 3

Offenses Against Property

- § 9-3-1 Destruction of Property Prohibited
- § 9-3-2 Littering Prohibited
- § 9-3-3 Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited
- § 9-3-4 Abandoned Refrigerators Prohibited
- § 9-3-5 Retail Theft
- § 9-3-6 Storage of Junk, Etc., Regulated
- § 9-3-7 Issuance of Worthless Checks
- § 9-3-8 Theft of Library Material
- § 9-3-9 Damaging or Tampering With Coin Machines
- § 9-3-10 Damage to Public Property
- § 9-3-11 Vandalism
- § 9-3-12 Disturbing Cemetery Property
- § 9-3-13 Penalties

SEC. 9-3-1 DESTRUCTION OF PROPERTY PROHIBITED.

- (a) No person shall wilfully injury or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the City and belonging to the City or its departments, the Neillsville School District, or to any private person, without the consent of the owner or proper authority.
- (b) Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed One Thousand (\$ 1,000.00) Dollars.

SEC. 9-3-2 LITTERING PROHIBITED.

No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys highways, public parks or other property of the City, or upon property within the City owned by the Neillsville School District or any private person, or upon the surface of any body of water within the City.

SEC. 9-3-3 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.

SEC. 9-3-4 ABANDONED REFRIGERATORS PROHIBITED.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure

under his control in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

SEC. 9-3-5 RETAIL THEFT.

- (a) Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without consent and with intent to deprive the merchant permanently of possession, or the full purchase price may be penalized as provided in subsection (d).
- (b) 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 purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.
- (c) 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 a peace officer, or to his parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he shall not be interrogated or searched against his will before the arrival of a police 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.
- (d) PENALTY. If the value of the merchandise does not exceed One Hundred (\$ 100) Dollars, any person violating this Section shall forfeit not more than Two Hundred (\$ 200) Dollars. If the value of the merchandise exceeds One Hundred (\$ 100) Dollars, this Section shall not apply and the matter shall be referred to the Clark County District Attorney for criminal prosecution.

State Law Reference: Section 943.50, Wis. Stats.

SEC. 9-3-6 STORAGE OF JUNK, ETC., REGULATED.

No person shall store junked or discarded property including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks, or other unsightly debris which substantially depreciates property values in the neighborhood except in an enclosure which houses such property from public view, or upon permit issued by the Common Council. The Chief of Police may require by written order any premises violating this Section to be put in compliance within the time specified in such order, and if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

SEC. 9-3-7 ISSUANCE OF WORTHLESS CHECKS.

- (a) Whoever issues any check or other order for the payment of money less than \$ 500.00 which, at the time of issuance, he or she intends shall not be paid is guilty of a violation of this Section.
- (b) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:
 - (1) Proof that at the time of issuance, the person did not have an account with the drawee; or
 - (2) Proof that at the time of issuance, person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or
 - (3) Proof that when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.
- (c) This section does not apply to a post-dated check or to a check given in past consideration, except a payroll check.
- (d) Any person violating any provisions of this Section shall forfeit not less than Fifty (\$ 50.00) Dollars if the worthless check is for an amount equal to or less than One Hundred Fifty (\$ 150.00) Dollars and shall forfeit not less than One Hundred (\$ 100.00) Dollars if the worthless check is an amount greater than One Hundred Fifty (\$ 150.00) Dollars and less than Five Hundred (\$ 500.00) Dollars, together with the costs of prosecution, and in default of payment, imprisonment in the Clark County Jail until forfeiture and costs are paid but not to exceed sixty (60) days.

SEC. 9-3-8 THEFT OF LIBRARY MATERIAL.

- (a) DEFINITIONS. For the purposes of this section, certain words and terms are defined as follows:
 - (1) Archives. A place in which public or institutional records are systematically preserved.
 - (2) Library. The Neillsville Public Library.
 - (3) Library Material. Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.
- (b) POSSESSION WITHOUT CONSENT PROHIBITED. Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code.
- (c) CONCEALMENT. The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

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- (d) **DETENTION BASED ON PROBABLE CAUSE.** An official or adult employee or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this Section articles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- (e) **DAMAGING MATERIAL PROHIBITED.** No person shall mar, deface or in any other way damage or mutilate any library material.
- (f) **RETURN DEMANDED.** No person shall fail, on demand, to return any library material when such demand has been made in accordance with the rules and regulations duly made and adopted by the Library.

State Law Reference: Section 943.61, Wis. Stats.

SEC. 9-3-9 DAMAGING OR TAMPERING WITH COIN MACHINES.

No person shall, without lawful authority, open, remove or damage any coin machine, coin telephone or other vending machine dispensing goods or services, or a part thereof, or possess a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services, or possess a drawing, print or mold of a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services within the limits of the City of Neillsville.

SEC. 9-3-10 DAMAGE TO PUBLIC PROPERTY.

- (a) **DAMAGING OF DRINKING FOUNTAINS.** All persons are hereby prohibited from breaking or otherwise injuring any bubbler, drinking fountain or any drinking bubbler, or in any way injuring, soiling, tampering with or defacing any such bubbler or drinking fountain, or placing dirt, leaves, refuse or matter of any sort in or upon any such bubbler, drinking fountain or drinking bubbler, in any public park, street, sidewalk or ground, or any public building, schoolhouse, hall, museum, library or branch library, City of Neillsville.
- (b) **DAMAGING OF PUBLIC PROPERTY.** All persons are hereby prohibited from breaking or otherwise injuring any tree, shrub or plant; breaking, soiling or defacing any fountain, statue or other ornamental structure; or in any way injuring, soiling, damaging or defacing any public building or public property in any public park, square, sidewalk or ground in the City of Neillsville, whether the same shall be owned or held in trust by said City held in trust for the use of any district of said City.
- (c) **BREAKING OF STREET LAMPS OR WINDOWS.** No person shall break glass in any street lamps or windows of any building owner or occupied by the City of Neillsville.

SEC. 9-3-11 VANDALISM.

No person within the limits of the City of Neillsville shall intentionally cause damage to any physical property of another without his or her consent.

SEC. 9-3-12 DISTURBING CEMETERY PROPERTY.

No person except the owner of the cemetery lot or a cemetery employee shall cut, remove, injure or carry away flowers, trees, plants or vines from any cemetery lot or property; nor shall any person deface, injure or mark upon any cemetery markers, headstones, monuments, fences, or structures; nor shall any person other than the owner injure, carry away or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot.

SEC. 9-3-13 PENALTIES.

In addition to the general penalty of this Code or any other penalty imposed for violation of any section of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Section 9-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes.

CHAPTER 4

Obscenity

§ 9-4-1 Commercial Sexual Gratification

SEC. 9-4-1 COMMERCIAL SEXUAL GRATIFICATION.

- (a) No person or any legal entity shall offer, make available, permit or in any way participate in the touching of the genitals, pubic area, buttocks, anus or perineum of any person or of the breasts or vulva of a female when such touching can be reasonably construed as being for the purpose of sexual arousal or gratification under circumstances in which it is reasonably expected that money or other consideration will be received therefor.
- (b) No person or any legal entity shall offer, make available, permit or in any way participate in the administration of any form of massage for money or other consideration when the genitals, pubic area, buttocks, anus, perineum, vulva or female breast of the administrator of the massage are not fully covered by opaque material.

CHAPTER 5

Offenses Involving Alcoholic Beverages

- § 9-5-1 Outside Consumption
- § 9-5-2 Sale to Underage or Intoxicated Persons Restricted
- § 9-5-3 Underage Persons Presence in Places of Sale; Penalty
- § 9-5-4 Underage Persons: Prohibitions; Penalties
- § 9-5-5 Defense of Sellers
- § 9-5-6 Persons Who Have Attained the Legal Drinking Age;
False or Altered Identification Cards
- § 9-5-7 Possession of Alcohol Beverages on School Grounds Prohibited
- § 9-5-8 Presence of Underage Persons on Premises
- § 9-5-9 Nudity Control in Alcohol Licensed Facilities

SEC. 9-5-1 OUTSIDE CONSUMPTION.

(a) **ALCOHOLIC BEVERAGES IN PUBLIC AREAS.** It shall be unlawful for any person to sell or serve, or offer to sell or serve, or to consume, or to carry or expose to view any open container of any alcoholic beverage upon any street, sidewalk, alley, public parking lot, highway, cemetery, public playground, public park or other public area within the City or on private property without the owner's consent, except that this Section shall not apply during those times one hour before and after a parade authorized by the Common Council. The provisions of this Section maybe waived by the Common Council for duly authorized events.

(b) **DEFINITIONS.**

- (1) As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled, or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar, which contain one-half of one percent or more of alcohol by volume and which are fit for use for beverage purposes.
- (2) As used in this Section, the term "public area" shall be construed to mean any location within the City which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.

SEC. 9-5-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.

(a) **SALES OF ALCOHOL BEVERAGES TO UNDERAGE PERSONS.**

- (1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any intoxicating liquor to any underage person.
- (2) No licensee or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.

(b) **PENALTIES.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of :

- (1) Not more than Five Hundred (\$ 500) Dollars if the person has not committed a previous violation within twelve (12) months of the violation; or

Offenses Involving Alcoholic Beverages

- (2) Not less than Two Hundred (\$ 200) Dollars nor more than Five Hundred (\$ 500) Dollars if the person has committed a previous violation within twelve (12) months of the violation.
 - (3) In addition to the forfeitures provided in subparagraphs (1) and (2) above, a court shall suspend any license issued under Title 7 of this Code to a person violating this Section pursuant to Section 125.071(1)(b)3., Wis. Stats.
- (c) **SALE OF ALCOHOL BEVERAGES TO INTOXICATED PERSONS.**
- (1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
 - (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.
- (d) **PENALTIES.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than one hundred (\$ 100.00) Dollars nor more than Five Hundred (\$ 500.00) Dollars or imprisoned for not more than sixty (60) days or both.

State Law Reference: Section 125.07. Wis. Stats.

SEC. 9-5-3 UNDERAGE PERSONS PRESENCE IN PLACES OF SALE; PENALTY.

- (a) **RESTRICTIONS.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employe. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:
- (1) An underage person who is a resident, employe, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
 - (2) An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.
 - (3) Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums, or public facilities as defined in Sec. 125.51(5)(b)1.d, Wis. Stats., which are owned by a county or municipality.
 - (4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned and operated by agricultural societies.
 - (5) Ski chalets, golf clubhouses and private tennis clubs.
 - (6) Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
 - (7) An underage person who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or market as defined in Sec. 125.32(4)(b)1, Wis. Stats., if the person does not enter or remain in a room where alcohol beverages are sold or furnished.

- (8) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, for the purpose of engaging in marching or drilling with a group of other persons if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this subdivision. An underage person may enter and remain on Class "B" or "Class B" premises under this subdivision only if the municipality which issued the Class "B" or "Class B" license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this subdivision and the law enforcement agency responsible for enforcing the ordinance issues to the Class "B" or "Class B" licensee a written authorization permitting underage persons to be present under this subdivision on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.
- (b) PENALTIES. A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than Five Hundred (\$ 500.00) Dollars.

SEC. 9-5-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.

- (a) Any underage person who does any of the following is guilty of a violation:
- (1) Procures or attempts to procure alcohol beverages.
 - (2) Knowingly possesses or consumes intoxicating liquor.
 - (3) Enters or is on licensed premises in violation of Section 9-5-3(a).
 - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverages is guilty of a violation.
- (c) Any person violating Subsections (a) or (b) is subject to the following penalties:
- (1) For a first violation, a forfeiture of not more than Fifty (\$ 50.00) Dollars, suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than One Hundred (\$ 100.00) Dollars, suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not more than One Hundred Fifty (\$ 150.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
- (d) (1) If the court orders a person to participate in a supervised work program under Subsection (d), the court shall set standards for the program within the budgetary limits established by the county board. The program may provide the person with reasonable compensation reflecting the market value of the work

- performed, or it may consist of uncompensated community service work, and shall be administered by the county department of public welfare or a community agency approved by the court.
- (2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.
 - (e) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.
 - (f) A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 48.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal jurisdiction after dismissal of the citation under Sec. 48.344(3), Wis. Stats.
 - (g) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.
 - (h) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

SEC. 9-5-5 DEFENSE OF SELLERS.

- (a) **DEFENSES.** Proof of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this section:
 - (1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she had attained the legal drinking age.
 - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchase had attained the legal drinking age.
 - (3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
- (b) **BOOK KEPT BY LICENSEES AND PERMITTEES.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purpose of this subsection. The licensee or permittee or his or her employe shall require any person who has shown documentary proof that he or she has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

State Law Reference: Section 125.07(6) and (7), Wis. Stats.

SEC. 9-5-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE;
FALSE OR ALTERED IDENTIFICATION CARDS.

- (a) (1) Any person who has attained the legal drinking age, other than one authorized by Section 125.08, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than Fifty (\$ 50.00) Dollars nor more than Five Hundred (\$ 500.00) Dollars or imprisoned not less than ten (10) days nor more than thirty (30) days or both.
- (2) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than Fifty (\$ 50.00) Dollars nor more than One Hundred (\$ 100.00) Dollars or imprisoned not less than ten (10) days or both.
- (b) Any underage person who does any of the following is subject to the penalties specified under Section 9-5-4(c) or (d):
 - (1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.
 - (2) Makes, alters or duplicates an official identification card.
 - (3) Presents false information to an issuing officer in applying for an official identification card.

State Law Reference: Section 125.09(3), Wis. Stats.

SEC. 9-5-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED.

- (a) IN THIS SUBSECTION:
 - (1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.
 - (2) "School" means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
 - (3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
 - (4) "School premises" means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c), no person may possess or consume alcohol beverages:
 - (1) On school premises;
 - (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
 - (3) While participating in a school-sponsored activity.
- (c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.
- (d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred (\$ 200.00) Dollars, except that Sec. 48.344, Wis. Stats., and Section 9-5-4(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

SEC. 9-5-8 PRESENCE OF UNDERAGE PERSONS ON PREMISES.

- (a) Underage persons who are not accompanied by a parent, legal guardian or spouse who has attained the legal drinking age may enter and remain in a room on a Class "B" or "Class B" licensed premise which is separate from any room where alcohol beverages are sold or served if:
 - (1) No alcohol beverages are furnished or consumed by any person in the room where the underage person is present, and
 - (2) The Class "B" or "Class B" licensee obtains a written authorization from the Police Department of the City of Neillsville permitting underage persons to be present on a

specified date set forth in the authorization. Prior to the issuance of any authorization, the Police Department shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. Licensees shall obtain a separate authorization for each date on which underage persons will be present on the premises.

- (b) Underage persons who are not accompanied by a parent, legal guardian or spouse who has attained the legal drinking age may enter or remain in a room on Class "B" or "Class B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away if:
 - (1) During those times, the licensee, the agent named in the license, if the licensee is a corporation or a person who has an operator's license in on the premises unless all alcohol beverages are stored in a locked portion of the premises, and
 - (2) The Class "B" or "Class B" licensee obtains a written authorization from the Police Department of the City of Neillsville permitting underage persons to be present on a specified date set forth in the authorization. Prior to the issuance of any authorization, the Police Department shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. Licensees shall obtain a separate authorization for each date on which underage persons will be present on the premises.
- (c) Authorizations issued under subsections (a) and (b) above shall be subject to the following restrictions and requirements:
 - (1) Each application must be received at least five (5) business days prior to the date requested.
 - (2) During the period of time authorized by the Police Department, persons entering that portion of the licensed premises shall be restricted to those individuals between the ages of 16 and 20, inclusive. This restriction shall not apply to parents, guardians, employees of the establishment, police officers, city officials or anyone else authorized by the licensee to enter said premises.
 - (3) No person shall be admitted to a licensed premise during the period of authorization if it is determined that that person has been drinking alcohol beverages or been using any other drugs not prescribed and taken in accordance with instructions from a licensed physician.
 - (4) People attending events authorized under subsection (a) must be provided with restroom facilities separate from those being used by individuals present on other portions of the licensed premises where alcohol beverages are being served, sold or consumed.
 - (5) There shall be at least one chaperone of each sex present during authorized time periods. Chaperones shall be at least twenty-one (21) years of age.
 - (6) The Police Department may refuse to authorize underage presence on premises under this section if the following has occurred:
 - a. The applicant has violated any of the provisions of this section.
 - b. The applicant has failed to comply with the information contained on a prior application.
 - c. Laws of the City of Neillsville or the State of Wisconsin were violated during a previously authorized date of operation.
 - d. Events have taken place on a prior authorized date or dates which make the Police Department unable to further certify that the presence of underage persons on the licensed premise will not endanger their health, welfare, or safety or that of other members of the community.

Created: Ord. 881, 5/31/88

SEC. 9-5-9 NUDITY CONTROL IN ALCOHOL LICENSED FACILITIES.

- (a) **RESTRICTIONS.** There shall be no nudity in public places in the City of Neillsville holding an alcohol license issued under Chapter 125 or its successor Chapter, by the City of Neillsville.

- (b) **DEFINITION.** Nudity means the showing or exposing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.
- (c) **CONTACT PROHIBITION.** There shall be no contact between a patron, owner, employee, licensee, customer or bystander with a paid or amateur dancer during or shortly after a dance or other performance where clothing is or has recently been removed, either by direct, physical contact or the placing of money or other thing of value in the remaining clothing or body part of said performer.
 - 1) This ordinance is not to be interpreted as restricting the proper use of a bathroom facility by a male or female in an enclosed area where the person is of the same sex designated for such room, and that is not engaged in for any sexual or exhibitionist purpose to or in front of or adjacent to other persons at the location.
 - 2) No person at the alcohol licensed premises shall engage in actual or simulated sexual intercourse or sexual contact through touching a person, animal or device.
- (d) **VIOLATION.** Each violation of this ordinance shall result in a forfeiture of not less than Two Hundred Dollars (\$200). Pursuant to procedures set forth in Wisconsin Statute 125.12, violation of this ordinance constitutes sufficient grounds for Common Council consideration of license suspension, revocation, or nonrenewal where such violation occurred in conjunction with or related to the activity for which the alcohol license was issued.

Created: Ord. 941, 4/8/97

CHAPTER 6

Public Nuisances

- § 9-6-1 Public Nuisances Prohibited
- § 9-6-2 Public Nuisances Defined
- § 9-6-3 Public Nuisances Affecting Health
- § 9-6-4 Public Nuisances Offending Morals and Decency
- § 9-6-5 Public Nuisances Affecting Peace and Safety
- § 9-6-6 Abatement of Public Nuisances
- § 9-6-7 Cost of Abatement

SEC. 9-6-1 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City.

SEC. 9-6-2 PUBLIC NUISANCES DEFINED.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) In any way render the public insecure in life or the use of property;
- (c) Greatly offend the public morals or decency;
- (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

SEC. 9-6-3 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 9-6-2:

- (a) **ADULTERATED FOOD.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (b) **UNBURIED CARCASSES.** Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
- (c) **BREEDING PLACES FOR VERMIN, ETC.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (d) **STAGNANT WATER.** All stagnant water in which mosquitoes, flies or other insects can multiply.

- (e) **PRIVY VAULTS AND GARBAGE CANS.** Privy vaults and garbage cans which are not fly-tight.
- (f) **NOXIOUS WEEDS.** All noxious weeds and other tank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed one foot.
- (g) **WATER POLLUTION.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (h) **NOXIOUS ODORS, ETC.** Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.
- (i) **STREET POLLUTION.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the City.

SEC. 9-6-4 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 9-6-2:

- (a) **DISORDERLY HOUSES.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (b) **GAMBLING DEVICES.** All gambling devices and slot machines.
- (c) **UNLICENSED SALE OF LIQUOR AND BEER.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the City.
- (d) **CONTINUOUS VIOLATION OF CITY ORDINANCES.** Any place or premises within the City where City ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (e) **ILLEGAL DRINKING.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state of Wisconsin or ordinances of the City.

SEC. 9-6-5 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 9-6-2:

- (a) **SIGNS, BILLBOARDS, ETC.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) **ILLEGAL BUILDINGS.** All buildings erected, repaired or altered in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures within the City.

- (c) **UNAUTHORIZED TRAFFIC SIGNS.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
- (d) **OBSTRUCTION OF INTERSECTIONS.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **TREE LIMBS.** All limbs of trees which project over any public sidewalk, street or other public place and present a safety hazard.
- (f) **DANGEROUS TREES.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (g) **FIREWORKS.** All use or display of fireworks except as provided by the laws of the state of Wisconsin and ordinances of the City.
- (h) **DILAPIDATED BUILDINGS.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (i) **WIRES OVER STREETS.** All wires over streets, alleys, or public grounds which are strung less than 15 feet above the surface thereof.
- (j) **NOISY ANIMALS OR FOWL.** The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.
- (k) **OBSTRUCTIONS OF STREETS: EXCAVATIONS.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.

SEC. 9-6-6 ABATEMENT OF PUBLIC NUISANCES.

- (a) **ENFORCEMENT.** The Chief of Police, the Chief of the Fire Department, the Building Inspector and Health Officer shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.
- (b) **SUMMARY ABATEMENT.** If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (c) **ABATEMENT AFTER NOTICE.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance to be removed as provided in Subsection (b).

- (d) OTHER METHODS NOT EXCLUDED. Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the state of Wisconsin.

SEC. 9-6-7 COST OF ABATEMENT.

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

CHAPTER 7

Public Nuisances Resulting From Lack of Maintenance

- § 9-7-1 Statement of Purpose
- § 9-7-2 Definitions
- § 9-7-3 Responsibility of Occupants
- § 9-7-4 Responsibility of Owners
- § 9-7-5 Enforcement

SEC. 9-7-1 STATEMENT OF PURPOSE.

- (a) It is hereby found and declared that premises exist within the City of Neillsville which are blighted because there exist thereon, blighted buildings or structures either due to faulty design or construction, or to failure to maintain them in a proper state of repair or to improper management, or due to the accumulation thereon, of junk, wood, brick, cement block, or other unsightly debris, refrigerators, furnaces, appliances, machinery, or parts thereof, structurally unsound fences, and other such items which tend to depreciate property values and to jeopardize or be detrimental to the health, safety, or welfare of the people of the City.
- (b) It is hereby further found and declared that such blighted premises, buildings or structures, contribute to the development of, or increase in, disease, infant mortality, crime and juvenile delinquency; that conditions existing on such blighted premises are dangerous to the public health, safety, morals and general welfare of the people; that conditions existing on such blighted premises necessitate excessive and disproportionate expenditure of public funds for public health, public safety, crime prevention, fire protection, and other public services; that the conditions existing on such blighted premises cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.
- (c) It is hereby further found and declared that the elimination of blighted premises and the prevention of occurrence of blighted premises in the future is in the best interests of the citizens of this City and that the accomplishment of this end will be fostered and encouraged by the enactment and enforcement of this Chapter is hereby declared to be essential to the public interest and it is intended that this Chapter be liberally construed to effectuate the purpose heretofore stated.

SEC. 9-7-2 DEFINITIONS.

The following definitions shall only apply in the interpretation and enforcement of this Chapter:

- (a) "DWELLING." Dwelling shall mean any building or structure, which is wholly or partly used or intended to be used for living or sleeping by human occupants and includes any appurtenances thereto.
- (b) "DWELLING UNIT." Dwelling unit shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating of meals.
- (c) "EXTERMINATION." Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible, materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or any other approved pest control methods.

- (d) "NUISANCE." For the purpose of this Chapter, "Nuisance" shall be defined as follows:
 - (1) Any public nuisance known in common law or in equity jurisprudence.
 - (2) Any attractive nuisance which may prove detrimental to children whether in a building or upon an unoccupied lot. This includes any abandoned wells, shafts, basements and excavations; or any abandoned refrigerators, furnaces, machinery or parts thereof, structurally unsound fences and structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
 - (3) Whatever is dangerous to human life or is detrimental to health.
 - (4) Dwelling or nondwelling structures which tend to depreciate property values and jeopardize or be detrimental to the health, safety, morals or welfare of the people of the City due to faulty design or construction, or to failure to maintain them in a proper state of repair or to improper management.
- (e) "OCCUPANT." Occupant shall mean any person living, sleeping or eating, or having actual possession of a dwelling, dwelling unit or rooming unit.
- (f) "OPERATOR." Operator shall mean any person who has charge, care or control of a building or part thereof in which dwelling or rooming units are let.
- (g) "OWNER." Owner shall mean any person who alone or jointly or severally with others shall be the legally recorded holder of the title with or without actual possession thereof, or who has charge, care or control of any dwelling or dwelling unit as agent or owner, or as executor, administrator, trustee or guardian of the estate of the owner. The term "owner" under this Chapter shall also include the legally recorded holder of a land contract vendee interest.
- (h) "PERSON." Person shall mean and include any individual, firm corporation, partnership or association.
- (i) "PREMISES." Premises shall mean any lot, plot or parcel of land either occupied or unoccupied by any dwelling or nondwelling structure.

SEC. 9-7-3 RESPONSIBILITY OF OCCUPANTS.

- (a) The responsibilities of the occupants are as follows:
 - (1) To keep the exterior of the dwelling and nondwelling structures and premises he controls and occupies in a clean and sanitary condition.
 - (2) To dispose of rubbish and garbage in a clean and sanitary manner as prescribed by this Municipal Code.
 - (3) To exterminate in the following cases:
 - a. The occupant of a single dwelling is responsible for extermination of any insects, rodents or other pests therein or on premises.
 - b. The occupant of a dwelling unit in a multiple unit structure is responsible for extermination of any insects, rodents, or other pests if his unit is the only unit infested.
- (b) Notwithstanding the foregoing provisions of this section, whenever infestation is caused by the failure of the owner to maintain the dwelling in a rat-proof or reasonably insect-proof condition, the occupant is not responsible for extermination of any insects, rodents, or other pests therein.

SEC. 9-7-4 RESPONSIBILITY OF OWNERS.

- (a) The responsibilities of the owners are as follows:
 - (1) To exterminate in the following cases:
 - a. When infestation exists in two or more units of a multiple-unit structure.

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- b. When infestation exists in shared or public areas of a multiple-unit structure.
 - c. When infestation exists in a single unit of a multiple-unit structure or in a single-unit structure when infestation is due to failure of the owner to maintain the dwelling in a rat-proof and reasonably insect-proof condition.
- (2) To perform the responsibilities of the occupant when premises are vacant.
- (3) In addition to the above, no owner shall permit any premises to exist or any dwelling or nondwelling structure or fence to exist on any premises which does not comply with the following requirements:
- a. Maintenance of Structures. Every foundation, exterior wall, roof, window, exterior door, basement hatchway, and every other entranceway of every dwelling or nondwelling structure shall be so maintained as to prevent the structure from becoming a harborage for rats and shall be kept in a reasonably good state of maintenance and repair.
 - b. Protection of Exterior Wood Surfaces. All exterior wood surfaces of all dwelling or nondwelling structures shall be properly protected from the elements and against decay by paint or other approved protective coating applied in a workmanlike manner.
 - c. Maintenance of Fences. Every fence shall be kept in a reasonably good state of maintenance and repair or shall be removed.
 - d. Pest Control. Every premises shall be so maintained as to prevent the premises from becoming a harborage for rats and insect pests. Whenever infestation with rodents or pests exists in any premises upon which no structure or nondwelling structures are located, extermination thereof shall be the responsibility of the owner.
- (b) GENERAL CLEANLINESS. The accumulation or storage of junk, wood, brick, cement block or other unsightly debris, old automobiles or parts thereof, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, such as may tend to depreciate property values in the area to create a nuisance or hazard shall not be allowed on any lot or parcel or land within the corporate limits of the City of Neillsville except as may be allowed by permit approved by the Common Council, or except when such materials are properly housed and out of view.

SEC. 9-7-5 ENFORCEMENT.

When the Building Inspector, Health Officer and/or Fire Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision which affects the safety of any such occupants or the safety of the general public, he shall give notice of such alleged violation to the person or persons responsible therefor, and to any known agent of such persons, as hereinafter provided.

Such notice shall:

- (a) Be put in writing.
- (b) Include a statement of the reasons why it is being issued.
- (c) Allow a reasonable time for the performance of any act it requires.
- (d) Be served upon the owner or his agent, or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him personally, or if a copy thereof is sent by registered mail to his last known address, or if a copy thereof is posted in a conspicuous place in or about the premises affected by the notice, or if he is served with such notice by any other method authorized or required under the laws of this state.
- (e) Such notice must contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Chapter.

CHAPTER 8

REGULATION OF SEXUALLY EXPLICIT CONDUCT AND ADULT ESTABLISHMENTS

- §9-8-1 Public Indecency Prohibited
- §9-8-2 Sexually Explicit Live Adult Entertainment
- §9-8-3 Owners and Keepers
- §9-8-4 Prostitution
- §9-8-5 Frequenter
- §9-8-6 Penalty
- §9-8-7 Adult-Oriented Establishments

SEC. 9-8-1 PUBLIC INDECENCY PROHIBITED.

- (a) Any person who, within the City of Neillsville municipal limits, knowingly or intentionally, in a public place, commits public indecency by doing one of the following:
 - (1) Engaging in specified sexual activities, including, but not limited to, public passionate kissing or petting of a sexual nature;
 - (2) Displaying specified anatomical areas; or
 - (3) Appearing in a state of nudity.
- (b) In addition to any other actions allowed by law or taken by the City Council, including the action of applicable license revocation or non-renewal, anyone who violates any of the provisions of this Section shall forfeit not less than Two Hundred Fifty Dollars (\$250.00), and not more than Two Thousand Dollars (\$2,000.00), for each offense, together with costs, and if such forfeiture and costs are not paid, such person so convicted shall be subject to such other penalties available by law.

SEC. 9-8-2 SEXUALLY EXPLICIT LIVE ADULT ENTERTAINMENT.

- (a) This Section applies only to premises offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings. Appearance in public in a state of nudity is prohibited by Section 9-6-5.
- (b) No person shall open premises to the public offering live performances by persons appearing in a state of partial nudity displaying some portions of specified anatomical areas not covered by fully opaque coverings, whether such persons have paid for such performance or not.
- (c) No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance. All performance shall only occur on a stage, or on a table that is elevated at least eighteen (18) inches above the immediate floor level and, to prevent actual physical contact between the entertainer and any other person, employee or patron, shall not be less than five (5) feet from any area occupied by any patron. Patrons shall not have any physical contact with, and shall not be less than five (5) feet from, any entertainer during the payment of a tip or gratuity.

SEC. 9-8-3 OWNERS AND KEEPERS.

No person shall keep or maintain or in any way be connected with, or contribute to the support of any prostitution house or house of ill fame or shall knowingly own, or be interested therein as proprietor or landlord thereof.

SEC. 9-8-4 PROSTITUTION.

It shall be unlawful for any person to commit or offer or agree to commit a lewd act or an act of prostitution.

SEC. 9-8-5 FREQUENTER.

Any person engaging in prostitution or found at or frequenting either of the places described in this Chapter, shall be deemed a disorderly person and shall be subject to the penalty hereinafter provided.

SEC. 9-8-6 PENALTY.

In addition to any other actions allowed by law or taken by the City Council, including the action of license revocation or non-renewal, anyone who violates any of the provisions of this Chapter shall be subject to a forfeiture as prescribed by Section 1-1-7, for each and every offense, together with the costs of prosecution. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law. Citations may be issued to the license holder or to his/her employees, operators or agents.

SEC. 9-8-7 ADULT-ORIENTED ESTABLISHMENTS.

(a) Definitions:

- (1) "Adult-oriented establishments" shall include, but not be limited to, "adult motion picture theaters", "adult mini motion picture establishments", or "adult cabarets". It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.
- (2) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock in trade, for sale, rent, lease, inspection or viewing books, films, video cassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or related to "specified anatomical areas" or "specified sexual activities", as defined below, or an establishment with a segment or section devoted to the sale, rental or display of such material.
- (3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons used for presenting material having as its dominate theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", as defined below, for observation by patrons therein.
- (4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons used for presenting material having as its dominate theme, or distinguished or characterized by an emphasis on, matters depicting, describing or related to "specified sexual activities", or specified anatomical areas", as defined below, for observation by patrons therein.

- (5) “adult bath houses” means an establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this ordinance.
- (6) “Adult massage parlors” means a establishment or business with or without sleeping accommodations which provides services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in “specified sexual activity” as defined in this ordinance.
- (7) “Adult modeling studios” means an establishment or business which provides the service of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise.
- (8) “Adult body painting studios” means an establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this ordinance, the adult body painting studio shall not be deemed to include a tattoo parlor.
- (9) “Adult novelty shop” means an establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items including movies, tapes, videos, books, etc., which are distinguished or characterized by their emphasis on, or designed for, specified sexual activity as defined herein or stimulating such activity.
- (10) “Adult cabaret” means a cabaret which features dancers, strippers, male or female impersonators, or similar entertainers, performing or presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, any actual or simulated “specified sexual activities” or “specified anatomical areas” as defined below.
- (11) “Entertainer” means a dancer, stripper, impersonator or similar performer referred to in Subsection (i) and (j).
- (12) “Adult entertainment” means any exhibition of any motion pictures, live performances, display or dance of any type, which has as its dominate theme or is distinguished or characterized by an emphasis on any actual or simulated “specified sexual activities”, or “specified anatomical areas”, as defined below.
- (13) “Specified sexual activities” means simulated or actual:
 - a. Showing of human genitals in a state of sexual stimulation or arousal;
 - b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;
 - c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (14) “Specified anatomical areas” means:
 - a. Less than completely and opaquely covered human genitals, public region, perineum, buttocks, female breasts below the point immediately above the top of the areola;
 - b. Human male genitals in a discernible turgid state, even if opaquely covered.
- (15) “Operators” means any person, association, partnership or corporation operating, conducting, maintaining, or owning any adult oriented establishment.

(b) License.

- (1) Except as provided in subsection (d) below, from and after the effective date of this ordinance, no adult-oriented establishment shall be operated or maintained in the City of Neillsville without first obtaining a license to operate, issued by the City of Neillsville.
- (2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult-oriented establishment must have a license for each.
- (3) No license or interest in a license may be transferred to any person, partnership or corporation.
- (4) All adult-oriented establishments existing at the time of the passage of this ordinance must submit an application for a license within ninety (90) days of the passage of this ordinance. If an application is not received within said ninety (90) day period, then such existing adult-oriented establishment shall cease operations.
- (5) No license shall be issued to or transferred to any person, partnership or corporation that has been licensed by the City to sell alcoholic beverages pursuant to Ch. 125, Wis. Stats.

(c) Application for License.

- (1) Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk. The application shall be filed in triplicate with and dated by the City Clerk. A copy of the application shall be distributed promptly to the City of Neillsville Police Department and the applicant.
- (2) The application for a license shall be upon a form provided by the City Clerk. An applicant for a license interested directly in the ownership or operation of the business shall furnish the following information under oath:
 - a. Name and address;
 - b. Written proof that the individual is at least eighteen (18) years of age;
 - c. The exact nature of the adult-oriented use to be conducted and the address of the adult-oriented establishment to be operated by the applicant;
 - d. If the applicant is a corporation, the applicant shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of any shareholder(s) who individually or jointly owns or controls more than forty-nine (49%) percent of the stock in said corporation and all persons responsible for the management and operation of the adult-oriented establishment;
 - e. If the applicant is a partnership or joint venture or any other type of organization where two (2) or more persons have a financial interest, the application shall specify the name of the entity, the name and address of any general partner(s) and all persons responsible for the management and operation of the adult-oriented establishment.
- (3) Within sixty (60) days of receiving an application for a license, the City Clerk shall notify the applicant whether the application is granted or denied or being held for up to an additional sixty (60) days, unless otherwise agreed to by the applicant.
- (4) Whenever an application is denied, the City Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held before the City Council, pursuant to Section (12) below.
- (5) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Clerk.

- (d) Standards for Issuance of License.
- (1) To receive a license to operate an adult-oriented establishment, an application must meet the following standards:
 - a. If the applicant is an individual:
 1. The applicant shall be at least eighteen (18) years of age;
 2. The applicant shall not have been found to have previously violated this ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under Section 111.335 of the Wisconsin Statutes within five (5) years immediately preceding the date of the application.
 - b. If the applicant is a corporation:
 1. All persons required to be named under section (3)(b)(4) shall be at least eighteen (18) years of age.
 2. No person required to be named under Section (3)(b)(4) shall have been found to have previously violated this ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under Section 111.335 of the Wisconsin Statutes within five (5) years immediately preceding the date of the application.
 - c. If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
 1. All persons required to be named under section (3)(b)(5) shall be at least eighteen (18) years of age.
 2. No person required to be named under Section (3)(b)(5) shall have been found to have previously violated this ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under Section 111.335 of the Wisconsin Statutes within five (5) years immediately preceding the date of the application.
- (e) Fees.
- (1) A license fee of One Thousand and no/100 Dollars (\$1,000.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.
- (f) Display of License.
- (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
 - (2) Any licenses of employees or agents that work in said establishment that relate to this license or establishment shall be displayed with the adult establishment license.
- (g) Renewal of License.
- (1) Every license issued pursuant to this ordinance will terminate at the expiration of one (1) year from the date of issuance or the following June, 30, whichever is earlier, unless sooner revoked, and must be renewed before operation is allowed in the following fiscal year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than ninety (90) days before the license expires. The application for renewal shall be filed in triplicate and dated by the City Clerk. A copy of the application for renewal shall be distributed promptly to the City Clerk and to the City of Neillsville Police Department. The Clerk shall require complete information and date, given under oath or affirmation, as is required for an application for a new license.
 - (2) A license renewal fee of One Thousand and no/100 Dollars (\$1,000.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of Five Hundred and no/100 Dollars (\$500.00) shall be assessed against an applicant who files for a renewal less than ninety (90) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(h) Suspension or Revocation of License.

- (1) The City Council may revoke a license for any of the following reasons:
 - a. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - b. The operator or any employee of the operator violated any provision of this ordinance or any rule or regulation adopted by the City Council pursuant to this ordinance; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of sixty (60) days if the City Council shall find that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge.
 - c. The operator becomes ineligible to obtain a license.
 - d. Any cost or fee required to be paid by this ordinance is not paid.
 - e. Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult-oriented establishment.
- (2) The City Council, before revoking or suspending any license or permit, shall give the operator at least ten (10) days' written notice of the charges against the operator, and the opportunity for a public hearing before the City Council, pursuant to section (12) below.
- (3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (4) Any operator whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation. No location of premises for which a license has been issued shall be used as an adult-oriented establishment for six (6) months from the date of revocation of the license.

(i) Physical Layout of Adult-Oriented Establishment.

- (1) Access. Each booth, room or cubicle shall be totally accessible to and from aisle and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock or other control-type devices.
- (2) Construction. Every booth, room or cubicle shall meet the following construction requirements:
 - a. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
 - b. Have a least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
 - c. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable.
 - d. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
 - e. The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
- (3) Occupants. Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge of litter while in the booth. No individuals shall damage or deface any portion of the booth.

(j) Responsibilities of the Operator.

- (1) Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or cause the omission.
- (2) Any act or omission of any employee constitutes a violation of the provisions of this ordinance shall be deemed that act or omission of the operator for purpose of determining whether the operator's license shall be revoked, suspended or renewed.

- (3) No operator or employee of an adult-oriented establishment shall allow any minor or loiter around or to frequent an adult-oriented establishment or allow any minor to view adult entertainment as defined herein.
 - (4) The operator shall maintain the premises in a clean and sanitary manner at all times.
 - (5) The operator shall maintain at least ten (10) feet candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one (1) foot candle of illumination in said aisles, as measured from the floor.
 - (6) The operator shall insure compliance of the establishment and its patrons with provisions of this ordinance.
 - (7) No operator shall suffer, allow or permit any employee or performer and no employee or performer shall intentionally touch the clothed or unclothed body of any patron or customer at the establishment premises, at any point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, commonly referred to as the hand. It shall further be unlawful for any patron or customer in or upon the establishment premises, to touch any portion of the clothed or unclothed body of an operator, employee or performer below the neck and above the knee, excluding that part of the operator's employee's or performer's arm below the wrist.
 - (8) Display of ordinance. This Ordinance shall be displayed on the exterior of every licensed premises with such ordinance to be clearly visible to patrons entering the premises from the outside and shall be posted within eight (8) feet of any exterior entryway. The ordinance shall also be placed in each room and any enclosed location or booth within an establishment licensed under this section. The City Council may, by formal motion or resolution, authorize the posting of an abbreviated form of this ordinance, so as to notify patrons, employees and operators of the regulations stated in this section. The exterior signs shall be in block letters, written in black on a white background surface, and be no less than one inch in size. The interior signs shall be of a similar type and color with a minimum height of ½ inch each. Upon application of the owner, abbreviated versions of this ordinance may be posted or other amendments to this section may be approved, consistent with the intent of this ordinance in keeping affected persons apprized of the requirements of this ordinance.
- (k) Registration of Entertainers.
- (1) Any person desiring to provide entertainment in the City of Neillsville as an entertainer at any facility governed by Chapter 8 or Section 9-8-7 of this Code, before engaging in any such entertainment shall register at the City of Neillsville Police Department and pay a fee of Twenty-five and no/100 Dollars (\$25.00). The individual shall provide full name and permanent address, date and place of birth, information concerning height, weight, hair and eye color, gender and race, two (2) forms of identification with a least one (1) form being photo identification confirming such information, fingerprints, stage name and booking agent, if any, accompanied by a fee of Twenty-five and no/100 Dollars (\$25.00). Such registration shall be valid for one (1) year from date of registration, or if employed by an establishment holding a liquor license, on June 30th following issuance.
 - (2) Upon registration, the Police Department will provide to each registered entertainer an identification card containing the individual's photograph. Upon request of any law enforcement officer, this identification card shall be made available for inspection at any time the individual is performing duties upon the premises. A duplicate original shall be displayed at the licensed premises.
 - (3) No person shall permit entertainment by an individual subject to this section without prior registration as required in paragraph (1) above.

(l) Administrative Procedure and Review.

The provisions of Chapter 227 of the Wisconsin Statutes pertaining to contested cases shall govern the administrative procedure and review regarding the granting, denial, renewal, non-renewal, revocation or suspension of a license.

(m) Exclusions.

All private schools, and public schools as defined in Chapter 115 Wisconsin Statutes, located within the City of Neillsville are exempt from obtaining a license hereunder when instructing pupils in professional nursing care or human growth and development as a part of its curriculum. All licensed medical care or professional nursing care facilities located within the City of Neillsville, and agents of the City of Neillsville and Clark County Health Department are exempt from obtaining a license hereunder when engaged in the providing of medical care or human growth and development education.

(n) Penalties and Prosecution.

- (1) In addition to all other remedies available to the City in equity and under law, any person who shall violate any provision of this ordinance or who shall fail to obtain a license or permit as required hereunder, or who shall operate after his license is revoked, shall be subject to penalty, on a per diem or per occurrence basis, as provided in the General Penalty provisions of the City Of Neillsville Ordinances. Any violation of this ordinance is deemed to be a public nuisance and the City may seek to enjoin or otherwise obtain relief and remedy or such violation in addition to any forfeiture action.

(o) Severability.

The several sections of this ordinance are declared to be severable. If any section, provision, phrase, word or any portion of this ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section, word, phrase, provision or portion thereof directly specified in the decision, and not affect the validity of all other provision, words, sections or portions thereof of the ordinance which shall remain in full force and effect.

Created: Ord. 994, 12/23/02

9-8-7(b)(5) - Created: Ord. 1021, 4/22/08

9-8-7(h)(1)e. - Amended: Ord. 1021, 4/22/08