

## CHAPTER 4

### Obscenity

- § 9-4-1 Exposing Minors to Harmful Materials
- § 9-4-2 Prohibition on Obscenity
- § 9-4-3 Minimum Attire for Entertainers; Licensing

#### SEC. 9-4-1 EXPOSING MINORS TO HARMFUL MATERIALS.

(a) **DEFINITIONS.** As used in this Section:

- (1) "Minor" means any person under the age of eighteen (18) years.
  - (2) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portions thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
  - (3) "Sexual conduct" is defined to be acts of sexual intercourse between humans, normal or perverted, actual or simulated, acts of masturbation, fellatio, cunnilingus, and acts of excretory function, lewd exhibition of the genitals especially in a stimulated condition and sexual relations between humans and animals.
  - (4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
  - (5) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
  - (6) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual contact in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
  - (7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
    - a. The character and content of any material described herein which is reasonably susceptible of examination by the defendant, and
    - b. The age of the minor, provided however that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
  - (8) "Knowledge of the minor's age" means:
    - a. Knowledge or information that the person is a minor; or
    - b. Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.
- (b) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor knowingly to sell to a minor an admission ticket or pass or knowingly to



admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.

- (c) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:
  - (1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.
  - (2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in (c)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.
- (d) It shall be unlawful for any person knowingly to admit a minor whom he or she knows or has reason to believe is not his/her child or legal ward to any premises whereon there is exhibited nudity, sexual conduct or sadomasochistic abuse which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.

State Law Reference: Section 944.25, Wis. Stats.

SEC. 9-4-2      PROHIBITION ON OBSCENITY.

- (a) **DEFINITIONS.** In this Section, the following words shall have the following definitions:
  - (1) Obscene Material means a writing, picture, sound recording or film and Obscene Performance means a live exhibition before an audience which:
    - a. The average person, applying contemporary community standards, would find appeals to prurient interests if taken as a whole;
    - b. Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
    - c. Lacks serious literary, artistic, political or scientific value as measured by objective standards if taken as a whole.
  - (2) Sexual Conduct means the commission or simulation of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.
- (b) **PROHIBITION.** Whoever does any of the following with knowledge of the character and content of the material or performance is guilty of a violation of this Municipal Code:
  - (1) Imports, prints, advertises, sells, has in his or her possession for sale, or publishes, exhibits or transfers any obscene material.
  - (2) Advertises, produces or performs in any obscene performance.
  - (3) Has in his or her possession, with intent to transfer or exhibit to a person under the age of eighteen (18) years, any obscene material.
  - (4) Transfers or exhibits any obscene materials to a person under the age of eighteen (18) years.
  - (5) Requires, as condition to the purchase of periodicals, that a retailer accept obscene material.



- (c) In determining whether material is obscene under subsection (a)(1)a and b, a judge or jury shall examine individual pictures or passages in the context of the work in which they appear.

SEC. 9-4-3      MINIMUM ATTIRE FOR ENTERTAINERS; LICENSING

- (a) **PRESCRIBING MINIMUM ATTIRE FOR ENTERTAINERS, EMPLOYEES AND PERFORMANCES.**
- (1) No female shall be employed or allowed in any premises, place or establishments in the Village as entertainers, employees or in any other capacity, unless they are attired in suitable and adequate clothing. The minimum attire allowed must meet the following requirements:
    - a. Sufficiently large in diameter to fully cover the nipple and an area one inch beyond the areola. The lower portion of such costume, uniform or attire must be of non-transparent material and must completely cover the mons pubic genitals and buttocks at all times. No female shall entertain, perform or be employed or allowed in any capacity anywhere within the Village with only "pasties" or similar devices or with only a "G" string or similar device attached to the body.
  - (2) The costume, uniform or attire of any male shall be of non-transparent material and must completely cover the pubic area, genitals and buttocks at all times.
  - (3) Either and/or both owners of the premises or establishment employees, lessees, managers, licensees, agents or persons in charge or responsible as well as the person, entertainer, or employee shall be subject to the penalties for violation of this ordinance.
  - (4) No person shall allow male or female dancers to entertain or perform in any premises, place or establishment in the Village unless the performance is confined to an adequate stage, which stage shall be raised above the regular floor or ground level of the premises, place or establishment and unless adequate dressing room facilities are provided and no dancer shall be allowed to dance with customers, members of an audience, or with the general public.
- (b) **LICENSING.** The owner of any establishment which has live performers at any time must first obtain a license from the Village Board. Application shall be in writing and be accompanied by a license fee of \$250.00, which license shall be renewed each and every July 1 at the same fee. The application shall state how the owner intends to comply with all State laws and Village and County ordinances which may affect the legality of his proposed performances. "Live performers" do not include musicians or bands that only play instruments or sing. "Live performers" mean dancers, strippers or other performers who dance, strip or partake in lewd and lascivious behavior as part of their performance.
- (c) **MINIMUM STANDARDS.** Any premises at which live performers perform shall be required to have an individual at the doors of the premises to check patrons' identification to ensure they are of legal age to enter. Windows and any glass openings in view of the entertainment must be fully covered so outside the premises is able to see the performance.



## 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 Sales; 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
§ 9-5-8	Adult Permitting or Encouraging Underage Violation
§ 9-5-9	Solicitation of Drinks Prohibited

#### SEC. 9-5-1      OUTSIDE CONSUMPTION.

##### (a) ALCOHOLIC BEVERAGES IN PUBLIC AREAS.

- (1) Regulations. 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, drives or parking areas for business held out to the public, or other public area within the Village or on private property without the owner's consent. Village owned parks or recreation areas are exempt from this prohibition, except that glass containers are prohibited.
- (2) Exceptions.
  - a. The provisions of this Section may be waived by the Village Board for duly authorized events.
  - b. Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of Ordinances.

##### (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 Village 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



## Offenses Involving Alcoholic Beverages

- 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 license 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
- (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 125.07(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 employee. 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, employee, 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 or operated by agricultural societies.



## Offenses Involving Alcoholic Beverages

- (5) Ski chalets, golf clubhouses and private tennis clubs.
  - (6) Premises operated under 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 in 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.



## Offenses Involving Alcoholic Beverages

- 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



## Offenses Involving Alcoholic Beverages

subsection. The licensee or permittee or his or her employee 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 more 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.



## Offenses Involving Alcoholic Beverages

- (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 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.

- (a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (b) No adult may intentionally encourage or contribute to a violation of Section 9-5-4(a) or (b).
- (c) A person who violates this Section is subject to a forfeiture of not more than Two Hundred (\$200.00) Dollars.

State Law Reference: Section 125.07(1)(a)3 and 4, Wis. Stats.

### SEC. 9-5-9 SOLICITATION OF DRINKS PROHIBITED.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the Village who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Section 125.02(1) of the Wisconsin Statutes, or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this Section.



## CHAPTER 6

### Offenses by Juveniles

- § 9-6-1 Curfew
- § 9-6-2 Possession of Controlled Substances by Juveniles
- § 9-6-3 Petty Theft by Juveniles
- § 9-6-4 Receiving Stolen Goods
- § 9-6-5 Village Jurisdiction Over Persons 16 and 17 Years of Age
- § 9-6-6 Enforcement and Penalties

#### SEC. 9-6-1 CURFEW.

- (a) It shall be unlawful for any person under sixteen (16) 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 Village of Bear Creek between the hours of 10:00 p.m. and 5:00 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 therefor.
- (b) EXCEPTIONS.
  - (1) This section shall not apply to a child:
    - a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.
    - b. Who is on his own premises or in the areas immediately adjacent thereto.
    - c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
    - d. 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 sixteen (16) years of age 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 thirty (30) days of the present offense shall be prima facie 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 sixteen (16) years of age 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 sixteen (16) year of age 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 sixteen (16) years of age loitering, loafing, or idling in such place of business, he



## Offenses by Juveniles

- shall immediately order such person to leave and if such person refuses to leave said place of business, the operator shall immediately, notify the Village Marshal Department and inform him of the violation.
- (e) Every law enforcement officer is hereby authorized to detain any minor violating the provisions of 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 Village Marshal 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) 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 Village, 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 or custody shall result in a penalty being imposed as hereinafter provided.
  - (g)
    - (1) Any parent, guardian or person having legal custody of a child described in Subsection (a) through (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. 1-1-6 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this ordinance because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats.
    - (2) Any minor person under sixteen (16) years of age, who shall violate this Section shall upon conviction thereof, forfeit not less than One (\$1.00) Dollar, nor more than Twenty-five (\$25.00) Dollars, together with the cost of prosecution.

### SEC. 9-6-2      POSSESSION OF CONTROLLED SUBSTANCES BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18) to possess a controlled substance contrary to the Uniformed Controlled Substances Act, Chapter 161 of the Wisconsin Statutes.

### SEC. 9-6-3      PETTY THEFT BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18) with intent to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

### SEC. 9-6-4      RECEIVING STOLEN GOODS.

It shall be unlawful for a person under the age of eighteen (18) to intentionally receive or conceal property he knows to be stolen.



SEC. 9-6-5      VILLAGE JURISDICTION OVER PERSONS 16 AND 17 YEARS OF AGE.

- (a) ADOPTION OF STATE STATUTE. Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) PROVISIONS OF VILLAGE ORDINANCES APPLICABLE TO PERSON 16 and 17 YEARS OF AGE. Subject to the provisions and limitations of Section 48.17(2) Wis. Stats., complaints alleging a violation of any provision of these ordinances against persons 16 and 17 years of age may be brought on behalf of the Village of Bear Creek and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- (c) NO INCARCERATION AS PENALTY. The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this ordinance.
- (d) ADDITIONAL PROHIBITED ACTS. In addition to any other provision of the Village of Bear Creek ordinances, no person age 16 or 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away, or otherwise control any intoxicating liquor or fermented beverage in violation of Chapter 125, Wis. Stats.
- (e) PENALTY FOR VIOLATIONS OF SUBSECTION (d). Any person 16 or 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-6 of these ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Cross Reference: Section 9-5-7.

SEC. 9-6-6      ENFORCEMENT AND PENALTIES.

- (a) CITATION PROCESS. For violations of Sections 9-6-2 through 9-6-5 juveniles may be cited by the citation process on a form approved by the Village Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juveniles. A carbon copy will be mailed to the parent or legal guardian.
- (b) PENALTIES. Violations of Section 9-6-2 through 9-6-5 by a person under the age of eighteen (18) shall be punishable according to Sections 48.17(2), 48.343, 48.344 and 48.345 of the Wisconsin Statutes. Nothing in this Section shall prevent the Village Marshal, in his discretion, from referring cases directly to the District Attorney's office.



## CHAPTER 7

### Public Nuisances

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

#### SEC. 9-7-1 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Bear Creek.

#### SEC. 9-7-2 PUBLIC NUISANCE 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 in 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. 9-7-3 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 9-7-2:

- (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) GARBAGE CANS. Garbage cans which are not fly-tight.
- (f) NOXIOUS WEEDS. All noxious weed and other tank-growth of vegetation.



- (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 Village or within four (4) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench 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 Village.
- (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 Village.
- (j) **ANIMALS AT LARGE.** All animals running at large.
- (k) **ACCUMULATIONS OF REFUSE.** Accumulations of old cans, lumber, elm firewood and other refuse.
- (l) **AIR POLLUTION.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

SEC. 9-7-4      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 9-7-2.

- (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 Village.
- (d) **CONTINUOUS VIOLATION OF VILLAGE ORDINANCES.** Any place or premises within the Village where Village 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 Village.

SEC. 9-7-5      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 9-7-2:



- (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 Village relating to materials and manner of construction of buildings and structures within the Village.
- (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 a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.
- (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 Village.
- (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 fifteen (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 Village.
- (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 Village 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.
- (l) **OPEN EXCAVATIONS.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- (m) **ABANDONED REFRIGERATORS.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (n) **FLAMMABLE LIQUIDS.** Repeated or continuous violations of the ordinances of the Village or laws of the State relating to the storage of flammable liquids.
- (o) **UNREMOVED SNOW.** All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

SEC. 9-7-6      ABATEMENT OF PUBLIC NUISANCES.

- (a) **ENFORCEMENT.** The Village Marshal, the Chief of the Fire Department, and the Building Inspector 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 Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President 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.
  - (1) 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).
  - (2) 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 file a written report of his findings with the Village President who shall cause an action to abate such nuisance to be commenced in the name of the Village in Circuit Court in accordance with the provisions of Chapter 280 of the Wisconsin Statutes.
  - (3) In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village 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 real estate as a special charge.
- (d) OTHER METHODS NOT EXCLUDED. Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the state of Wisconsin.

SEC. 9-7-7      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 Village 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.