

# TITLE 11

## **Offenses and Nuisances**

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# Chapter 1

## State Statutes Adopted

- 11-1-1 Offenses Against State Laws Subject to Forfeiture
- 11-1-2 Penalties. Attempt; Parties to Acts

### Sec. 11-1-1 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 City of Prescott 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. The statutory sections listed shall be designated as part of this Code by adding the prefix "11-1" to each statute section number. Any future amendments revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

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946.42(2) Escape  
946.46 Encouraging Violation of Probation or Parole  
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951.07	Use of Certain Devices Prohibited
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## **Sec. 11-1-2 Penalties; Attempt; Parties to Acts.**

- (a) **Penalty.** In addition to the general penalty provisions of this Code in Section 1-1-7 or any other penalty imposed for violation of any Section of this Title, 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 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police

Department from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

(b) **Attempt.**

- (1) Whoever attempts to commit an act prohibited by Title I 1 of the Code of Ordinance of the City of Prescott may be required to forfeit amounts not to exceed one-half (1/2) the maximum penalty for the completed act.
- (2) An attempt to commit an act prohibited by the ordinances in Title I 1 requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.

(c) **Parties to Acts Prohibited in Title 11.**

- (1) Whoever is concerned in the commission of an act prohibited by Title 11 of this Code of Ordinances, is a principle and may be charged with and convicted of the commission of said act although he did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
- (2) A person is concerned in the commission of an act prohibited by these ordinances if he:
  - a. Directly committed the act; or
  - b. Intentionally aids and abets the commission of it; or
  - c. Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his mind and no longer desires that the act be committed and notifies the other parties concerned of his withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

## Chapter 2

# Offenses Against Public Safety and Peace

11-2-1	Regulation of Firearms, Explosives, and Other Missiles
11-2-2	Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited
11-2-3	Safe Use and Transportation of Firearms and Bows
11-2-4	Sale and Discharge of Fireworks Restricted
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11-2-10	Failure to Obey Lawful Order; Resisting an Officer
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11-2-15	Improper Use of 911 System

### Sec. 11-2-1 Regulation of Firearms, Explosives, and Other Missiles.

- (a) **Firearms, Bows and Crossbows.** No person, except a law enforcement officer in the performance of an official duty, shall discharge any firearm, pneumatic gun, bow or crossbow within the City. Such weapons may only be transported if they are unloaded and either disassembled or in a closed case, This shall not apply to the children's toys equipped with rubber-tipped arrows or target shooting of bows or crossbows inside privately owned buildings with the owner's consent. Target practicing with bows is allowed as permitted by Subsection (d) below.
- (b) **Hunting Prohibited.** Hunting within the City is prohibited, but the Chief of Police may issue written permits to owners or occupants of private premises to hunt or shoot on such premises if he finds such privileges necessary for the protection of life or property, and subject to such safeguards as he may impose for the safety of the lives and property of other persons within the City of Prescott.
- (c) **Shooting Into City Limits.** 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

- (d) **Backyard Archery.** Target shooting of bows and arrows shall be permitted at city approved archery ranges only. Archery practice shooting on private property is permitted if the following requirements are complied with:
  - (1) Archers under the age of eighteen (18) years old must be certified by a Hunter's Safety Course or other recognized safety-training program to qualify for a permit and supervised by an adult permit holder when shooting.
  - (2) All shooting will be directed towards an approved structure on the permit holder's property, and not shoot towards adjacent property unless there is a minimum of two hundred fifty (250) yards down-range, without structures.
  - (3) Contiguous property dwellers will be contacted and advised of the applicant's intention to obtain a permit for archery practice on your property.
- (e) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Common Council, upon the recommendation of the Chief of Police, where proper safety precautions are taken.
- (f) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Common Council.
- (g) **Throwing or Shooting of Stones, or Other Missiles Prohibited.**
  - (1) No person shall throw or shoot any object, 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.
  - (2) This Subsection shall not apply:
    - a. To the shooting or discharging of toy arrows or arrows, which have a tip made of rubber or similar material.
    - b. To a supervised archery range approved by the Common Council.
    - c. Within the interior of a single family dwelling.
- (h) **Definitions.** For purposes of this Section, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.

## **Sec. 11-2-2 Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited.**

- (a) **Concealed Weapons Prohibited.**
  - (1) **Prohibition.** No person shall, within the City, wear or in any manner carry under his clothes or conceal upon or about his person any deadly or dangerous weapon, provided this Subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.
  - (2) **Dangerous Weapon Defined.** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the

manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

- (b) **Concealed Weapons in Public Establishments.** No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display, or sales establishment, unless such dangerous weapon is so stored and concealed (other than on the person) so as not to be readily accessible to any person or patron. This Subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This Subsection 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.
- (c) **Specific Concealed Weapons Prohibited.** No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of their duties, shall carry or wear concealed about his person any pistol, revolver, firearm, sling shot, cross-knuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the City.
- (d) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**
  - (1) No person shall sell, manufacture, purchase, possess or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a "numchuk" (also called a "nunchaku") or any similar weapon, a "cestus" or similar material weighted with metal or other substance and worn on the hand, a "churkin" (also called a "suriken") or any similar object intended to injure a person when thrown, a "sucbai" or similar weapon, a "manrilcigusari" or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the City of Prescott.
  - (2) For the purpose of this Section, the following definitions shall apply:
    - a. **"Numchuk" or "Nunchaku."** An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
    - b. **"Churkin."** A round throwing knife consisting of several sharp points protruding from a rounded disc.
    - c. **"Sucbal."** A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.
  - (3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.
- (e) **Reckless Use of Weapons.**
  - (1) **Acts Prohibited.**
    - a. No person shall endanger another's safety by reckless conduct in the operation or handling of a firearm, air gun, knife or bow and arrow.
    - b. No person shall operate or go armed with a firearm, air gun, knife or bow and arrow while he is under the influence of an intoxicant.

- c. No person shall intentionally point a firearm, air gun, knife or bow and arrow at or toward another person.
- (2) **Reckless Conduct Defined.** "Reckless conduct" consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to take chances of perpetrating an injury.

## Sec. 11-2-3      **Safe Use and Transportation of Firearms and Bows.**

- (a) **Definitions.** In this Section:
  - (1) **Aircraft** has the meaning given under Sec. 114.002(3), Wis. Stats.
  - (2) **Encased** means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.
  - (3) **Firearm** means a weapon that acts by force of gunpowder.
  - (4) **Highway** has the meaning given Under Sec. 340.01(22), Wis. Stats.
  - (5) **Motorboat** has the meaning given under Sec. 30.50(6), Wis. Stats.
  - (6) **Roadway** has the meaning given under Sec. 340.01(54.), Wis. Stats.
  - (7) **Unloaded** means any of the following:
    - a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
    - b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
    - c. In the case of a flintlock muzzle-loading firearm, having the flash pan cleaned of powder.
  - (8) **Vehicle** has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.
- (b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**
  - (1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
  - (4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.
  - (5) A person who violates Subsections (1) through (4) above is subject to a forfeiture pursuant to Section 1-1-7.
- (c) **Exceptions.**
  - (1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle,

motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:

- a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
  - b. A member of the U.S. armed forces.
  - c. A member of the National Guard.
- (2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
- (3) Subsections (b)(2) and (3) do not apply to the holder of a permit under Sec. 29.09, Wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.

## **Sec. 11-2-4 Sale and Discharge of Fireworks Restricted.**

No person shall sell, expose or offer for sale, use, keep, possess, 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 provided in Title 7, Chapter 6, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

## **Sec. 11-2-5 Obstructing Streets and Sidewalks Prohibited.**

- (a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City of Prescott in such a manner as to:
- (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
  - (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
  - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.
- (b) **Obstructing Sidewalk Prohibited.** No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.
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- (c) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public

ground which is offensive to the public morals or decency of the citizens of the City of Prescott.

- (3) **Obstruct.** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
  - (4) **Sidewalk.** Any sidewalk owned or maintained by the City. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.
- (d) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

## **Sec. 11-2-6 Loitering Prohibited.**

(a) **Public Property Loitering Prohibited.**

- (1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any police officer.
- (2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.
- (4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this Subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

(b) **Private Property Loitering Prohibited.**

- (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorways stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or at any time other than usual business hours. Under this Subsection, business place shall include public building at such times that the same shall be closed for the usual and normal business conduct thereat.
- (2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.

- (4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.
- (c) **Loitering or Prowling 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 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.
- (d) **Loitering by Underage Persons Where Alcohol Beverage Is Dispensed.**
- (1) ***Underage Persons and Intoxicants.*** No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (2) ***Permitting Loitering Prohibited.*** No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) ***Loiter.*** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
- (2) ***Nuisance.*** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Prescott.
- (f) **Soliciting.** No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operator by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or produce another to commit an act of prostitution. No arrest shall be made for a violation of this Subsection unless the sworn police officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this Subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this Subsection:

- (1) **Public Place** is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.
- (2) **Known Prostitute or Panderer** means a person who, within five (5) years previous to the date of arrest for violation of this Section, had, within the knowledge of the sworn police officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

## **Sec. 11-2-7 Loud and Unnecessary Noise Prohibited.**

**(Ordinance updated 5/3/07)**

- (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. It shall be unlawful for any person knowingly or wantonly to use or operate, or to cause to be used or operated any mechanical device, machine, apparatus or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.
- (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 (1) 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 causes 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 muffle 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 Chief of Police 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. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof.
  - (9) ***Exceptions.*** 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, or 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 nature.
- (e) **Permits for Amplifying Devices.**
- (1) ***Permit Required.*** The use of loudspeakers or amplifying devices on the streets or in the parks of the City of Prescott is prohibited unless the party desiring to use such loudspeaker or amplifying device first ~~obtains a permit from the Chief of Police.~~ applies for a permit from the Chief of Police and receives final approval by the Common Council.
  - (2) ***Grounds or Reasons for Denial or Allowance.*** The Chief of Police *or his designee* shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.

- (3) **Time Restrictions.** ~~The Chief of Police shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 10:00 p.m. No permit shall be granted to anyone who, in the opinion of the Chief of Police, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance. The Chief of Police~~ Common Council shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 10:00 p.m. on weekdays in commercial or residential districts. ~~The Chief of Police~~ Common Council shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after midnight on weekends (Friday, Saturday, Sunday) or holidays in a residential district. ~~The Chief of Police~~ Common Council shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 1:00 a.m. on weekends (Friday, Saturday, Sunday) or holidays in a commercial district.<sup>1</sup>
- (4) **Freedom Park.** Exception to the amplified devices time restriction set forth herein may be granted by the Common Council to events held in Freedom Park. These exceptions shall be in compliance with amplified devices time restrictions set forth in the Freedom Park rental agreement.

(f) **Prohibiting the Use of Compression (Jake) Brakes**

- (a) Compression brakes are prohibited. It shall be unlawful for any vehicle equipped with compression brakes (jake brakes) to downshift and release the clutch to utilize the vehicle's engine to slow in order to meet proper speed restrictions within the City, except in case of extreme emergency.
- (b) Any person violating the provisions of this ordinance shall have committed a traffic offense and a penalty shall be imposed.
- (c) The Director of Public Works is authorized and directed to post appropriate signs consistent with the provision of this ordinance

## **Sec. 11-2-8            Disorderly Conduct.**

- (a) **Disorderly Conduct Prohibited.** No person within the City of Prescott shall:
- (1) In any public or private place engage in violent, noisy, riotous, 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;
  - (3) With intent to annoy another, make a telephone call, whether or not conversation ensues;
  - (4) Indecently expose his or her person;
  - (5) Be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.

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<sup>1</sup> Adopted 5/27/04

- (b) **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, rooms without restroom facilities, stair-ways or elevators of public or commercial buildings, or to indecently expose his person.

## **Sec. 11-2-9                      Unauthorized Presence on School Property.**

(a) **Unauthorized Presence.**

- (1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him from attending any school located within the City or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.
- (2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection (a)(1), shall be guilty of trespass.
- (3) "Authorized person" shall include:
  - a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;
  - b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;
  - c. Any person utilizing a designated area for attending an athletic or other organized school event.

(b) **Disorderly Conduct on Public School Property.**

- (1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
- (2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.
- (3) All entrances to the school buildings referred to in Subsection (a) shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."
- (4) "Unauthorized presence" shall include any vehicle that is found on school property, which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle

may be issued a City summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away, which, because of its location, creates a hazard to life or property.

- (c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the City of Prescott or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.
- (d) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.
  - (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Prescott.

## **Sec. 11-2-10 Failure to Obey Lawful Order; Resisting an Officer.**

- (a) **Lawful Orders.** It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.
- (b) **Resisting or Interfering with Officer Prohibited.** It shall be unlawful for any person to resist or in any way interfere with any police officer or member of the Police Department or any person called to assist such officer, or to threaten, resist or interfere with such officer or person or to advise or encourage any other person to resist or interfere with such officer or person in the discharge of his duty, or to in any way interfere with or hinder or prevent him from discharging his duty as such officer or assistant, or to offer or endeavor to do so, or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody or to fail to obey the order or direction of such officer while such officer is acting in his official capacity in carrying out his duties.

## **Sec. 11-2-11 Possession of Marijuana.**

- (a) No person shall possess twenty-five (25) grams or less of marijuana, as defined in Section 961.01(14), Wis. Stats., unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Chapter 961, Wis. Stats.
- (b) For purposes of this Section, "practitioner" means:
  - (1) 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 the State of Wisconsin.
  - (2) 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 the State of Wisconsin.
- (c) This Section does not apply to any person who is charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana, in the State of Wisconsin.

*State Law Reference;* Section 66.051(4), Wis. Stats.

## **Sec. 11-2-12 Crossing a Police Line.**

No individual shall cross a police or fire line that has been so designated by banner, signs or other similar identification.

## **Sec. 11-2-13 Harassment.**

- (a) **Harassment.** No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation:
  - (1) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.
  - (2) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.
- (b) **Harassing or Obscene Telephone Calls.** Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code of Ordinances:
  - (1) Makes any comment, request, suggestion or proposal, which is obscene, lewd, lascivious 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.

### **Sec. 11-2-14 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. 11-2-15 Improper Use of 911 System.**

No person shall make fraudulent or otherwise improper calls to the 911 emergency telephone system.

## Chapter 3

# Offenses Against Property

11-3-1	Destruction or Theft of Property Prohibited
11-3-2	Littering Prohibited
11-3-3	Abandoned Refrigerators Prohibited
11-3-4	Theft of Library Material
11-3-5	Cemetery Regulations
11-3-6	Damage to Public Property
11-3-7	Retail Theft
11-3-8	Issuance of Worthless Checks
11-3-9	Trespass to a Dwelling or Land
11-3-10	Regulation of Smoking
11-3-11	Theft
11-3-12	Trespassing on Railroad Ordinance

### Sec. 11-3-1 Destruction or Theft of Property Prohibited.

- (a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the City of Prescott, Prescott School District, or to any private person without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice, or other writing upon any utility ornamental light pole belonging to the City without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this Section.
- (b) **Parental Liability.** 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 Two Thousand Five Hundred Dollars (\$2,500.00).
- (c) **Theft of Property.** No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without that other person's consent and with intent to deprive the owner permanently of possession of such property.

## Sec. 11-3-2 Littering Prohibited.

- (a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, unauthorized garbage, filth or other litter upon the streets, alleys, highways, public parks or other property of the City of Prescott, or upon property within the City owned by the School District or any private person, or upon the surface of any body of water within the City.
- (b) **Litter from conduct of Commercial Enterprise.**
- (1) **Scope.** The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way,
  - (2) **Litter to be cleaned up.** Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
  - (3) **Litter picked up at loiterer's expense.** If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the City shall arrange to have the same picked up by City crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the City Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.
- (c) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, grass, leaves, foliage, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Common Council or Director of Public Works pursuant to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.
- (d) **Handbills.**
- (1) **Scattering Prohibited.** It shall be unlawful to deliver any handbills or advertising material to any premises in the City except by being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.
  - (2) **Papers In Public Places Prohibited.** It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

### **Sec. 11-3-3            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. 11-3-4            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.** Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the City of Prescott and school libraries.
  - (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 documents, written or printed materials, regardless of physical form of 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. The failure to return library material after its proper return date, after Written notice from the library and City Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last-known address of the person with the overdue material; the notice date shall be the date of mailing.
- (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 another is evidence of intentional concealment on the part of the person so concealing the material.
- (d) **Detention Based on Probable Cause.** An official or other 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 law enforcement 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 law enforcement officer who may conduct a lawful interrogation of the accused person. Compliance with this Section entitles 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 book, periodical, pamphlet, picture or other article or property belonging to or in charge of the library. Any person convicted of violating this Subsection shall be subject to the penalties as set forth in Section 1-1-7.
- (f) **Return Demanded.** No person shall fail, on demand, to return any book periodical, pamphlet, picture or other articles or property belonging to or in charge of the Prescott Public Library according to the rules or regulations duly made and adopted by the Library Board and no person shall remove from the library any book, periodical, pamphlet, picture or other articles or property without first having it charged as provided by such rules and regulations. Any person convicted of violating any provision of this Subsection shall be subject to the penalties as set forth in Section 1-1-7.

*State Law Reference:* Section 943.61, Wis. Stats.

## **Sec. 11-3-5 Cemetery Regulations.**

- (a) **Purpose and Definition.** In order to protect cemetery areas within the City from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this Section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the City of Prescott.
- (b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.
- (c) **Specific Regulations.**
  - (1) **Disturbing Cemetery Property.** No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.

- (2) ***Protection of Cemetery Property.*** No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic within any cemetery in any manner except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery. No picnic, parties, or similar gatherings are permitted.
- (3) ***Motor Vehicles.*** Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any offroadway operation of a motorized vehicle on cemetery property without the owner's consent.
- (4) ***Speed Limit.*** No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.
- (5) ***Parking.*** No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.
- (6) ***Littering Prohibited.*** No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.
- (7) ***Pets.*** Pets, including animals of any species, and horses are prohibited in any cemetery.
- (8) ***Sound Devices.*** No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.
- (9) ***Authorized Notices.*** No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.
- (10) ***Loitering Prohibited.*** No person shall loiter or cause a nuisance on any cemetery property without the owner's consent.
- (11) ***Alcoholic Beverages Prohibited.*** No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the City unless the property is specifically named as being part of a licensed premise.
- (12) ***Play Vehicles Prohibited.*** No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.

- (13) ***Presence After Hours Prohibited.*** No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

## **Sec. 11-3-6            Damage to Public Property.**

- (a) **Damaging Public Property.** No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the City of Prescott.
- (b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or windows of any building owned or occupied by the City.
- (c) **Damaging Fire Hydrants and Water Mains.** No person shall, without the authority of City authorities, operate any valve connected with the street or water supply mains, or open any fire hydrant connected with the water distribution system, except for the purpose of extinguishing a fire. No person shall injure or impair the use of any water main or fire hydrant.

## **Sec. 1 1-3-7            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) If the value of the merchandise does not exceed One Hundred Dollars (\$100.00), any person violating this Section shall forfeit not more than Two Hundred Dollars (\$200.00). If the value of the merchandise exceeds One Hundred Dollars (\$100.00), this Section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.

*State Law Reference:* Section 943.50, Wis. Stats.

## **Sec. 11-3-8 Issuance of Worthless Checks.**

- (a) Whoever issues any check or other order for the payment of money less than Five Hundred Dollars (\$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, the 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.

## **Sec. 11-3-9 Trespass to a Dwelling or Land.**

- (a) **Trespass to Land.** No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.
- (b) **Trespass to Dwelling.** No person shall intentionally enter the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace.

## **Sec. 11-3-10 Regulation of Smoking.**

- (a) **State Statute Adopted.** The provisions of Chapter 101,123, Wis. Stats., relating to the Regulation of Smoking and Clean Indoor Air, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Section as is fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Section, Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Section.
- (b) **Smoking Prohibited Within or Upon All Buildings and Equipment Owned, Leased or Rented by the City.** In recognition of a need to protect the health and comfort of the public and City employees from the detrimental effects of smoking, pursuant to the authority granted to the City by Sec. 101.123(2)(c), Wis. Stats., smoking as defined by Section 101.123(1)(h), Wis. Stats., is hereby prohibited by any person within or upon all buildings and enclosed equipment owned, leased or rented by the City of Prescott, except in designated areas this prohibition shall apply to the general public as well as City employees.

## **Sec. 11-3-11 Theft.**

No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of such property.

## **Sec. 11-3-12 Trespassing on Railroad Ordinance,**

Adoption of Wisconsin Stats. 192.32 (Trespassing on Railroad) Adoption of Wisconsin Stats.192.55 (6) (Special Penalties for this chapter)

- (1) No person, other than a licensee or authorized newspaper reporters or those connected with or employed upon the railroad, shall walk, loiter, or be upon or along the track of any railroad. The provisions of this subsection shall not be construed to interfere with the lawful use of a public road or highway by any person, or to prevent any person from driving across any railroad from one part of his land to another part thereof, or from walking directly across the tracks or right of way of any railroad; or with the use of the right of way or track by any person when occasioned by or in connection with, either directly or indirectly, the shipping, loading or unloading of freight, seeking employment, the investigation or securing of evidence with respect to any accident or wreck, or in conducting or transacting any other business for or with said railroad; or with the entry of any employee during or on account of labor disputes by employees.
- (2) Each railroad corporation shall post notices containing substantially the provisions and penalties of this section, in one or more conspicuous places in or about each railroad station.
- (3) Any person violating s. 192.32 shall be punished by a fine of not less than \$1 nor more than \$50, or by imprisonment not exceeding 30 days or by both such fine and imprisonment.

## Chapter 4

# Offenses Involving Alcoholic Beverages

11-4-1	Outside Consumption
11-4-2	Sale to Underage or Intoxicated Persons Restricted
11-4-3	Underage Persons' Presence in Places of Sale; Penalty
11-4-4	Underage Persons; Prohibitions; Penalties
11-4-5	Defense of Sellers
21-4-6	Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards
11-4-7	Possession of Alcohol Beverages on School Grounds
11-4-8	Adult Permitting or Encouraging Underage Violation
11-4-9	Solicitation of Drinks Prohibited

### Sec. 11-4-1 Outside Consumption.<sup>2</sup>

(a) **Alcoholic Beverages in Public Areas.**

(1) **Regulations.**

- a. No person shall be allowed to consume, carry, transport or have in his possession any intoxicating liquor or fermented malt beverage on public sidewalks, streets, or any public riverfront property which borders the St. Croix River and the Mississippi River, which includes but not limited to the Courtesy Dock, Prescott Beach, Mercord Mill Park, Riverwalk Way and the Public Boat Launch in the City unless such intoxicating liquor or fermented malt beverage is in an unopened, sealed container.
- b. Permits may be issued for special events by making application at the Office of the City Clerk-Treasurer. Under no circumstance will any sale of alcoholic beverages be allowed unless approved by the city council.

(2) **Private Property Held Out For Public Use.** It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premise.

(3) **Leaving Licensed Premises With Open Container.**

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<sup>2</sup> Adopted 7/22/05

- a. It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.
  - b. It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage. This includes re-corked wine bottles as per the Wisconsin Statutes 125.51 ~~(3m)~~(b) (3r) A "Class B" license or "Class C" license authorizes the retail sale of wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold if all of the following apply:
    1. The licensed premises is a restaurant also operated under a "Class B" or "Class C" license and the purchaser of the wine orders food to be consumed on the licensed premises.
    2. The licensee provides a dated receipt that identifies the purchase of food and the bottle of wine.
    3. Prior to the opened, partially consumed bottle of wine being taken off the licenses premises, the licensee securely reinserts the cork into the bottle to the point where the top of the cork is even with the top of the bottle. The wine must be recorked by the restaurant before midnight.
    4. If the patron intends to transport the container in a vehicle then they would need to place the bottle in their trunk or storage compartment of their vehicle to be taken home.
- (4) Exceptions. The provisions of this section may be waived by the City Council for:
- a. A non-profit event of limited duration.
  - b. The operation of premises with respect to which an existing valid sidewalk café permit has been issued under 6-2-6A.
  - ~~b.~~ c. Any organization which has been issued a Temporary Fermented Malt Beverage and/or Temporary Wine License for a designated area pursuant to this Code of Ordinances, provided that the provisions of this Chapter and Title 7, Chapter 2, are fully complied with.
- (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 or determinated grains or sugar, which contain one-half (1/2) of one percent (1%) 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.

- (3) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

*Cross Reference:* Section 7-2-16.

## **Sec. 11-4-2 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.
- (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.
- (3) 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 adult or under the adult's control, This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.

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

- (1) Not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within twelve (12) months of the violation; or
- (2) Not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within twelve (12) months of the violation.
- (3) In addition to the forfeitures provided in Subsections (1) and (2) above, a court shall suspend any license issued under this Chapter to a person violating this Subsection for:
  - a. Not more than three (3) days, if the court finds that the person committed a violation within twelve (12) months after committing one (1) previous violation;
  - b. Not less than three (3) days nor more than ten (10) days, if the court finds that the person committed a violation within twelve (12) months after committing two (2) other violations; or
  - c. Not less than fifteen (15) days nor more than thirty (30) days, if the court finds that the person committed the violation within twelve (12) months after committing three (3) other violations.

- (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 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned for not more than sixty (60) days or both.

*State Law Reference:* Sec. 125.07, Wis. Stats,

### **Sec. 11-4-3 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" or "Class A" premises for the purpose of purchasing items 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, service stations, vessels, cars operated by any railroad, regularly established athletic fields, stadium 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 Cha. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
  - (5) Ski chalets, golf courses and golf clubhouses and private tennis clubs.
  - (6) Premises operated under both a "Class B" alcoholic beverage or Class "B" fermented malt beverage 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" alcoholic beverage or Class "B" fermented malt beverage 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" alcoholic beverage or Class "B" fermented malt beverage premises for the purpose of transacting business

at an auction or market, if the person does not enter or remain in a room where alcohol beverages are sold, furnished or possessed.

- (8) An underage person who enters or remains in a room on "Class B" alcoholic beverage or Class "B" fermented malt beverage 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 Subsection. An underage person may enter and remain on "Class B" alcoholic beverage or Class "B" fermented malt beverage premises under this Subsection only if the municipality which issued the "Class B" alcoholic beverage or Class "B" fermented malt beverage license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this Subsection and the law enforcement agency responsible for enforcing the ordinance issues to the "Class B" alcoholic beverage or Class "B" fermented malt beverage licensee a written authorization permitting underage persons to be present under this Subsection 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.
  - (9) A person who is at least eighteen (18) years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.
  - (10) An underage who enters or remains 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. During those times, the licensee, the agent named in the license if the licensee is a corporation or a person who has art operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the local law enforcement agency, in advance, of the times underage persons will be allowed on the premises under this Subsection.
  - (11) An underage person who enters or remains in a dance hall attached to Class "B" or "Class B " licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.
- (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 Dollars (\$500.00).

## **Sec. 11-4-4 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 from a licensee or permittee.
  - (2) Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses; or consumes alcohol beverages on licensed premises.
  - (3) Enters, knowingly attempts to enter or is on licensed premises in violation of Section 11-4-3(a).
  - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) Except as provided in Sec. 125.07(4)bm, Wis. Stats., 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 beverage 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 Dollars (\$50.00), 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 Two Hundred Dollars (\$200.00), suspension of the person's operating privilege as provided under Sec. 125.07(4)cg, 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 less than Three Hundred Dollars (\$300.00), 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,
  - (4) For a violation committed within twelve (12) months of three (3) or more previous violations, either a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program 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 Common Council. 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 justice 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. 11-4-5            Defense of Sellers.**

- (a) **Defenses.** In determining whether or not a licensee or permittee has violated Sections 11-2(a) or 11-4-3(a), all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages maybe considered. In addition, proof of all 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 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 purchaser had attained the legal drinking age.
  - (3) That the sale was made in good faith and in reliance on the representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
  - (4) That the underage person supported the representation under Subsection (a)(1) above with documentation that he had attained the legal drinking age.
- (b) **Book Kept by Licensees and Permittees.**
  - (1) Every retail alcohol beverage licensee or permittee may keep a book for the purpose of Subsection (a) above. The licensee or permittee or his or her employee may require any of the following persons to sign the book:

- a. A person who has shown documentary proof that he or she has attained the legal drinking age if the person's age is in question.
  - b. A person who alleges that he or she is the underage person's parent, guardian or spouse and that he or she has attained the legal drinking age, if the licensee or permittee or his or her employee suspects that he or she is not the underage person's parent, guardian or spouse or that he or she has not attained the legal drinking age.
- (2) The book may show the date of the purchase of the alcohol beverage, the identification used in making the purchase or the identification used to establish that a person is an underage person's parent, guardian or spouse and has attained the legal drinking age, the address of the purchase and the purchaser's signature.

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

## **Sec. 11-4-6      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 Sec. 125.08 or 343.50, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than One Hundred Dollars (\$100.00) no more than Five Hundred Dollars (\$500.00) 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 One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) 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 11-4-4(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:* Sec. 125.09(3), Wis. Stats.

## **Sec. 11-4-7 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 (1) 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 Dollars (\$200.00), except that Sec. 48.344, Wis. Stats., and Section 11-4-4(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

*Cross Reference:* Section 11-5-5.

## **Sec. 11-4-8 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 11-4-4(a) or (b),
- (c) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00).

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

## Sec. 11-4-9      Solicitation of Drinks Prohibited.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the City 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 5

## Offenses by Juveniles

11-5-1	Curfew
11-5-2	Possession of Controlled Substances by Juveniles
11-5-3	Petty Theft by Juveniles
11-5-4	Receiving Stolen Goods
11-5-5	City Jurisdiction through Persons 18 Years of Age
11-5-6	Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor Prohibited
11-5-7	Truancy
11-5-8	Smoking by Minors on Public Property Within Five Hundred (500) Feet of a School
11-5-9	Purchase or Possession of Tobacco Products
11-5-10	Enforcement and Penalties

### Sec. 11-5-1 Curfew.

- (a) **Curfew Established.** It shall be unlawful for any person under eighteen (18) years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the City of Prescott between the following hours:

#### SUMMER

#### AGE

Under 16	10:00 p.m. to 6:00 a.m.
16 through 17	12:00 a.m. to 6:00 a.m.

Said Children shall be accompanied by his or her parent or legal 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 a parent, guardian, or other person having legal custody is found upon any such 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:
  - a. Who is on his own premises or in the areas immediately adjacent thereto.
  - b. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.

- c. Who is returning home from a supervised school, church or civic function, but not later than thirty (30) minutes after the ending of such 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) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under eighteen (18) years of age to allow or permit such person to violate the provisions of (a) or (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 Section 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 eighteen (18) years of age to violate this Section.
- (d) **Taking a Child Into Custody.**
  - (1) Every law enforcement officer while on duty is hereby authorized to take into custody any child violating the provisions of Subsection (a) above. Children taken into custody shall be released from custody as soon as is reasonably possible. A person taking a child into custody shall make every effort immediately to release the child to the child's parent, guardian, or legal custodian or, if the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, may release the child to a responsible adult and verbally counsel or warn as may be appropriate or, in the case of a runaway child, may release the child to a home. authorized under Sec. 48.277 of the Wisconsin Statutes. The parent, guardian, legal custodian, or other responsible adult to whom the child is released shall sign a release for the child.
  - (2) If the child is not released under this Subsection, the officer shall deliver the child to the Pierce County Juvenile Court Intake Worker in a manner determined by the court and law enforcement agencies, stating in writing with supporting facts the reasons why the child was taken into physical custody and giving any child twelve (12) years of age or older a copy of the statement in addition to giving a copy to the Intake Worker. A juvenile violating these curfews regularly may be warned by an officer on duty in his discretion and sent home in lieu of taking the juvenile into custody.
  - (3) If the child is believed to be suffering from a serious physical condition, which requires either prompt diagnosis or prompt treatment, the officer shall take such action as is required under Sec. 48.20(4), Wis. Stats. If the child is believed to be mentally ill, drug dependent, or developmentally disabled and exhibits conduct which constitutes a substantial risk of physical harm to the child or to others, the officer shall take such action as is required under Sec. 48.20(5), Wis. Stats. If the child is believed to be an intoxicated person who has threatened, attempted, or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed or is incapacitated by alcohol, the officer shall take such action as is required under Sec. 48.20(6), Wis. Stats,
- (e) **Warning and Penalty.**
  - (1) **Warning.** The first time a parent, guardian, or person having legal custody of a child who is taken into custody by a law enforcement officer as provided in Subsection (a)

or (b) above, such parent, guardian, or person having such legal custody shall be advised as to the provisions of this Section and further advised that any violation of this Section occurring thereafter by this child or any other child under his or her care or custody shall result in a penalty being imposed as hereinafter provided.

- (2) **Penalty.** Any parent, guardian, or person having legal custody of a child described in Subsection (e) above who has been warned in the manner provided in Subsection (e)(1) herein and who thereafter violates this Section shall be subject to a penalty as provided in Section 1-1-7 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 Section 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. Any minor person under eighteen (18) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than One Hundred (\$100.00) together with the costs of prosecution.

### **Sec. 11-5-2 Possession of Controlled Substances by Juveniles.**

It shall be unlawful for any person under the age of *seventeen (17)* to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 961, of the Wisconsin Statutes.

### **Sec. 11-5-3 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. 11-5-4 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. 11-5-5 City Jurisdiction Over Persons 12 through 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 Ordinance Applicable to Persons 12 through 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 this Code of Ordinances against persons 12 through 17 years of age may be brought on behalf of the City of Prescott 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 Section.

- (d) **Additional Prohibited Acts.** In addition to any other provision of the City of Prescott Code of Ordinances, no person age 12 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- (e) **Penalty for Violations of Subsection (d).** Any person 12 through 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-7 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

*Cross-Reference:* Section 11-4-7.

## **Sec. 11-5-6 Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor Prohibited.**

- (a) **Definition.** In this Section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance, as defined in *Ch. 961*, Wis. Stats., in violation of this Section. It includes but is not limited to:
  - (1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
  - (3) Isomerization device used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
  - (4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
  - (5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
  - (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
  - (7) Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
  - (9) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
  - (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

- (11) Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
  - (12) Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:
    - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
    - b. Water pipes;
    - c. Carburetion tubes and devices;
    - d. Smoking and carburetion masks;
    - e. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
    - f. Miniature cocaine spoons and cocaine vials;
    - g. Chamber pipes;
    - h. Carburetor pipes;
    - i. Electric pipes;
    - j. Air-driven pipes;
    - k. Chillums-1
    - l. Bongs;
    - m. Ice pipes or chillers.
- (b) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation, of such other considerations a court may deem relevant:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
  - (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  - (3) The proximity of the object in time and space to a direct violation of this Section.
  - (4) The proximity of the object to controlled substances.
  - (5) The existence of any residue of controlled substance on the object.
  - (6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
  - (7) Oral or written instructions provided with the object concerning its use.
  - (8) Descriptive materials accompanying the object which explain or depict its use.
  - (9) National and local advertising concerning its use.
  - (10) The manner in which the object is displayed for sale.
  - (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
  - (12) The existence and scope of legitimate use for the object in the community.
  - (13) Expert testimony concerning its use.
- (c) **Prohibited Uses.**
- (1) **Possession of Drug Paraphernalia.** No person who is under *seventeen (17)* years of age may use, or possess with the sole intent to use, drug paraphernalia to plant,

propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Subsection.

- (2) ***Manufacture or Delivery of Drug Paraphernalia.*** No person who is under *seventeen (17)* years of age may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be solely used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Subsection.
  - (3) ***Delivery of Drug Paraphernalia By a Minor to Minor.*** Any person who is under *seventeen (17)* years of age, who violates Subsection (3) by delivering drug paraphernalia to a person under seventeen (17) years of age who is at least three (3) years younger than the violator, is guilty of a special offense.
  - (4) ***Exemption.*** This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with *Ch. 961*, Wis. Stats.
- (d) **Penalties.** Any person who violates Subsection (c)(1), (2) or (3), shall, upon conviction, be subject to disposition under Section *948.344*, Wis. Stats.

## **Sec. 11-5-7 Truancy and Habitual Truancy**

### **(a) Contributing to Truancy Prohibited.**

- (1) Except as provided for in subsection (a)(2) any person eighteen years or older who, by an act or omission, knowingly encourages or contributes to a person being a truant shall be subject to a forfeiture pursuant to Section 1-1-7.
- (2) Paragraph (a) does not apply to a person who has under his or her control a child who has been sanctioned under s. [49.26](#) (1) (h).
- (3) An act or omission contributes to a person being a truant, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be a truant.

### **(b) Parent or Guardian Liability for Truancy.**

- (1) Except as provided under pars. (b) to (d) of Wis. Stat. §118.15(1) and sub. (4) of Wis. Stat. §118.15, unless the child is excused under Wis. Stat. §118.15(3) or has graduated from high school, any person having under control a child who is between the ages of 6 and 18 years shall cause the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of

the school term, quarter or semester of the school year in which the child becomes 18 years of age.

- (2) a. Except as provided under par. (b) or if a person has been found guilty of a misdemeanor under s. [948.45](#), whoever violates this section may be penalized, if evidence has been provided by the school attendance officer that the activities under s. [118.16](#) (5) have been completed or were not required to be completed as provided in s. [118.16](#) (5m), by a forfeiture pursuant to Section 1-1-7.
- b. Paragraph (a) does not apply to a person who has under his or her control a child who has been sanctioned under s. [49.26](#) (1) (h).
- c. In a prosecution under par. a. if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child the action shall be dismissed.

**(c) Truancy and Habitual Truancy Prohibited.**

- (1) In this section:
  - a. "Habitual truant" has the meaning given in s. [118.16](#) (1) (a).
  - b. "Operating privilege" has the meaning given in s. [340.01](#)(40).
  - c. "Truant" means a pupil who is absent from school without an acceptable excuse under ss. [118.15](#) and [118.16](#) (4) for part or all of any day on which school is held during a school semester.
- (2) A person under 18 years of age is prohibited from being a truant. Upon a finding that a person is a truant, one or more of the following dispositions may be imposed by the Court:
  - a. An order for the person to attend school.
  - b. A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. [938.37](#) and subject to a maximum cumulative forfeiture amount 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.
- (3) A person under 18 years of age is prohibited from being a habitual truant. Upon a finding that a person is a habitual truant, and upon proof of compliance with Wis.

Stat. §118.16(5) and 118.16(5m), one or more of the following dispositions may be imposed by the Court:

- a. 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 department of transportation together with a notice stating the reason for and the duration of the suspension.
  - b. An order for the person to attend school.
  - c. A forfeiture of not more than \$500 plus costs, subject to s. [938.37](#). All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
  - d. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
  - e. An order for the person's parent, guardian or 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.
- (4) A person who is under 17 years of age on the date of disposition is subject to s. [938.342](#).
- (5) The provisions of Chapter 938 of the Wisconsin Statutes to the extent necessary to full enforcement of the foregoing truancy and habitual truancy ordinance, including all penalties and sanctions, are hereby adopted and incorporated herein by reference, including specifically but not limited to, Wis. Stat. §§938.17, 938.342, 938.343, and 938.355(6) and (6m).

### **Sec. 11-5-8      Smoking by Minors on Public Property Within Five Hundred (500) Feet of a School.**

No person under the age of eighteen (18) years shall carry or possess a lighted cigar, cigarette, pipe, or any other lighted smoking equipment on public property within five hundred (500) feet of a school grounds within the City of Prescott between the hours of 7:00 a.m. and 5:00 p.m.

### **Sec. 11-5-9      Purchase or Possession of Tobacco Products.**

The City of Prescott hereby adopts the following state statutes:

254.911 Definitions

254.916 Department; authority

254.92 Purchase or possession of cigarettes or tobacco products by person under 18 prohibited.

## **Sec. 11-5-10 Enforcement and Penalties.**

- (a) **Citation Process.** For violations of Sections 11-5-2 through 11-5-9, juveniles may be cited by the citation process on a form approved by the City Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- (b) **Abolition of State Statutes for Jurisdiction Over Children.** Chapter 938, Wis. Stats., regarding municipal court jurisdiction is adopted and included herein by reference, including future amendments.
- (c) **Penalties.** Violations of Sections 11-5-2 through 11-5-9 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 juvenile officer, in his discretion, from referring cases directly to the District Attorney's office.

## Chapter 6

# Public Nuisances

<b>11-6-1</b>	Public Nuisances Prohibited
<b>11-6-2</b>	Public Nuisances Defined
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<b>11-6-9</b>	Enforcement; Penalty

### **Sec. 11-6-1      Public Nuisances Prohibited.**

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

### **Sec. 11-6-2      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.
- (e) Buildings or structures and the premises area are in a state of disrepair or not in a neat and attractive appearance.
- (f) Has been created and will cause or contribute to the depreciation of real estate values.

### **Sec. 11-6-3 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 11-6-2:

- (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) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed one (1) foot. The City may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof charged to the property under Sec. 66.60(16), Wis. Stats.
- (f) **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.
- (g) **Noxious Odors, Etc.** Any use of property, substances or things within the City or within four (4) miles thereof 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.
- (h) **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.
- (i) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one (1) 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. 11-6-4 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 11-6-2:

- (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, except as permitted by state law,
- (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 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.
- (f) **Indecent or Obscene Materials.** All indecent or obscene pictures, books, pamphlets, magazines and newspapers.

## **Sec. 11-6-5      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 11-6-2:

- (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 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 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 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 City.
- (k) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- (l) **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.
- (m) **Flammable Liquids.** Repeated or continuous violations of the Ordinances of the City or laws of the State relating to the storage of flammable liquids.
- (n) **Unremoved Snow.** All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.
- (o) **Explosives.** Any blasting, discharging or exploding of explosive materials for commercial purposes or otherwise, unless a permit is first obtained therefore from the City as provided in this Code.
- (p) **Barbed Wire Fences.** All fences constructed wholly or in part of barbed wire which are located within three (3) feet of any public street, alley or sidewalk.
- (q) **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 but including those which, although made in accordance with such ordinance, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
- (r) **Unlawful Assemblies.** Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- \* (s) **Fighting Events Prohibited.** No person shall sponsor, sanction, condone or permit to be held or carried out on any real estate under his or her ownership or control any form of boxing, wrestling, or other type of fighting event, whether or not held in exchange for prizes or other forms of remuneration or awards and whether or not admission is charged to the public for attendance at the same unless request is made at least 90 days prior to the event and approved by a majority vote of the common council. This ordinance shall not apply to curricular or extra-curricular athletic events held or sponsored by secondary schools or universities. (Adopted 1/31/08)

## **Sec. 11-6-6            Public Nuisances Resulting from Building/ Structure Disrepair.**

The purpose of this Section is to recognize the private and public benefits resulting from the attractive maintenance of residential and nonresidential buildings, structures, yards, or vacant areas. Attractive and well maintained property will enhance the neighborhood and City and provide a suitable environment for increasing physical and monetary values. With respect to all buildings or structures, including fences, planters, and retaining walls, the owner, occupant or agent shall comply with the following:

- (a) Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide resistance to weathering and maintain an attractive appearance.
- (b) Fences, other minor construction, walks, driveways, parking areas and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition.
- (c) The owner, occupant or agent of the premises shall not store property outside that is unsightly and not in good operating condition.

## **Sec. 11-6-7            Abatement of Public Nuisances.**

- (a) **Enforcement.** The Chief of Police, the Fire Chief, the Building Inspector, the Public Safety Director, the City Forester, the Zoning Administrator, the Health Officer, and any other officer positions created by the City with citation authority shall enforce those provisions of this Chapter that come within the jurisdiction of their offices; and they shall make periodic 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 has 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 determines 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) **Service of Notice.** Whenever the City Officer per Subsection (a) determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter, he shall give notice of such violation to the person or persons responsible thereof. Such notice shall:
  - (1) Be in writing;
  - (2) Include a description of the real estate sufficient for identification;
  - (3) Include a statement of the reason or reasons why it is being issued and a statement of remedial actions, which, if taken, would effect compliance with the provisions of this Chapter;
  - (4) State a reasonable date for the performance of any remedial actions;
  - (5) Be served upon the owner, occupant or the agent, as the case may require; provided, that such notice shall be deemed to be properly served upon such owner, occupant or agent, if a copy is delivered personally or by leaving a copy at the place abode with a person at least eighteen (18) years of age residing there or by mailing by certified mail a copy to the last address and the date of mailing shall be deemed the date of service.
- (d) **Repairs or Remedial Action.**
  - (1) Whenever the owner, occupant or agent fails, neglects or refuses to take remedial actions or take other corrective action called for by the notice provided in this Chapter, and after the latter of ten (10) days from service, or the date stated in the notice, the City officer per Subsection (a) may, after providing notice of intention and fulfilling time limits per this Subsection, undertake such repairs or take the

remedial action if the cost of such repairs or remedial action will not exceed fifty percent (50%) of the assessed value of the building or structure involved.

- (2) Notice of intention to make such repairs or to take other remedial action shall be served upon the owner, occupant or agent in the manner as prescribed by Subsection (c).
- (e) **Right to Hearing.**
- (1) The owner, occupant or agent served such notice of intent per Subsection (d)(2) shall have the right to petition the City Plan Commission for a hearing. Such petition shall be delivered in writing to the Prescott City Office.
  - (2) Within ten (10) days of receipt of such petition, the Mayor or his/her delegate shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The hearing before the Plan Commission shall be commenced not later than thirty (30) days after the date on which the petition was filed; provided, that upon written application of the petitioner to the Plan Commission, the Commission may postpone the date of the hearing for a reasonable time beyond such thirty (30) day period, if in its judgment the petitioner has submitted a good and sufficient reason for such postponement.
  - (3) Any notice served pursuant to Subsection (d)(2) shall automatically become an order if a written petition for a hearing is not filed in the City office within twenty (20) days after such notice is served.
- (f) **Plan Commission Decision.** After such hearing the Plan Commission shall sustain, modify or withdraw the notice, depending upon its finding as to whether the provisions of this Chapter have been complied with. The Plan Commission may also modify any notice so as to authorize a variance from the provisions of this Chapter when, because of special conditions, a literal enforcement of the provisions of this Chapter will result in practical difficulty or unnecessary hardship; provided, that the spirit of this Chapter will be observed, safety and welfare secured, and substantial justice done. If the Commission sustains or modifies such notice, it shall be deemed an order, and the owner, operator, or agent as the case may require, shall comply with all provisions of such order within a reasonable period of time, as determined by said Plan Commission.
- (g) **Petitioners Right to Appeal.** The petitioner has the right to appeal the decision of the Plan Commission to the Zoning Board of Appeals. Time limits, procedures, authority to sustain, modify or withdraw the notice by the Board of Appeals is identical to that of the Plan Commission per the provisions of Subsection (f). The decision of the Zoning Board of Appeals is final and action on the notice as sustained or modified will be carried out by the City if not accomplished by the owner, operator or agent as the case requires in a time specified by the Board of Appeals.
- (h) **Court Order.** Except where necessary under the above, no officer hereunder shall use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
- (i) **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. 11-6-8 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, such cost shall be assessed against the real estate as a special charge.

## **Sec. 11-6-9 Enforcement; Penalty.**

- (a) **Enforcement.** The Chief of Police, Fire Chief, Director of Public Works and 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 Section 11-6-9 to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does, in fact, exist. When a hazard to public safety is determined to exist a forfeiture of \$500 per day plus administrative cost of 10% per day and cost of removal shall be assessed.
- (b) **General Penalty.** Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 1-1-7.

# Chapter 7

## Obscenity

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## Article A:            Introduction

### Sec. 11-7-1            Obscenity Ordinance; History and Purpose.

- (a) The City of Prescott, by its Common Council, has determined that lewd conduct in the public domain, within the City, presents substantial risk of promoting promiscuity, prostitution, and sexually transmitted disease, destroys the quality of life, is injurious to families, increases the incidence of juvenile delinquency, crime, disorderly conduct, and reduces property values, blights the City neighborhoods, and is detrimental to the health and welfare of the citizens of the City.
- (b) Business establishments may have considered the possibility of adult entertainment for their patrons featuring nude or semi-nude performers. The Common Council of the City of Prescott has determined that such conduct or activities can be detrimental to the citizens of the City of Prescott. Such entertainment reduces property values, destroys the quality of life, and increases the incidence of crime, disorderly conduct, and juvenile delinquency. The purpose of this Chapter is to regulate such entertainment within the incorporated area of the City of Prescott.
- (c) The Common Council of the City of Prescott, upon due consideration has therefore determined that lewd conduct is a proper subject for regulation within the City of Prescott.

### Sec. 11-7-2            Definitions.

The following definitions are applicable in this Chapter:

- (a) **Community.** The State of Wisconsin.
- (b) **Internal Revenue Code.** Has the meaning specified in Sec. 71.01(6), Wis. Stats.
- (c) **Nudity.** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.
- (d) **Obscene Material.** A writing, picture, sound recording or file which:
  - (1) The average person, applying contemporary community standards, would find appeals to the prurient interest if taken as a whole;
  - (2) Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
  - (3) Lacks serious literary, artistic, political, educational or scientific value, if taken as a whole.
- (e) **Obscene Performance.** A live exhibition before an audience which:
  - (1) The average person applying contemporary community standards would find appeals to the prurient interest if taken as a whole;
  - (2) Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
  - (3) Lacks serious literary, artistic, political, educational or scientific value, if taken as a whole.

- (f) **Sexual Conduct.** The commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, felatio, cunnilingus or lewd exhibition of human genitals.
- (g) **Sexual Intercourse.** Physical sexual contact between individuals that involves the genitalia of at least one (1) person including, but not limited to, heterosexual intercourse, sodomy, fellatio, or cuntilingus.
- (h) **Wholesale Transfer or Distribution of Obscene Material.** Any transfer for a valuable consideration of obscene material for purposes of resale or commercial distribution; or any distribution of obscene material for commercial exhibition. "Wholesale transfer or distribution of obscene material" does not require transfer of title to the obscene material to the purchaser, distributor or exhibitor.

### **Sec. 11-7-3 Indecent Exposure Prohibited.**

- (a) Any person who, within the City of Prescott municipal limits, knowingly or intentionally, in a public place, does any of the following coats public indecency:
  - (1) Engages in sexual intercourse;
  - (2) Engages in sexual conduct;
  - (3) Engages in an obscene performance or act;
  - (4) Appears in a state of nudity;
  - (5) Fondles the genitalia of himself/herself or of another person;
- (b) In addition to any other actions allowed by law or taken by the City of Prescott Common Council and/or committee thereof, 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 Five Hundred Dollars (\$500.00). for each offense, together with the costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

### **Sec. 11-7-4 through Sec. 11-7-19 Reserved for Future Use.**

~~Article B: Entertainment Featuring Live Nude or Obscene Performances— (Ordinance changed 9/14/06)~~

### ~~Sec. 11-7-20 Entertainment License Requirements.~~

- ~~(a) No holder of a Class A, B or C liquor or beer license, or any other business or establishment governed by this Article, operating in the incorporated area of City of Prescott shall afford to their patrons: entertainment which specifically features or advertises dancing by the performance of any act, stunt or dance by performers under the~~

auspices of the management, whether such dancers are paid or not unless the owner shall first have obtained a license from the City Clerk Treasurer.

- (b) ~~This Article shall only apply to establishments selling liquor, beer, or other beverages, including restaurants, or stores specializing in adult entertainment, which feature live nude or semi-nude dancers, singers or entertainers.~~

## **~~Sec. 11-7-21 Annual License.~~**

- (a) ~~**Application.** Applications for an annual entertainment license shall be made to the City Clerk Treasurer. The City Clerk Treasurer shall notify the Prescott Police Department, Building Inspector, Health Officer and Fire Inspector of the license application, publish a Class 1 notice of such application and have the license application submitted to the Ordinance Committee for the City of Prescott within thirty (30) days of application. Investigating officials shall submit written reports and recommendations to the Ordinance Committee. The Ordinance Committee may take any testimony regarding the granting or denial of such license.~~
- (b) ~~**Committee Action.** The Ordinance Committee shall either approve, modify or reject the application; the reasons for the action taken shall be specified in the written record of the Committee. If it is the Ordinance Committee's recommendation that such license be granted with or without modifications, such recommendations shall be forwarded to the Common Council for their next meeting.~~
- (c) ~~**Probationary Period.** If a recommendation for license issuance from the Ordinance Committee is adopted by a majority of the Common Council, an initial applicant shall be granted a probationary license by the City Clerk Treasurer. An annual license shall be granted if, upon the expiration of the six (6) month probationary period, no violations under this Chapter occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct. If, however, for any reason, the application is denied either by the Ordinance Committee or the Common Council, whichever body denied the application shall specify the findings made that support that denial.~~
- (d) ~~**License Term.** The license granted under this Article shall expire on June 30th of each year and each license shall be subject to revocation as hereinafter provided.~~
- (e) ~~**Form of License.** The City Clerk Treasurer shall be responsible for drafting and issuing all licenses under this Section. All such licenses shall specify the nature of the holder and the license and the date for which it is applicable as well as any conditions that may be imposed by the City. All such licenses shall be open to public inspection and posted in public view on the premises for which issued.~~
- (f) ~~**Fee.** All such license applications shall be accompanied by a fee as prescribed in Section 1-3-1. If for any reason the license is denied, one half (1/2) of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be kept by the City Clerk Treasurer.~~

- ~~(g) **Number of Licenses Limited.** No more than three (3) annual licenses, issued under this Section, shall be issued to license holders within the City of Prescott municipal limits at one (1) time.~~

## ~~**Sec. 11-7-22 Renewals.**~~

~~The holder of an annual license granted under this Article shall submit an application for renewal at least sixty (60) days before the expiration of the license. Such license may be renewed pursuant to the provisions of Section 11-7-21 as that Section applies to notice being given by the City Clerk Treasurer and provisions for publication and action by the Ordinance Committee and Common Council.~~

## ~~**Sec. 11-7-23 Special Event License.**~~

- ~~(a) A holder of a Class A, B or C liquor, beer or dance hall license, or any other license holder, governed by this Article operating within the incorporated area of the City of Prescott may apply for a special event license in lieu of obtaining a regular entertainment license. Such license will only be valid for a twenty-four (24) hour period.~~
- ~~(b) Only one (1) special event license a month will be issued to any establishment.~~
- ~~(c) Application for said license will be made with the City Clerk Treasurer and shall require a fee as prescribed in Section 1-3-1, refundable if not granted. In no event shall any one (1) applicant be charged more than Five Hundred Dollars (\$500.00) in one (1) calendar year for special event licenses.~~
- ~~(d) The Public Safety Committee shall recommend to the Common Council what action should be taken on a license.~~
- ~~(e) The regulations contained in Section 11-7-24 shall apply to these special event licenses; a violation of those regulations can result in the revocation of current licenses including the denial of future licenses by the Common Council for these special event licenses.~~

## ~~**Sec. 11-7-24 Regulations.**~~

~~Any license holder governed by this Chapter shall comply with the following regulations:~~

- ~~(a) No dancing shall be permitted by any performers under the auspices of the management whether paid or not, within six (6) feet of a bar from which patrons are directly served, while so entertaining the patrons.~~
- ~~(b) No dancer, performer, or any individual, who is performing, singing, or dancing, shall have either direct or indirect physical contact with any patron, in violation of Sec. 944.36, Wis. Stats.~~
- ~~(c) While dancing is in progress, the establishment shall be adequately illuminated so as to permit safe ingress and egress from the premises.~~
- ~~(d) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this Chapter shall be deemed to include persistent loud~~

- noises to the annoyance or detriment of surrounding property owners, patrons urinating in public, profane language and/or fighting.
- (e) ~~Music and other entertainment which is amplified inside shall cease after 1:00 a.m., with the exception that said music shall cease after 2:00 a.m. during daylight savings time.~~
  - (f) ~~The license holder shall insure that building capacity limits as set by the Fire Department and/or Building Code are complied with at all times.~~
  - (g) ~~The license holder shall comply with all applicable State Statutes and regulations and all County and City ordinances.~~
  - (h) ~~The management license holder and employees shall obey all reasonable orders or directions of any law enforcement officer.~~
  - (i) ~~The performance of any dance by performers under the auspices of the management shall be given only on a raised portion of the floor separated by a railing or other device from the patrons so as to deter patrons from participating in the dance.~~
  - (j) ~~No license holder, personally or through an agent or employee, shall advertise, allow or produce nude or obscene entertainment or performances in violation of this Section or in violation of any City ordinance.~~
  - (k) ~~It is forbidden by this Section to perform acts or simulated acts of "sexual" intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law, on the premises so licensed.~~
  - (l) ~~The actual touching, caressing or fondling of the breasts, butt cheeks, anus or genitals is prohibited.~~
  - (m) ~~The actual use of simulated sexual organs during dance or performances is prohibited.~~
  - (n) ~~No license holder shall permit any amateur dancing, obscene entertainment, or performances on the license holder's premises in violation of this Section or any applicable State and Federal laws.~~

### **~~Sec. 11-7-25 Location.~~**

~~No establishment licensed under this Article shall permit any performance or entertainment governed by this Article to occur within fifty (50) feet of any area zoned for residential, church, school, nursing home, public park, or day care center uses, or other establishment licensed under this Article.~~

### **~~Sec. 11-7-26 Penalty.~~**

~~In addition to any other actions allowed by law or taken by the Common Council and/or the Ordinance Committee, including the action of license revocation or non-renewal, anyone who violates any of the provisions of this Article shall forfeit not less than Two Hundred Fifty Dollars (\$250.00), but not more than One Thousand Dollars (\$1,000.00), 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.~~

## **~~Sec. 11-7-27 License Suspension, Revocation or Non-Renewal.~~**

- (a) ~~**In General.** Any license granted herein may be revoked, suspended, or not be renewed by the Common Council as follows:~~
- ~~(1) If the applicant has made or recorded any statement required by this Article knowing it to be false or fraudulent or intentionally deceptive.~~
  - ~~(2) For the violation of any provision of this Article, except for establishment license matters involving a violation of City Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year.~~
  - ~~(3) After one (1) conviction of any establishment personnel of an offense under Chapter 944, Wis. Stats., or of an offense against the person or property of a patron of the property or of an offense involving substance scheduled in Subchapter II of Chapter 161, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.~~
- (b) ~~**Notice of Hearing.** No license shall be revoked, suspended, or not renewed by the Common Council except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Ordinance Committee. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof. The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf under subpoena by the Common Council if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Ordinance Committee shall prepare and submit a report to the Common Council including findings of fact and conclusions of law and a recommendation as to what, if any, action the Common Council should take with respect to the license. The Committee shall provide the complainant and licensee with a copy of the report.~~
- (c) ~~**Appeal.** Either the complainant or licensee may file an objection to the report and have the opportunity to present arguments supporting the objection to the Common Council. The Common Council shall determine whether arguments shall be presented orally or in writing, or both. If the Common Council, after arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as provided at Subsection (a). The Common Council shall decide the matter and shall prepare a written decision which shall be filed with the City Clerk-Treasurer, and a copy thereof delivered to the licensee and complainant within twenty (20) days after its decision.~~

## **~~Sec. 11-7-28 License Transfer.~~**

~~Any license granted under the provisions of this Article shall be transferable and subject to all licensing procedures and other regulations of this Article.~~

## **Sec. 11-7-29 through Sec. 11-7-39 Reserved for Future Use.**

### **Article C: Sexually-Oriented Adult Entertainment Establishments**

#### **Sec. 11-740 Intent of Article.**

##### **SECTION 1. TITLE**

This ordinance shall be known as the Sexually Oriented Business Ordinance,

##### **SECTION 2. INTENT**

It is the intent of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimized the distribution of obscene materials.

##### **SECTION 3. FINDINGS**

Based on evidence concerning the adverse secondary effects of adult uses on the Community in reports made available to the City Council, and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc*, 475 U.S. 41 (1986); *Young v. American Mini Theaters*, 426 U.S. 50 (1976); and *Barnes v. Glen Theater, Inc.* 501 U.S. 560 (1991) *Arcara v Cloud Books, Inc.*, 478 U.S. 697,(1986); *California v. LaRue*, 409 U.S. 109 (1972) *Lacobucci v City of Newport KY.*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F. 3d 403 (6<sup>th</sup> Cir. 1997); *Key Inc. v. Kitsap County*, 793 F.2d 1053 (9<sup>th</sup> Cir. 1986); *Hang on, Inc. v. City of Arlington*, 65 F. 3d 1248 (5<sup>th</sup> Cir. 1995) and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 606 (11<sup>th</sup> Cir. 1984), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona, Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working

Group on the Regulation of Sexually Oriented businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the City Council finds that:

- (A) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.
- (B) Studies of the relationship between sexually oriented businesses and neighborhood property values have found a negative impact on both residential and commercial property values.
- (C) Sexually oriented businesses may contribute to an increased public health risk through the spread of sexually transmitted diseases.

#### **SECTION 4. DEFINITIONS**

(A) **ADULT ARCADE** means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion pictures, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(B) **ADULT BOOKSTORE OR ADULT VIDEO STORE** means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representation that depict or describe "specified sexual activities or "specified anatomical areas"; or
- (2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. Such other business purposed will not serve to exempt such commercial establishment from being categorized as and ADULT BOOKSTORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified material that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an

establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

(C) **ADULT CABARET** means a *public or private* nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features:

- (1) persons who appear in a state of nudity or semi-nudity; or
- (2) live performances that are characterized by "specified sexual activities" ; or
- (3) films motion pictures, video cassettes, slides, computer images or other photographic reproductions that characterized by the depiction or description of "specified sexual activities" or "nudity"
- (4) topless dancers, strippers, "go-go" dancers, other performers where nipples and genitalia are visible, male or female impersonators, mud wrestling, lingerie or bathing suit fashions shows.

(D) **ADULT MASSAGE PARLOR OR BATH HOUSE** means a business which provides baths including hydrotherapy or massages 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.

(E) **ADULT MOTION PICTURE THEATER** means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(F) **ADULT NOVELTY STORE** means an establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing, novelties, lotions and other items distinguished or characterized by this emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors or any other factors showing the establishment primary purpose is to purvey such material.

(G) **ADULT STUDIO** An establishment or business (not primarily a tattoo parlor) which provides the services of modeling for the purpose of reproducing the human body wholly or partially nude by means of photography, painting, sketching, drawing or otherwise, or where patrons are afforded an opportunity to paint images on a body which is wholly or partially nude.

(H) **ADULT THEATER** means a theater either inside a building or outside, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a

state of nudity and/or semi-nudity, and/or live performances that are characterized by the "exposure of specified anatomical areas" or by "specified sexual activities."

(I) **BREAST** mean a portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and the areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such area is (1) reasonably compact and contiguous to the areola and (2) contains at least the nipple and areola and  $\frac{1}{4}$  the outside surface area of such gland.

(J) **BUTTOCKS** (For a short general description see the last sentence of the subsection) means the area at the rear of the human body (sometimes referred to as the gluteus maximus) which lies between two imaginary straight lines running parallel to the ground when a person is standing, the first or top such line being  $\frac{1}{2}$  inch below the top of the vertical cleavage of the nates (i.e. 1, the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom such line being  $\frac{1}{2}$  inch above the lowest point of the curvature of the flesh protuberance (sometimes referred to as the gluteal fold), and between two imaginary straight lines, one on each side of the body (the outside line), which outside lines are perpendicular to the ground and to the horizontal lines described above and which perpendicular outside lines pass through the outermost point(s) at which each nate meets the outer side of each leg. Notwithstanding the above, buttock shall not include the leg, the hamstring muscle below the gluteal fold, the tensor fasciae latae muscle or any of the above described portion of the human body that is between either (1) the left inside perpendicular line and the left outside perpendicular line or (2) the right inside perpendicular line and the right outside perpendicular line. For the purpose of the previous sentence the left inside perpendicular line shall be an imaginary straight line on the left side of the anus (1) that is perpendicular to the ground and to the horizontal lines described above and (2) that is  $\frac{1}{3}$  of the distance from the anus to the left outside line, and the right inside perpendicular line shall be an imaginary straight line on the right side of the anus (1) that is perpendicular to the ground and to the horizontal lines described above and (2) that is  $\frac{1}{3}$  the distance from the anus to the right outside line ( The above description can generally be described as covering  $\frac{1}{3}$  of the buttocks centered over the cleavage for the length of the cleavage.)

(K) **EMPLOYEE** means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis or independent basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not the said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of good to the premises, nor does employee include a person exclusively on the premises as a patron or customer.

(L) **ENTERTAINER** means

- (1) Any person who appears in a state of nudity or semi-nudity in a sexually oriented business; or

- (2) any person who engages in live performances that are characterized by "specified sexual activities"
- (M) **ESCORT** means a person whom, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease or "specified sexual activities" for another person.
- (N) **ESCORT AGENCY** means a person or business association, who furnishes, offers to furnish escorts as one of its primary business purposes for a fee, time, or other consideration.
- (O) **ESTABLISHAMNT** means and includes any of the following:
- (1) the opening or commencement of any sexually oriented business as a new business;
  - (2) the conversion of an existing business, whether a sexually oriented business, to any sexually oriented business; or
  - (3) the additions of any sexually oriented business to any other existing sexually oriented business; or
  - (4) the relocation of any sexually oriented business; or
  - (5) a sexually oriented business or premises on which the sexually oriented business is located.
- (P) **LICENSE DAY - CARE CENTER** means a facility licensed by the State of Wisconsin, under sec. 48.65, Stats. whether situated within the city or not, that provide care, training, education, custody, treatment or supervision for more than four (4) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for profit or charges for the services it offers.
- (Q) **NUDITY OR A STATE OF NUDITY** means the appearance of the human, bare buttocks (as defined in this section), anus, anal cleft or cleavage, pubic area, male genitals, female genitals or vulva, with less than a full opaque covering; or the female breast with less than  $\frac{1}{4}$  of the breast surface area, contiguous to and containing the areola, completely and opaquely covered with fabric (see definition of breast in this section.) Each female person may determine which  $\frac{1}{4}$  of her breast surface area contiguous to cover including the nipple and containing the areola.
- (R) **OPERATOR** means the person on the premises who is responsible for the control and management of the sexually oriented business.
- (S) **PERSON** means an individual, proprietorship, partnership, corporation, association or other legal entity.

- (T) **PREMISES** means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, **or** supervision of the owner or operator of the business.
- (U) **REGULARLY** means recurring on a basis which is frequently, customarily or typically.
- (V) **SEMI-NUDE OR SEMI-NUDITY** means the exposure of a bare female breast with less than  $\frac{1}{4}$  of the breast surface area, contiguous to and containing the areola, completely and opaquely covered with fabric (see definition of breast in this section). Each female person may determine which  $\frac{1}{4}$  of her breast surface area contiguous to cover including the nipple and containing the areola.
- (W) **SEXUAL ENCOUNTER CENTER** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration;
- (1) physical contact in the form of sexually intimate touching between persons of the opposite sex; or
  - (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.
- (X) **SEXUALLY ORIENTED BUSINESS** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency or sexual encounter center.
- (Y) **SPECIFIED ANATOMICAL AREAS** means
- (1) the human male genitals in a discernibly turgid state, even if fully and opaquely covered;
  - (2) less than completely and opaquely covered human genital, pubic region, "buttocks" or female "breast".
- (Z) **SPECIFIED SEXUAL** activities means and includes any of the following:
- (1) the fondling or other erotic touching of human genital, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
  - (2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy
  - (3) masturbation, actual or simulated; or
  - (4) excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above

## **SECTION 5. LOCATION RESTRICTIONS**

Sexually oriented businesses shall be permitted in the C-2, Highway Commercial District; I- 1, Light Industrial District and 1-2, General Industrial District upon receipt of a Certificate of Licensure and provided that:

- (A) sexually oriented businesses may not be operated in the City of Prescott within:
  - (1) 1 000 feet of a church, chapel, synagogue, or regular place of religious worship;
  - (2) 1 000 feet of a school; public or private preschool, elementary, middle or high school; or youth recreation center.
  - (3) 1000 feet of a licensed day-care center;
  - (4) 1000 feet of a public park or youth recreational center
  - (5) 750 feet of any residential district; R-1, One-family Residential District, R-2, Multi-family Residential District and R-3, R-4, R-5, R-6 and AR, Agricultural Residential District.
  - (6) 500 feet of any licensed bar or tavern;
  - (7) 1000 feet of another sexually oriented business
  - (8) 1000 feet of any residential district, school, church, Public Park, day care center, tavern or sexually oriented business located outside the City.
  - (9) 600 feet from any State Highway
- (B) A sexually oriented business may not be operated in the same building, structure or portion thereof, containing another sexually oriented business.
- (C) For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line or boundary of a property listed in Section 5(A).

## **SECTION 6. REGULATION OF SEXUALLY ORIENTED BUSINESSES**

- (A) No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance. All performances 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. Patron 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.
- (B) The sale, use or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.
- (C) It shall be unlawful to allow a person who is younger than eighteen (18) year of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is prohibited.
- (D) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
  - (1) a valid operator's, commercial operator's, or chauffeur's driver's license; or
  - (2) personal identification card issued by the State of Wisconsin reflecting that such person is eighteen (18) years of age or older.
- (E) No person shall cause another to commit a violation of this ordinance, nor shall any person permit such violation to occur on any premise under his/her control, tenancy, management or ownership.
- (F) Hours of Operation. No sexually oriented business regulated by this section may remain open between the hours of 2:00 a.m. and 8:00 a.m., except on Saturday and Sunday, when the closing hours shall be between 2:30 a.m. and 8:00 a.m.
- (G) Signs posted. All premises governed by this Section shall be required to post signs provided by the City of Prescott, which state;

By City Ordinance; The use or consumption of alcoholic beverages on these premises is prohibited. No person shall be permitted to have any physical contact with any entertainer. No person shall be less than 5 feet from any entertainer, including during the payment of tips. Violators may be subject to a fine of not less than \$100 and not more than \$500 per violation.

- (H) Doors. Each entryway to a sexually oriented business featuring live entertainment shall through use of a vestibule, screening or double doors, and with window coverings, eliminate any direct line of sight from the public street area to any entertainer on the premises.
- (I) Parking. Each business regulated by this section shall provide off-street parking at a rate of 1 parking slip per 5 patrons. Maintaining this ratio as a percentage of maximum capacity.
- (J) Exterior Display. No adult use shall be conducted in any manner that permits the observation of any material or words depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any public street or highway or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, billboard, show window or other opening.
- (K) Lighting. All areas of establishment featuring nude or semi-nude performs must be completely and adequately lighted with a minimum of six (6) candlepower.

**SECTION 7. LICENSING** (Existing Section 11-7-42) See Attached

**SECTION 8. EXEMPTIONS AND EXCLUSIONS**

The provisions of this ordinance do not apply to the following establishments; theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic, social and political merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interest or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances, while expressive live nudity may occur within these establishments, this ordinance seeks only to minimize and prevent the secondary effects of sexually oriented businesses on the community. Negative secondary effects have not been associated with these establishments.

All private and public schools, as defined in Chapter 115, Wis. Stats., located within the City of Prescott are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

**SECTION 9. PENALTIES**

- (A) Violation of the use provision of Section 5 is declared to be a public nuisance per se, which shall be abated by City Attorney by way of civil abatement procedures.
- (B) Any person, partnership, or corporation who violates any of the provision of Section 6 of this ordinance shall be subject to a forfeiture of not less than \$500 per violation, plus the costs of prosecution. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under sec. 125.12 Stats.

(C) In addition to any other action allowed by law or taken by the Common Council and the Public Safety Committee, including the action of license revocation or non-renewal, anyone who violates any of the provision of Section 11-7-42 to 11-7-55 shall forfeit not less than \$1000 for each and every offense, together with the costs of prosecution. If such forfeiture and cost are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

## **SECTION 10. SEVERABILITY**

If any section, subsection, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance. Specifically "Section 5, Location Restrictions" and Section 6, "Regulation of sexually oriented businesses" should be considered separate, distinct and independent provisions, so that if either section is held invalid or unconstitutional for any reason, the other sections will remain valid and enforceable.

## **SECTION 11. INCLUSION IN THE CODE AND EFFECTIVE DATE**

It is the intention of the Council and it is hereby provided that the provisions of this ordinance shall be made a part of the Municipal Code; and that the provisions of Section 5 be added to the Zoning Code under the designation "Sexually oriented business"; and that the section of the ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" "article" or other appropriate designation. This ordinance shall be in full force and effect from and after its passage and publication.

## **SECTION 11-7-42 LICENSE REQUIRED.**

- (a) Except as provided in Subsection (d) below, no adult establishment shall be operated or maintained within the corporate limits of the City of Prescott without obtaining a license to operate issued by the City of Prescott.
- (b) A license may be issued only for one (1) adult establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person, partnership or corporation.
- (d) All adult establishment existing at the time of the original passage of this Chapter must submit an application for a license within ninety (90) days of the passage of this Chapter. If an application is not received within ninety (90) day period, then such existing adult establishment shall cease operations.

## **SECTION 11-7-43 APPLICATION FOR LICENSE**

- (a) **License Procedure.** Any person, partnership or corporation desiring to secure a license shall make application to the City Administrator. The application shall be filed in triplicate with and dated by the City Administrator. A copy of the application shall be distributed within ten (10) day of receipt thereof to the Police Department, Building Inspector, Planning Department, and to the applicant.
- (b) **Required Information.** The application for a license shall be upon a form approved by the City Administrator. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers or directors of a corporate applicant, and any others person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:
- (1) Name and address, including all aliases.
  - (2) Written proof that the individual is at least eighteen (18) years of age.
  - (3) All residential addresses of the applicant for the past ten (10) years.
  - (4) The business, occupation or employment of the applicant for ten (10) years immediately proceeding the date of application.
  - (5) Whether the applicant previously operated in this or any other state, county or municipality under an adult establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
  - (6) All criminal conviction, whether federal or state or municipal Article violation convictions, forfeiture of bond and pleadings of no contest on all charges, except minor traffic violations.
  - (7) Fingerprints and two (3) portrait photographs at least two(2) inches by two (2) inches of the applicant.
  - (8) The address of the adult establishment to be operated by the applicant.
  - (9) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and all officers and directors of the corporation.

## **SECTION 11-7-44 STANDARDS FOR THE ISSUANCE OF A LICENSE.**

- (a) **General Requirements.** To receive a license to operate an adult establishment, an applicant must meet the following standards:
- (1) If the applicant is an individual:
    - a. The applicant shall be at least eighteen (18) years of age
    - b. Subject to Chapter 111, Wis. Stats., the applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

- c. The applicant shall not have been found to have previously violated this Article within five (5) years immediately preceding the date of application.
  - (2) If the applicant is a corporation:
    - a. All officers, directors, and others required to be named under Section 11-7-43 (b) shall be at least eighteen (18) years of age.
    - b. Subject to Chapter 111, Wis. Stats., no officer, director, or other person required to be named under Section 11-7-43(b) shall have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of application.
    - c. No officer, director, or other person required to be named under Section 11-7-43 (b) shall have been found to have previously violated this Article within five (5) years preceding the date of application.
  - (3) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:
    - a. All persons having a financial interest in partnership, joint venture, or other type of organization shall be at least eighteen (18) years of age.
    - b. No persons having a financial interest in the partnership, joint venture or other type of organization shall, subject to Chapter 111, Wis. Stats., have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
    - c. No person having a financial interest in the partnership, joint venture, or other type of organization shall have been found to have violated any provision of the Article within five (5) years immediately preceding the date of application.
- (b) **Investigation.** No license shall be issued unless the Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Administrator no later than fourteen (14) days after the date of the application.
- (c) **Inspection.** The Building Inspector and Planning Department shall inspect the premises proposed to be licensed to verify compliance with their respective codes and shall report compliance findings to the City Administrator within fourteen (14) days of the date of application.
- (c) **Proof.** No license shall be issued unless the applicant provides proof of one (1) of the following:
  - (1) Ownership of a properly zoned building or parcel of real property upon which a Building can be constructed. Proper zoning includes permissible nonconforming use status.

- (2) A lease on a building which is properly zoned to house a venture. Proper zoning includes permissible nonconforming use status.
- (3) An option to purchase property which is properly zoned for the venture. Proper zoning includes permissible non-conforming uses status.
- (4) An option to least property which is properly zoned for the venture. Proper Zoning includes permissible nonconforming use status.

#### **SECTION 11-7-45 LICENSE FEE**

A non-refundable license application fee as prescribed in Section 1-3-1 shall be submitted with the application for a license.

#### **SECTION 11-7-46 DISPLAY OF LICENSE OR PERMIT**

The license shall be displayed in a conspicuous public place in the adult establishment.

#### **SECTION 11-7-47 RENEWAL OF LICENSE OR PERMIT**

- (a) Every license issued pursuant to this Article will terminate on December 31 of the year it is issued, unless sooner revoked and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Administrator. The application for renewal must be file not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Administrator. A copy of the application for renewal shall be distributed by the City Administrator to the Prescott Police Department and applicant. The applicant for renewal shall be upon a form provided by the City Administrator and shall contain such information and data, give under oath or affirmation, as is required for application for a new license.
- (b) A license renewal fee as prescribed in Section 1-3-1 shall be submitted with the application for renewal.
- (c) If the Prescott Police Department is aware of any information bearing on the operator's qualifications, through a criminal background check, that information shall be filed in writing with the City Administrator.

#### **SECTION 11-7-48 DENIAL OF APPLICATION**

- (a) Whenever an initial application is denied, the City Administrator shall, within fourteen (14) day of the denial, 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 at the regularly-scheduled meeting of the Ordinance Committee.
- (b) Failure or refusal of the applicant to give 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 refusal to submit to or cooperate with any investigation required by this Article shall constitute an admission by the

applicant that he or she is ineligible for such license and shall be ground for denial thereof by the City Administrator.

## **SECTION 11-7-49 PHYSICAL LAYOUTS OF ADULT ESTABLISHMENTS**

Any adult establishment having open for customers, patron or members any booth, room or cubicle for the private viewing of any sexually-oriented adult entertainment must comply with the following requirements:

- (a) **Access.** Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult establishment and shall be unobstructed by any door, lock or other control-type devices.
- (b) **Construction.** Every booth, room or cubicle shall meet the following construction Requirements:
  - (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms, cubicles and any non-public areas by a wall.
  - (2) Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all time of anyone occupying same.
  - (3) 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.
  - (4) The floor must be light color, non-absorbent, smooth textured and easily cleanable.
  - (5) 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.
- (c) **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 or litter while in the booth. No individual shall damage or deface any portion of the booth.

## **SECTION 11-7-50 RESPONSIBILITIES OF OPERATORS**

- (A) An operator, licensed under this Article, shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, Social Security Number, and date of employment and termination. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.
- (B) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the Police Department at all reasonable times.
- (C) Every act or omission by an employee constituting a violation of the provisions of this Article 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 caused the omission.

- (D) Any act or omission of any employee constituting a violation of the provisions of this Article shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (E) No employee of an adult-entertainment establishment shall allow any minor to loiter around or to frequent an adult-entertainment establishment or to allow any minor to view sexually-oriented adult entertainment as defined herein
- (F) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (G) The operator shall ensure compliance of the establishment and its patrons with the provisions of this Article.
- (H) The operator shall ensure there is conspicuously posted inside each booth, stall, partitioned portion of room, or individual room an un-mutilated and undefaced sign or poster supplied by the city which contains information regarding sexual transmitted diseases and the telephone number from which additional information can be sought.
- (I) The operator shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures or pamphlets supplied by the City pertaining to sexually transmitted diseases.
- (J) The operator shall ensure there is posted regulation concerning booth occupancy on signs, with lettering at least one (1) inch high, that are placed in conspicuous areas of the establishment and in each of the viewing enclosures.
- (K) The City shall charge its reasonable costs for supplying such poster, brochures, pamphlets, and other information supplied under this Section.

#### **SECTION 11-7-51 REGISTRATION OF EMPLOYEES**

- (A) All operators, employees and independent contractor working in any adult establishment hereunder shall, prior to beginning employment or contracted duties, register with the Police Department. Such registration shall include the following:
  - (1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer.
  - (2) Photographs and fingerprinting.
- (B) Upon registration, the Police Department will provide to each registered employee an identification card containing the employee's photograph identifying the employee as such, which shall be kept available for production upon request of all City inspecting officers while on duty at such adult establishment.
- (C) All registration hereunder are valid for a period of one (1) year.
- (D) The registration fee shall be paid as prescribed in Section 1-3-1 per registration, which shall be paid to the Police Department to cover the costs of the identification card.
- (E) An annual registration fee shall be paid to the City per performer as prescribed in Section 1-3-1.

#### **SECTIONS 11-7-52 THROUGH 11-7-55 RESERVED FOR FUTURE USES**

Article D:            Houses of Prostitution

**Sec. 11-7-60    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. 11-7-61    Inmate or Frequenter.**

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

**Sec. 11-7-62    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. 11-7-63    Penalties.**

Any person violating this Article shall be subject to any available criminal penalties and also to a forfeiture of not less than Three Hundred Dollars (\$300.00), nor more than Five Hundred Dollars (\$500.00) for the first offense; and not less than Five Hundred Dollars (\$500.00) and nor more than One Thousand Dollars (\$1,000.00) for any succeeding offense or offenses committed during the same calendar year, together with the costs of prosecution.

**Sec. 11-7-64 through Sec. 11-7-79    Reserved for Future Use.**

## Article E:        **Massage Establishments, Massage Technicians and Employees**

### **Sec. 11-7-80    In General.**

It is unlawful for a person, corporation or other legal entity to suffer, cause or permit the operation of a massage establishment or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this Article.

### **Sec. 11-7-81    Definitions.**

For the purpose of this Article:

- (a)   **Massage.** Any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for a consideration.
- (b)   **Sexual or Genital Parts.** The genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
- (c)   **Massage Establishment.** A place of business wherein private massage is practiced, used or made available as a principal use of the premises.
- (d)   **Massage Technician.** A person who practices, administers or uses massage for a consideration, who holds a valid license under this Section.
- (e)   **Patron.** Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefore.
- (f)   **Operator.** Any person, association, firm, partnership or corporation licensed by the City to operate a massage establishment.
- (g)   **Manager.** The operator or an agent licensed under this Article who shall not be licensed as a massage technician.
- (h)   **Waiting Area.** An area adjacent to the main entrance that is separate from any area where massages are given.
- (i)   **Massage Room.** The area where private massage is performed.

## **Sec. 11-7-82    Massage Establishment License.**

- (a) No person, corporation, or other legal entity shall suffer, cause or permit the conduct of a massage establishment without having first obtained a license therefore from the Common Council. A separate license shall be acquired for each such establishment.
- (b) No license shall be granted for any establishment, the main entrance to which is within seventy-five (75) feet of the main entrance to a residence or of the common entry hall to residences, nor for any room or rooms in any hotel or motel.
- (c) Applications shall be made in writing on forms supplied by the City Clerk-Treasurer.
- (d) All applications shall include:
  - (1) A non-refundable fee as prescribed in Section 1-3-1;
  - (2) The location and mailing address of the proposed establishment;
  - (3) For an individual or for each person of a partnership or joint venture or agent of a corporation;
    - a. Name and present address;
    - b. The two (2) immediately previous addresses and dates of residences at each;
    - c. Height, weight, color of hair and eyes, Social Security number, written proof of age, full set of fingerprints and two (2) photographs not less than thirty (30) days old, and at least two (2) inches by two (2) inches;
    - d. The business or occupation for the two (2) years immediately preceding the date of application;
    - e. Whether a similar license has been revoked or suspended and, if so, the reason therefore and the location thereof;
    - f. Whether convicted of any crime or Article violation other than traffic offenses within the past three (3) years and, if so, a listing of the same and the locations thereof;
  - (4) If the applicant is a corporation, the names and addresses of each officer and director and of the stockholders of such corporation, together with the extent of the ownership of each and a statement whether such officer, director or stockholder holds office or stock in any other corporation conducting a similar business in the State of Wisconsin. Such application shall be made by an agent registered as such who shall have been a resident of the City of Prescott for at least ninety (90) days;
  - (5) All phone numbers of the proposed establishment;
  - (6) The names, addresses and phone numbers of all persons employed by the applicant at the proposed establishment at the time of application;
  - (7) Certification of compliance of the proposed premises with the Building Code and Fire Code, or in the alternative, applicant shall file a bond assuring that any work required to be done to bring the premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such Codes and with the standards contained herein for health and sanitary operation and the acquisition of a health permit shall be conditions precedent to the opening of business;
  - (8) The application shall contain a statement signed by the applicant and each individual of a partnership or joint venture that all information contained therein is true and correct;

- (e) The issuance of this license shall allow for the licensing of up to three (3) additional managers for each establishment.

### **Sec. 11-7-83    Massage Technician's and Manager's License.**

- (a) No person shall act or operate for a consideration as a massage technician or manager without having first obtained a permit to so do.
- (b) Applications for permits shall be in writing on forms supplied by the City Clerk-Treasurer and shall include:
  - (1) A non-refundable fee as prescribed by the City's fee schedule in section 1-3-1.
  - (2) Applicant's full name and present address, Social Security number, written proof of age in excess of eighteen (18) years, height, weight, color of hair and eyes, full set of fingerprints and two (2) photographs not less than thirty (30) days old and at least two (2) inches by two (2) inches;
  - (3) Applicant's two (2) previous addresses and dates of residences at each;
  - (4) The applicant's business, occupation or employment during the two (2) years immediately preceding date of application;
  - (5) Whether the applicant has had a similar permit revoked or suspended and, if so, the reason therefore and the location thereof,
  - (6) Whether the applicant has been convicted of any crime or ordinance violation other than traffic offenses within the past three (3) years and, if so, a listing of the same and the locations thereof,
  - (7) For technicians only, a certificate from a licensed physician that the applicant has been examined and found to be free of communicable diseases and showing that such examination occurred less than thirty (30) days prior to the date of application;
  - (8) The name and address of the licensed massage establishment by which the applicant is employed;
  - (9) A statement signed by the applicant that all information contained therein is true and correct.

### **Sec. 11-7-84    Granting of Licensee.**

- (a) Licenses may be granted by the Common Council after a hearing at which the applicant may be heard at applicant's option. At least ten (10) days notice of such hearing shall be given to the applicant.
- (b) The Common Council shall grant a license within thirty (30) days of application unless it is shown, for a massage establishment license, that the operation as proposed by the applicant does not comply with all applicable State laws and City ordinances, and for all licenses that the applicant or any partner or any officer, director or stockholder of a corporate applicant has been convicted in a court of competent jurisdiction of an offense under Chapter 994, Wis. Stats., or involving substances included in Subchapter II of Chapter

161, Wis. Stats., or of an offense against the person or property of another within the past three (3) years, that the information required on the application is incomplete or that any applicant has knowingly or with the intent to deceive made any false, misleading or fraudulent statement of fact in the application or any other document required by the City in conjunction therewith, or that the applicant has not resided in the City for at least ninety (90) days prior to the date of application.

- (c) In the event of denial, the applicant shall receive written notification thereof setting forth the reasons of the denial within ten (10) days after such denial;
- (d) Licenses granted by the Council shall expire one (1) year from the date of granting. Reapplication therefore shall be not less than sixty (60) days prior to such expiration date and shall be the sole responsibility of the applicant.
- (e) No license shall be transferred between locations or persons and no massage establishment license shall be sold or be subject to transfer of corporate assets or change of corporate officers or directors.
- (f) The massage technician's license does not entitle the holder to operate or manage a massage establishment.

## **Sec. 11-7-85 Regulation of License Operators.**

- (a) **Establishment Regulations.** Each establishment shall at all times maintain and comply with the following regulations:
  - (1) The establishment shall comply with all City codes;
  - (2) Only one (1) non-flashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services shall be permitted on such sign;
  - (3) No establishment shall be open for business between the hours of 10:00 p.m. and 8:00 a.m.;
  - (4) Only massage technicians licensed pursuant to this Section shall be employed as massage technicians by the establishment;
  - (5) The practice of all massage technicians employed by the establishment shall be limited to the licensed premises;
  - (6) No person under the age of eighteen (18) years shall be permitted on the premises;
  - (7) No intoxicating beverages or substance included in Subsection II of Chapter 161, Wis. Stats., shall be permitted in the licensed establishment. Food shall be permitted only when there is no charge therefore and when a food preparation area, including sink with hot and cold running water, is a part of the establishment;
  - (8) The establishment shall provide a waiting area for patrons separate from any area wherein massages are given. There shall be direct access to this area from the main entrance or from the hallway connected only to the main entrance;
  - (9) The operator or a licensed manager shall be present on the premises at all times during hours of operation and shall be responsible for the operation of the establishment;
  - (10) The establishment shall permit inspections of the premises at any time during business hours by Building Inspectors, Fire Inspectors, Health Inspectors, or personnel of any law enforcement agency;

- (11) The establishment shall keep current records of the names and addresses of its massage technicians, agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in Subsection (a)(10)
  - (12) The establishment shall report any change of fact required on the application form and all personnel changes to the City Clerk-Treasurer within ten (10) days after such change;
  - (13) Massage establishments shall keep a record of the date and hour of each massage, the name and address of the patron receiving the massage and the name of the masseur practicing or administering the massage. Such records shall be kept for the limited purpose of tracing any communicable disease which may have been contracted by any patron in such massage establishment and shall be made readily available to the inspecting officials and shall be used only for the purpose of tracing communicable diseases and to prevent any further contamination.
  - (14) Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Clean towels, coverings, and linens shall be stored in cabinets. Towels have first been laundered and disinfected. Disposable coverings and towels shall not be used on more than one (1) patron. Soiled linens and paper towels shall be deposited in approved receptacles.
  - (15) Instruments utilized in performing massage shall not be used on more than one (1) patron unless they have first been sterilized, using disinfecting agents or sterilizing equipment approved by the City of Prescott health officials. Massage table pads and reusable table coverings shall be disinfected between each massage with approved chemicals. Chemicals used during massage shall be stored separately in containers clearly labeled as to contents. All chemical containers shall be stored in cabinets reserved solely for such purpose.
- (b) **Technician Regulations.** Each technician shall at all times comply with the following regulations:
- (1) The technician shall practice only on the premises of a licensed massage establishment;
  - (2) The technician shall massage only patrons over the age of eighteen (18) years;
  - (3) No technician shall administer a massage:
    - a. If said technician believes, knows, or should know that he or she is not free of any contagious or communicable disease or infection;
    - b. To any massage patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption;
  - (4) The technician shall report any change of fact required in the application form to the City Clerk-Treasurer within ten (10) days after such change;
  - (5) It shall be unlawful for any person in a massage parlor to place his or her hand upon or to touch with any part of his or her body or to fondle or massage a sexual or genital part of any other person.
    - a. It shall be unlawful for any person in a massage parlor to offer for a consideration to place his or her hand upon or to touch with any part of his or her body or to fondle or massage a sexual or genital part of any other person.
    - b. It shall be unlawful for any person, in a massage parlor, to expose his or her sexual, or genital parts, or any portion thereof, to any other person. It shall also

be unlawful for any person in a massage parlor, to expose the sexual or genital parts, or any portion thereof, of any other person.

- c. It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.
- d. It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections (b)(1)-(3).

## **Sec. 11-7-86    Revocation or Suspension of Licenses.**

- (a) **In General.** Any license granted herein may be revoked or suspended, indefinitely, or not renewed by the Common Council as follows:
  - (1) If the applicant has made or recorded any statement required by this Article knowing it to be false or fraudulent or intentionally deceptive;
  - (2) For the violation of any provision of this Article, except for establishment license matters involving a violation of City Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year;
  - (3) After one (1) conviction of any establishment personnel of an offense under Chapter 944, Wis. Stats., or of an offense against the person or property of a patron of the property or of an offense involving substance in Subchapter II of Chapter 161, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.
- (b) **Notice of Hearing.** No license shall be revoked, suspended, or not renewed by the Common Council except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Ordinance Committee. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof. The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf under subpoena by the Common Council if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Ordinance Committee shall prepare and submit a report to the Common Council including findings of fact and conclusions of law and a recommendation as to what, if any, action the Common Council should take with respect to the license. The Committee shall provide the complainant and licensee with a copy of the report.
- (c) **Appeal.** Either the complainant or licensee may file an objection to the report and have the opportunity to present arguments supporting the objection to the Common Council. The Common Council shall determine whether arguments shall be presented orally or in writing, or both. If the Common Council, after arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as

provided at Subsection (a). The Common Council shall decide the matter and shall prepare a written decision which shall be filed with the City Clerk-Treasurer, and a copy thereof delivered to the licensee and complainant within twenty (20) days after its decision.

### **Sec. 11-7-87 Exceptions.**

This Article shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

- (a) Physicians, surgeons, chiropractors, osteopaths, masseurs, or physical therapists licensed or registered to practice their respective professions under the laws of the State of Wisconsin, or nurses registered under the laws of the State of Wisconsin, acting under their direction and control.
- (b) Barber shops and beauty parlors, barbers and beauticians licensed under the laws of the State of Wisconsin, provided that such massage as is practiced is limited to the head and scalp.
- (c) Accredited high schools and colleges and coaches trainers therein while acting within the scope of their employment.

### **Sec. 11-7-88 Operation without License-Public Nuisance.**

The operation of a massage establishment without a license or the activity of an individual as a massage technician without a license is deemed a public nuisance and may be enjoined by the city.

### **Sec. 11-7-89 Penalty.**

Any person violating this Article shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00). Each day of violation shall constitute a separate offense.

## **CHAPTER 8**

# **SEX OFFENDER RESIDENCY AND LOITERING RESTRICTIONS**

### **Sec. 11-8-1 PURPOSE**

The purpose of the statute is to protect the public and to reduce the likelihood that sex offenders will engage in such conduct in the future. Wis. Stat. §62.11 (5) authorizes the City Council of the City of Prescott to enact legislation for the health, safety and welfare of the public; and Wis. Stat. §62.04 is to be liberally construed in favor of the rights, powers and privileges of cities to promote the general welfare, peace, good order and prosperity of such cities and the inhabitants thereof.

### **SEC. 11-8-2 FINDINGS AND INTENT**

- (a) The City Council finds that repeat sexual offenders who use physical violence and sexual offenders who prey on children are sexual offenders who present an extreme threat to the public safety. Sexual offenders are likely to use physical violence and to repeat their offenses; most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.
- (b) It is not the intent of the City Council to punish sex offenders, but rather to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City of Prescott by prohibiting certain sexual offenders from being present, loitering, and residing in or near locations where children regularly congregate in concentrated numbers.

### **Sec. 11-8-3 DEFINITIONS**

For purposes of this section:

- (a) "Child" means a person under the age of 16 years.
- (b) "Sex Offender" means:
  - (1) Any person who is required to register under Wis. Stat. §301.45 for any offense against a child, any person who is required to register under Wis. Stat. §301.45 Wis. Stat. and who is subject to the Special Bulletin Notification process set forth in Wis. Stat. §§301.46 (2) and (2m), or any

person who is under court ordered supervision by the Wisconsin Department of Corrections for any sexual offense against a child;

- (2) Any person who has been convicted of or has been found delinquent for or has been found not guilty by reason of disease or mental defect for a sexually violent offense and/or crime against children;
  - (3) Any person subject to the sex crimes commitment laws of Wis. Stat. § 975.06 or Chapter 980 of the Wisconsin Statutes; or
  - (4) Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under Wis. Stat. § 971.17(1j) or required to comply with sex offender registration pursuant to Wis. Stat. §971.17(1m).
- (c) “Loitering” means, whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle, or to otherwise engage in a pattern of behavior that is offensive, intrusive, or inconsistent with the use or purpose of the particular area.
- (d) “Restricted Zone” means any certain area that is designated by the City as an area where children are regularly present or congregate, including but not limited to: public or private school or school property, recreation trail, playground or park, athletic field (including ballfield and sports court), recreation area frequented by children, day care center, any specialized school for children (including, but not limited to gymnastics academy, martial arts academy, dance academy, music school), church or other religious center, public beach, swimming pool or aquatic area, public library, licensed day care or day program center, residential care center for children, shelter care facility, youth center, or any other place designated by the City as a place where children are known to congregate.
- (e) “Residence” means a place where a person abides, lodges, or sleeps, and which may include more than one location, and may be mobile or transitory.

## **Sec. 11-8-4 PROHIBITIONS AND UNLAWFUL ACTS**

- (a) It is unlawful for any Sex Offender to be physically present within a Restricted Zone.
- (b) It is unlawful for a Sex Offender to loiter within five hundred (500) feet of the boundary of a Restricted Zone.
- (c) It is unlawful for a Sex Offender to reside within five hundred (500) feet of the boundary of a Restricted Zone.

- (d) It is unlawful for a Sex Offender to participate in a holiday event involving children under 16 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, wearing an Easter Bunny costume on or preceding Easter, engaging in any activity which involves the attraction of children, or participating in any costume activity in which children are likely to be present. Holiday events in which the Sex Offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.

## **Sec. 11-8-5 EXCEPTIONS**

The prohibitions set forth in (4) above shall not apply, and a Sex Offender may be physically present within a Restricted Zone, under the following circumstances:

- (a) The Sex Offender has official or legitimate business in the zone, as determined by the reasonable person standard, and the Sex Offender is accompanied by another adult who is not a Sex Offender.
- (b) The property supports a church, synagogue, temple or other house of religious worship and the presence of the Sex Offender only occurs during the hours of worship or other religious program or service as posted to the public, or if the property supports a use also attended by the Sex Offender's natural or adopted child which child's use frequently requires the attendance of a person or of the Sex Offender as the child's parent upon the property, provided however that the entrance or presence upon the property only occurs during hours of activity related to the use.
- (c) The property supports the location of a polling place in a local, state or federal election, but only if the Sex Offender is eligible to vote, the designated voting place for the Sex Offender is in use, the Sex Offender enters the voting place property and proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and the Sex Offender vacates the property immediately after voting.
- (d) The Sex Offender's presence at an elementary or secondary school is required as a result of the sex offender's or the sex offender's child's enrollment in authorized programming of the school.

## **Sec 11-8-6 MEASUREMENT OF DISTANCE**

For the purpose of determining distance for this ordinance, distance shall be measured by a straight line from the nearest boundary of the Restricted Zone property to the offender's location or, if a residence, to the nearest boundary of the property of said residence.

## **Sec 11-8-7 PENALTY**

A person who violates provisions of this ordinance shall be subject to a forfeiture of not less than \$500 and no more than \$1,000 for each violation. Each day a violation continues shall constitute a separate offense. The City may also obtain equitable and injunctive relief.

## **Sec 11-8-8 SEVERABILITY**

The provisions of this ordinance shall be deemed severable and it is expressly declared that the City Council would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance is held invalid, the remainder of the ordinance shall not be affected.