

CHAPTER 12
ORDERLY CONDUCT

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12.01 – DISORDERLY CONDUCT

No person in a public or private place shall engage in violent, abusive, indecent, profane, boisterous, unreasonable loud, or otherwise disorderly conduct under circumstances which the conduct tends to cause or provoke a disturbance.

12.015 – HARASSMENT

Section 12.015 of the Municipal Code of the Village of Cassville is hereby created and shall incorporate the terms of Wis. Stat. Sec. 947.013, and any amendments thereto, as if fully incorporated herein.

12.02 – UNLAWFUL USE OF TELEPHONE

Any person doing any of the following shall be guilty of a violation of this section:

- (1) With intent to frighten, intimidate, threaten, abuse, or harass, makes a telephone call and threatens to inflict injury or physical harm to any person or the property of any person.
- (2) With intent to frighten, intimidate, threaten, abuse, harass, or offend, telephones another and uses any obscene, lewd, or profane language or suggest any lewd and lascivious act.
- (3) Makes or causes the telephone of another repeatedly to ring, with intent to harass any person at the called number.
- (4) Makes repeated telephone calls, whether or not conversation ensues, with intent to solely harass any person at the called number.
- (5) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse, threaten, or harass any person at the called number.
- (6) Knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section.

12.03 – ISSUE OF WORTHLESS CHECK

- (1) No person shall issue any check or other order for the payment of money which, at the time of issuance, the person intends shall not be paid.
- (2) Any of the following is prima facie evidence that the person at the time of the issuance of the check or other order for the payment of money, intended it should not be paid.
 - (a) Proof that, at the time of issuance, the person did not have an account with the drawee; or

- (b) 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 on nonpayment or dishonor to pay the check or other order.
- (c) Proof that, when presentment was made within a reasonable time, the issuer 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.

12.04 – RETAIL THEFT

(1) In this section:

(a) “Merchant” includes any merchant as defined in Section 402.104(1), Wis. Stats., of any innkeeper, motel keeper, or hotel keeper.

(b) “Value of Merchandise” means:

(1) For the property of the merchant, the value of the property; or

(2) For the merchandise held for resale, the merchant’s stated price of the merchandise, of in the event of altering, transferring, or removing a price marking or causing a cash register or other sales device to reflect less than the merchant’s stated price, the difference between the merchant’s stated price of the merchandise, and the altered price.

(2) No person shall intentionally alter indicia or price or value of merchandise or take and carry away, transfer, conceal, or retain possession of merchandise held for resale by a merchant or property of the merchant without his or her consent and with intent to deprive the merchant permanently of possession, or the full purchase price of the merchandise.

(3) The intentional concealment of un-purchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant’s store without paying the purchase price thereof is evidence of intent to deprive the merchant permanently of possession of such merchandise. The discovery of un-purchased merchandise concealed upon the person or among the belongings of such person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

(4) A merchant or merchant’s adult employee who has probable cause for believing that a person had violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be properly informed of the purpose of the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival

of a peace officer who may conduct a lawful interrogation of the accused person. Any merchant or merchant's adult employee who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.

- (5a) In any action of proceeding for violation of this section, duly identified and authenticated photographs of merchandise which was the subject of the violation, may be used as evidence in lieu of producing the merchandise.
- (5b) A merchant or merchant's adult employee is privileged to defend property as described in Section 939.49, Wis. Stats.

12.05 – THEFT UNDER \$100

- (1) No person shall intentionally take and carry away, use, transfer, conceal, or retain possession of moveable property of another without his or her consent with intent to deprive the owner permanently of possession of such property.
- (2) Definitions. In this section:
 - (a) "Property" means all forms of tangible property, whether real or personal, without limitations including electricity, gas and documents which represent or embody a choice in action or other intangible rights.
 - (b) "Moveable Property" is property whose physical location can be changed, without limitation including electricity and gas, documents which represent or embody intangible rights and things growing on, affixed to, or found in land.
 - (c) "Value" means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft whichever is less, but if the property stolen is a document evidencing a choice in action or other intangible right, value means either the market value of the choice in action or other right, or the intrinsic value of the document, whichever is greater. If the thief gave consideration for, or had legal interest in, the stolen property, the amount of such consideration or value of such interest, shall be deducted from the total value of the property.
 - (d) "Property of Another" includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

12.06 – OBSTRUCTING

- (1) No person shall knowingly obstruct an officer while such officer is doing an act in an official capacity and with lawful authority.

(2) Definitions. In this section:

- (a) “Officer” means a peace officer or other public officer or public employee having the authority by virtue of his office or employment to take another into custody.
- (b) “Obstruct” includes, without limitation, knowingly giving false information to an officer with intent to mislead him in the performance of his duty including the service of any summons or civil process.

12.07 – BATTERY

No person shall cause bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed.

12.08 – CRIMINAL DAMAGE UNDER \$100

No person shall intentionally cause damage to any physical property of another without the person’s consent, where the property is reduced in value by less than \$100.

12.09 – NOISE

- (1) No person shall operate on any highway, roadway, alley, park or any public place in the Village, any loudspeaker or mechanical device for amplifying sound, or a mechanical device for reproducing sound, or shall make or cause to be made, any loud disturbance or unnecessary sounds or noises by voice or instrument of any kind, or by the excessive squealing of tires of any motor vehicle, motorcycle, or moped that tend to annoy or disturb another in or about any public highway, roadway, alley, park or any private residence.
- (2) The provisions of this section, except for the prohibitions of squealing of tires, shall not apply to patriotic observances of Memorial Day, Flag Day, the 4th of July or Veterans Day held in public places in the Village by the American Legion or other similar nonsectarian organizations, or to the annual celebration of the Christmas season held in the month of December by a nonsectarian association or group of person, provided that no advertising for private purposes is done on any such occasion by means of any other devices mentioned in this section.
- (3) Excessive squealing of tires under this section shall mean the creating of loud unnecessary noise, which would tend to disturb the peace or annoy person or ordinary sensibilities.

12.10 – LITTERING

No person shall throw any glass garbage, rubbish, waste, noxious liquid, grass clippings, yard waste, or other litter or unwholesome substance upon the highways, roadways, public parks,

or other property of the Village or upon any private property not owned by him or her or upon the surface of any body of water within the Village.

12.11 – SALES OF ALCOHOLIC BEVERAGES TO UNDERAGE PERSONS

- (1) No person shall procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or procure for, sell, dispense, or give away any intoxicated liquor to any underage person.
- (2) No licensee or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age, or sell, vend, deal or traffic in intoxicating liquor to any underage person.
- (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the person or under the person's control. This subsection does not apply to alcoholic beverages used exclusively as part of a religious service.
- (4) No adult may intentionally encourage or contribute to a violation of Section 12.12(1) and (2) of this ordinance.
- (5) Definitions. In this section:
 - (a) "Legal Drinking Age" means 21 years of age.
 - (b) "Underage Person" means a person who has not attained the legal drinking age.
- (6) Any license suspension for sale to an underage person will be in accordance with Section 125.07(1)(b), Wis. Stats.

12.12 – PROHIBITIONS RELATING TO UNDERAGE PERSONS

- (1) Any underage person who does any of the following is guilty of a violation of this section:
 - (a) Procures or attempts to procure alcoholic beverages.
 - (b) Knowingly possesses or consumes intoxicating liquor.
 - (c) Enters or is on licensed premises in violation of Section 125.07(3)(a), Wis. Stats.
 - (d) Falsely represents his or her age for the purpose of receiving alcoholic beverages from a licensee or permittee.

- (2) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverages is guilty of a violation of this section.
- (3) Any person violating paragraph (1) or (2) of this section is subject to the suspension of the person's operating privilege as well as participation in a supervised work program in accordance with Section 125.07(4)(c) and (cg), Wis. Stats.

12.13 – FIREARMS IN PUBLIC BUILDINGS

- (1) Pursuant to Wis. Stats. Section 943.13 (1m)(c)4, no person shall enter or remain in any part of a building owned, occupied or controlled by the Village of Cassville if the Village of Cassville has notified the person not to enter or remain in the building while carrying a firearm or a specific type of firearm.
- (2) The Village President shall cause signs to be created at all entrances to all buildings owned, occupied or under the control of the Village of Cassville providing notice that no person is to enter or remain in any such building while carrying a firearm. Such signs shall be five inches by seven inches or larger.
- (3) Nothing in this subsection shall be constructed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm in any public building. Notwithstanding Wis. Stats. Section 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a State certified commission warden.
- (4) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats. Section 941.23 or 941.235.

12.14 – PURCHASE OR POSSESSION OF TOBACCO PRODUCTS PROHIBITED

- (1) Definitions. In this section:
 - (a) "Cigarette" has the meaning given in Section 139.30(1m) of the Wisconsin Statutes.
 - (b) "Law Enforcement Officer" has the meaning given in Section 165.85(2)(c) of the Wisconsin Statutes.
 - (c) "Tobacco Products" has the meaning given in Section 139.75(12) of the Wisconsin Statutes.
 - (d) "Electronic Cigarette" means a device used to vaporize and inhale nicotine-based liquid.

(e) “Nicotine Product” has the meaning given in Section 134.66(1)(f) of the Wisconsin Statutes.

(2) Prohibitions. Except as provided in subsection 3, no child may do any of the following:

(a) Buy or attempt to buy any cigarette, tobacco product, electronic cigarette, or nicotine product.

(b) Falsely represent his or her age for the purpose of receiving any cigarette, tobacco product, electronic cigarette, or nicotine product.

(c) Possess any cigarette, tobacco product, electronic cigarette, or nicotine product.

(3) Exception. A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Section 134.65(1) of the Wisconsin Statutes.

(4) Seizure. A law enforcement officer shall seize any cigarette, tobacco product, electronic cigarette, or nicotine product involved in any violation of subsection (2) committed in the officer’s presence.

12.15 – DISCHARGING AND CARRYING FIREARMS

No person, except a sheriff, constable, police officer or their deputies, shall fire or discharge any firearm, rifle, spring or air gun of any description within the Village of Cassville or have any firearm, rifle, spring or air gun in his possession or under his control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container, provided that this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board, or the firing or discharging of BB guns on private premises by person over 16 or under the direct personal supervision of a parent or guardian. This subsection shall be deemed to prohibit hunting within the Village, provided that 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 Village.

12.16 – THROWING OR SHOOTING ARROWS, STONES & OTHER MISSILES

No person shall throw or shoot any object, arrow, stone, snowball, or other missile or projectile, by hand, or by any other means at any other person, or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village of Cassville.

12.17 – SALE & DISCHARGE OF FIREWORKS

- (1) Private Use and Sale. No person shall sell, expose or offer for sale, use, keep, discharge, or explode any fireworks except toy pistol paper caps, sparklers, and toy snakes within the limits of the Village unless he shall be authorized by a fireworks permit as hereinafter provided. The term “fireworks” as used in this section shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all rockers or similar missiles containing explosive fuel.
- (2) Fireworks Permits. Fireworks, other than those prohibited by the laws of the State of Wisconsin, may be used and displayed in open fields, parks, rivers, lakes and ponds by public authorities, fair associations, amusement parks, park boards, civic organizations and other groups of individuals when a permit for such display has been granted by the Village Board. All applications shall be filed with the clerk at least 30 days prior to the time of the proposed use and shall be referred to the Fire Chief for investigation and no permit shall be granted unless the Village Board, from the report of the Chief, determines that the applicant will use the fireworks in a public exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner. Before granting any fireworks permit, the Village Board shall require the applicant to post with the Village Clerk an approved indemnity bond in the sum of \$2,000 for the payment of all claims that may arise by reason of injuries to persons or property from the handling, use or discharge of fireworks under such permit.

12.18 – OBSTRUCTING STREETS AND SIDEWALKS

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

12.19 – FALSE FIRE ALARMS

No person shall give or send or cause to be given or sent in any manner any alarm of fire which he knows to be false.

12.20 – ASSISTING ESCAPE OF A PRISONER

No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the Village.

12.21 – PERSONATING POLICE OFFICERS

No person shall personate a policeman or peace officer within the Village of Cassville.

12.22 – GAMBLING

All forms of gambling and lotteries, unless specifically authorized and/or licensed pursuant to the laws of the State of Wisconsin, are prohibited within the limits of the Village. Any peace officer or policeman of the Village is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling purposes within the Village and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.

12.23 – CURFEW

No child 16 years of age or under shall loiter, idle or remain and no parent or guardian shall knowingly permit his child or ward of such age to loiter, idle or remain in or upon any of the streets, alleys or public places in the Village between the following hours:

(1) Between September 1st and June 1st of each year:

- (a) On Sunday through Thursday nights between the hours of 10pm and 6am of the following day;
- (b) On Friday and Saturday nights between the hours of 11pm and 6am of the following days; and
- (c) Except that on any night that there is a school activity sanctioned by any of the Village's private or public schools, children attending said activity are not subject to this ordinance until one-half hour after the scheduled closing hour of said activity;

(2) Between June 2nd and August 31st of each year:

- (a) On Monday through Thursday nights between the hours of 11pm and 6am of the following day; and
- (b) On Friday, Saturday and Sunday between the hours of midnight and 6am of the following day.

(3) This subsection shall not be construed to apply to children accompanied by a parent, guardian or some person of lawful age having legal custody of such child; nor shall it be construed to prohibit children from performing an errand or from pursuing the duties of the child's employment in an expeditious and orderly manner.

12.24 – TRUANCY/DROP-OUTS

(1) Prohibition against truancy, habitual truancy and dropping out of school:

- (a) No person under 18 years of age may be truant from school
- (b) No person under 18 years of age may be habitually truant from school
- (c) No person who is under the age of 18 years may drop out of school

(2) Violations and Citations. Any person found violating any of the provisions of Section (1) of this ordinance may be issued a citation by any law enforcement office of the Village of Cassville. Any citation shall provide for the following:

- (a) The name and address of the alleged violator
- (b) The factual allegations describing the alleged violation
- (c) The time and place of the offense
- (d) The section of the ordinance violated
- (e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so
- (f) The time at which the alleged violator may appear in court
- (g) A statement which in essence informs the alleged violator:
 - (1) That the alleged violator may make a cash deposit of a specified amount to be mailed to a specific official within a specified time;
 - (2) That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned;
 - (3) That, if the alleged violator makes a cash deposit and does not appear in court, he or she either will be deemed to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment imposed by Wisconsin Statutes Section 165.87, a jail assessment imposed by Wisconsin Statutes Section 302.46(1), a crime laboratories and drug law enforcement imposed by Wisconsin Statutes Section 165.755 and any applicable domestic abuse assessment imposed by Wisconsin Statutes Section 973.055(1) not to exceed the amount of the deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest;
 - (4) That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or the Village may commence an action against the alleged violator to collect the forfeiture, the penalty assessment imposed by Wisconsin Statutes Section 165.87, the jail assessment imposed by Wisconsin Statutes

Section 302.46(1), the crime laboratories and drug law enforcement assessment imposed by Wisconsin Statutes Section 165.755 and any applicable domestic abuse assessment imposed by Wisconsin Statutes Section 973.055(1);

- (5) That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under Wisconsin Statutes Section 800.093.

- (h) A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under the above paragraph and shall send the signed statement with the cash deposit;

- (i) Such other information as may be deemed necessary

(3) FORFEITURES AND REMEDIES

- (a) Any person convicted of violating Section (1) paragraph (a) of this ordinance which prohibits a person under 18 years of age from being truant from school can be ordered by the Court to attend school and can be ordered to pay a forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within twelve months of a previous violation subject to Wisconsin Statutes Section 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed by the person 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;

- (b) A person convicted of violating Section 1, paragraph (b) of this ordinance which prohibits a person under 18 years of age from being habitually truant from school can be subject to one or more of the following sanctions:

- (1) The violator's operating privileges can be suspended by the courts for not less than 30 days nor more than 1 year. The court shall immediately take possession of any suspended license and forward it to the Wisconsin Department of Transportation, together with a notice stating the reason for and the duration of the suspension;
- (2) The violator can be ordered by the court to attend school;
- (3) The violator can be ordered to pay a forfeiture of not more than \$500 plus costs, subject to Wisconsin Statutes Section 938.37. All or part of the forfeiture plus costs may be assessed against the violator, the parents or guardian of the violator or both;
- (4) The violator may be ordered by the court to remain at home except during hours in which the violator is attending religious worship or a school program, including

travel time required to get to and from the school program or a place of worship. The order may permit the violator to leave his or her home if the violator is accompanied by a parent or guardian.

- (5) An order can be entered by the court for the Department of Workforce Development to revoke under Wisconsin Statutes Section 103.72, a permit under Wisconsin Statutes Section 103.70 authorizing employment of the violator;
 - (6) An order can be entered by the court setting reasonable conditions consistent with this ordinance such as a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults;
 - (7) An order can be entered for the violator's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or attend school with the violator or both;
 - (8) An order can be entered requiring the violator to participate in counseling or a supervised work program or other community service work as described in Wisconsin Statutes Section 938.34(5)(g). The cost of any such counseling, a supervised work program or other community service work to which a person is assigned pursuant to an order under this ordinance acting in good faith is immune from civil liability in excess of \$25,000 for any act or omission by or impacting on that person pursuant to Wisconsin Statute Section 118.163.
- (c) If a court finds that a child has violated Section 1, paragraph (c) of this ordinance which prohibits any person under the age of 18 years from dropping out of school, the court can suspend the operating privilege of a person who is at least 16 years of age but less than 18 years of age and is a drop-out. The court may suspend the person's operating privilege until the person reaches the age of 18 years. 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. The court may order a school district to provide to the court a list of all persons who are known to the school district to be drop-outs and who reside within Grant County. Upon request, the Department of Transportation shall assist the court to determine which drop-outs have operating privileges.

The court may also order a child who is under 17 years of age and who is a drop-out in violation of this ordinance be subject to one or more of the dispositions specified under paragraph (b1) through (b6) and paragraph (b8) of Section 3 of this ordinance if the court finds that suspension of the person's operating privilege as defined in Wisconsin Statutes 340.01(40), until the person reaches the age of 18 years would cause an undue hardship to the person or the person's family.

(4) Definitions.

- (a) "Truant" means absent from school without an acceptable excuse under Wisconsin Statutes Section 118.15 and 118.16(4) for part or all of any day on which school is held during a school semester.

- (b) “Habitually Truant” means absent from school without an acceptable excuse under Wisconsin Statutes Section 118.16(4) and 118.15 for part or all of 5 or more days on which school is held during a school semester.
- (c) “Drop-out” means ceasing to attend school, does not attend a public or private school, technical college or home based private educational program on a full-time bases, has not graduated from high school and does not have an acceptable excuse under Wisconsin Statutes Section 118.15(1)(b) to (d) or (3).

(5) Cash Deposits, Costs and Assessments.

- (a) The cash deposit which can be posted for a violation of Section (1) subparagraph (a) of this ordinance is the sum of \$50 for a first violation plus \$11.50 in penalty assessments plus \$10 in jail assessments plus \$4 in Crime Laboratories and Drug Enforcement Assessments, for a total of \$75.50. For a second or subsequent violation of Section 1, subparagraph (a) of this ordinance, the cash deposit is \$100 plus \$23 in penalty assessments plus \$10 in jail assessments plus \$4 in Crime Laboratories and Drug Enforcement Assessments, for a total of \$137.
- (b) The cash deposit which can be posted for a violation of Section (1) of subparagraph (b) of this ordinance is \$500 plus \$115 in penalty assessments plus \$10 in jail assessments plus \$4 in Crime Laboratories and Drug Enforcement Assessments, for a total of \$629.
- (c) The cash deposit which can be posted for a violation of Section (1) subparagraph (c) of this ordinance is \$500 plus \$115 in penalty assessments plus \$10 in jail assessments plus \$4 in Crime Laboratories and Drug Enforcement Assessments, for a total of \$629.

Cash deposits, costs, and assessments shall be paid to the Clerk of Circuit Court for Grant County located in Lancaster, Wisconsin. The Clerk of Circuit Court for Grant County shall issue receipts for cash deposits, costs and assessments paid under this ordinance.

(6) Adoption of subsequent Changes in Statute Regarding Truancy.

In the event that the State of Wisconsin makes any subsequent changes in the truancy statutes regarding the definitions and prohibitions applicable to the truancy law after passage of this ordinance, said changes in the Wisconsin State Statutes applicable to the truancy law regarding the definitions and prohibitions applicable to the truancy law, are hereby automatically incorporated into this ordinance without further action and incorporated herein as if set forth in it entirety.

12.25 – INTOXICATING BEVERAGES ON PUBLIC STREETS

- (1) Definitions. For purposes of this ordinance the following definitions are applicable.
 - (a) “Public Street” means any street in the Village of Cassville for its entire dedicated width. Intending to include sidewalks and grass median strips as part of the public street.
 - (b) “Intoxicating Beverage” means all intoxicating liquors and all fermented malt beverages as defined in Section 125.02 Wis. Stats.
- (2) Use Prohibited. No person shall consume or have in his possession any opened container containing any intoxicating beverage upon any street, sidewalk, municipal parking lot or in any municipal building.
- (3) The Village Board may from time to time, for a specified period, prohibit the consumption and possession of any intoxicating beverage in Riverside Park, except within a premises licensed pursuant to Chapter 11 of the Municipal Code. The Chief of Police shall post signs within the park giving notice of such prohibition, and during said specified time no person shall consume or possess any intoxicating beverage in Riverside Park except within a licensed premises.

12.26 – TRAPPING OF ANIMALS

No person shall, on land within the Village of Cassville, trap, kill, wound or molest any animal, except mice or rats. Trapping is defined as set forth in Section 29.01(7) Wis. Stats.

12.27 – CAMPING IN RIVERSIDE PARK REGULATED

- (1) No person shall camp overnight in that portion of the Village Park known as “Riverside Park” except when the Chief of Police determines there exists an emergency situation created by all camping facilities, either public or private within the Cassville area being filled, or upon express authorization of the Village Board.

12.28 – ANIMALS IN VILLAGE PARKS REGULATED

- (1) No person shall ride, lead, or permit to run at large any horse, pony, mule, or other beast of burden on the unpaved or grassy areas of any Village park unless permission has first been granted by the Chief of Police.
- (2) Dogs, whether on a leash or otherwise, are prohibited in all Village Parks, with the exception of Riverside Park and the Village Dog Park, unless permission has first been granted by the Chief of Police.
- (3) In Riverside Park, a dog on a leash is permitted. The owner is responsible for maintaining control of the dog at all times and is responsible for cleaning up all dog feces.

12.29 – MOTOR VEHICLES IN RIVERSIDE PARK REGULATED

No person shall operate, park, stop or leave standing any motor vehicle, whether attended or unattended, at any time on the grassy areas of Riverside Park or on the paved pedestrian walkway known as the River Walk, unless permission has first been granted by the Chief of Police.

12.30 – SMOKING IN CERTAIN PUBLIC BUILDINGS PROHIBITED

(1) **Smoking Prohibited.** Smoking is entirely prohibited in the Village Hall and in the Eckstein Memorial Library. For purposes of this section, “smoking” is defined as carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

(2) **Penalty.** Any person violating this section shall forfeit \$30 together with costs.

12.31 – SMOKING PROHIBITED

The statutory provision describing and defining regulations with respect to smoking contained in Section 101.123 of the Wisconsin Statutes, known as the Clean Indoor Air Act, exclusive of any provisions therein relating to the penalties to be imposed or the punishment of violation of such statutes, are hereby adopted and by reference made a part of the section as if fully set forth herein. Any act required to be performed or prohibited by Wis. Stat. Section 101.123 and incorporated herein by reference is required or prohibited by this section. The penalty for a violation of this section shall be not less than \$10 no more than \$200, plus the costs of prosecution, for each violation.

12.32 – CLOSING HOURS OF VILLAGE PROPERTY

It shall be unlawful for any person to enter or be present on property of the Village of Cassville during hours when said facilities are closed. The hours when each such facility is to be closed shall be determined by the Chief of Police and signs setting forth said hours shall be posted prominently at each such facility.

12.33 – NUDE DANCING

WHEREAS, the Village Board of the Village of Cassville has explicit authority under sec. 125.10(1), Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in chapter 125, Stats., and

WHEREAS, the Village Board has authority under its general police powers set forth in sec. 61.34(1) to act for the good order of the municipality and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression; and

WHEREAS, the Village Board recognizes it lacks authority to regulate obscenity in light of sec. 766.051(3), Stats., and does not intend by adopting this ordinance to regulate obscenity,

since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, nude, non-obscene, erotic dancing in bars and taverns; and

WHEREAS, bars and taverns featuring live, nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities, and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and

WHEREAS, the Village Board recognizes the U. S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and

WHEREAS, however, the governing body is aware, based on the experiences of other communities, that bars and taverns in which live, nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Cassville; and

WHEREAS, among these secondary effects are: (a) the potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses, (b) the potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist, (c) health risks associated with the spread of sexually transmitted diseases, and (d) the potential for infiltration by organized crime for the purpose of unlawful conduct; and

WHEREAS, the governing body desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village of Cassville; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

WHEREAS, the governing body has determined that enactment of an ordinance prohibiting live, nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.

(1) NUDE DANCING IN LICENSED ESTABLISHMENTS PROHIBITED

It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

- (a) Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering.
- (b) Shows any portion of the female breast below a point immediately above the top of the areola or
- (c) Shows the covered male genitals in a discernibly turgid state

(2) EXEMPTIONS

The provisions of this ordinance do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(3) DEFINITIONS

“Licensed Establishment” - means any establishment licensed by the Village Board of the Village of Cassville to sell alcohol beverages pursuant to Chapter 125, Wis. Stats. The term “license” means the holder of a retail “Class A”, “Class B”, Class “A”, Class “B” or “Class C” license granted by the Village Board of the Village of Cassville pursuant to Chapter 125, Wis. Stats.

(4) PENALTIES

Any person, partnership, or corporation who violates any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$ 270.50, and not more than \$ 500.00 per violation. 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.

(5) SEVERABILITY

If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

12.34 – TRESPASS

The provisions and requirements of Wis. Stat. Section 943.13 regarding trespass to land, including any amendments thereto, are hereby incorporated herein as if fully set forth with the exception of any penalty provision set forth in Section 943.13. Any act required to be performed or prohibited by Section 943.13 is required or prohibited by this ordinance.

Anyone violating a provision of this section shall be subject to the penalties set forth in Section 12.29 of this code.

12.35 – SEVERABILITY

The provisions of this chapter shall be deemed severable and it is expressed and declared that the Board of Trustees would have passed the other sections of this ordinance irrespective of whether or not one or more sections may be declared invalid and if any section of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such sections to other persons or circumstances shall not be affected thereby.

12.36 – COMMUNICABLE DISEASES

Section 12.36 of the Municipal code of the Village of Cassville shall incorporate the terms of Wis. Stat. §252 entitled “Communicable Diseases”, and any amendments thereto, as if fully incorporated herein.

- (1) **Violation of Law Relating to Health.** Wis. Stat. §252.25 is adopted by reference, in full, and as subsequently amended. The Village Board authorizes the use of a citation to be used to enforce state mandated communicable disease restrictions and confers citation authority to the Public Health Officer or their designee and to law enforcement officers.

12.40 – PENALTY PROVISIONS

- (1) Any person who shall violate any of the provisions of this chapter shall, upon conviction of such violation, be subject to a forfeiture of not more than \$500, with the exception of violations of Sections 12.10, 12.25, 12.26 and 12.27 which shall subject the individual to a forfeiture of not more than \$200 and with the exception of violations of Section 12.14 which shall subject the individual to a forfeiture of not more than \$50 for a first violation and \$100 for a second violation within 12 months of the first violation, together with the penalty assessment and costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, such person shall be imprisoned in the County Jail until such forfeiture, penalty assessment, and costs are paid, but not exceeding 90 days.
- (2) Whenever any person fails to pay any forfeiture and costs of prosecution under the order of any court for violations of any ordinance of the Village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.
- (3) Uniform Village Citation.
 - (a) The citation shall contain the following:
 1. The name, address, and date of birth of the alleged violator and the name and address of the defendant's parents or guardian, if a minor.
 2. The factual allegations describing the alleged violation.

3. The time and place of the offense, and a statement that the defendant committed the violation.
4. The section of the ordinance violated.
5. A designation of the offense in a manner readily understood by a person making a reasonable effort to do so.
6. A date, time, and place for the alleged violator's appearance in court, and a notice to appear.
7. The name and department of the issuing officer.
8. The maximum forfeiture and penalty assessment for which the defendant might be found liable and other penalties which may be imposed, including suspension under Section 343.30 (6), Wis. stats.
9. A statement which in essence informs the alleged violator:
 - (a) That a cash deposit based on the schedule established by this subsection may be made which shall be delivered or mailed to the Clerk of Circuit Court for Grant County, Wisconsin, or to the Grant County Law Enforcement Center prior to the scheduled court appearance, and persons who receive cash deposits shall give receipts for the same.
 - (b) That if a cash deposit is made, no appearance in court is necessary unless that person is subsequently summoned.
 - (c) That if a cash deposit is made and the alleged violator does not appear in court, that the person will be deemed to have entered into a plea of no contest with costs imposed under Section 165.87 and section 814.63(1) and (2), Wis. stats., not to exceed the amount of the deposit; or if the court does not accept a plea of no contest, a summons shall be issued commanding the person to appear in court to answer the complaint.
 - (d) That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture and penalty assessment and costs imposed by Section 165.87 and 814.63(1) and (2), Wis. Stats.
10. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that the person has read the statement required under sub. 9 and shall send the signed statement with the cash deposit.
11. Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty and request another date for the court appearance.
12. Such other information as the Village deems necessary.

13. If a citation is issued to a minor, the issuing agency shall, within 7 days, mail or deliver a copy of the citation to the child's parent or guardian.
14. The form of citation to be used by the Village is on file in the office of the Village Clerk and is made a part of this section by reference as if set forth herein in full.
 - (a) **Schedule of Deposits.** The schedule of cash deposits contained in Chapter 20 hereof shall be used for citations issued under this Chapter:
 - (b) **Issuance of Citation.** Any law enforcement officer may issue citations authorized under this chapter.
 - (c) **Procedure.** Section 66.119(3) and 778.25, Wis. Stats., relating to the violator's options and procedure on default, is hereby adopted and incorporated by reference.
 - (d) **Relationship to Other Laws.** The adoption and authorization for use of a citation under this chapter shall not preclude the Board of Trustees from adopting any other ordinance relating to the same or any other matter. The issuance of a citation under this section shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance of law relating to the same or any other matter shall not preclude the issuance of citation under this section.