



211 Walnut Street
Neenah, WI 54956

AN ORDINANCE: Public Services and Safety
Committee
Re: Creating Code § 4-65(p) relating to Appeal of a
License Denial and Code Ch. 4, Art. XIV
relating to Escorts and Escort Services License

ORDINANCE NO. 2014-9

Introduced: May 7, 2014

Committee/Commission Action:

RECOMMENDED FOR PASSAGE

AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

Section 1. Section 4-65(p) of the Code of Ordinances of the City of Neenah is created to read as follows:

(p) *Appeal of a Denial.* If the investigating authority denies an application for a license or permit, the City Clerk shall forthwith notify the applicant by mail of the denial and the reason therefore. The notice shall indicate that the applicant may appeal the denial by submitting a letter to the City Clerk requesting a hearing before the Public Services and Safety Committee. The City Clerk shall notify the applicant of the date and time of the review of the applicant's appeal of the denial by the Public Services and Safety Committee and the right of the applicant to appear before the Committee. The Public Services and Safety Committee shall hear any person for or against the granting of the license or permit and shall report its recommendation to the Common Council, which shall grant or deny the license or permit.

Section 2. Chapter 4, Article XIV of the Code of Ordinances of the City of Neenah is created to read as follows:

See Exhibit A Attached Hereto

Section 3. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 4. Repeal and Effective Date. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Moved by: Ald. Bates/Lendrum
Adopted: May 7, 2014
Approved: May 7, 2014
Published: May 12, 2014

Approved:



Dean R. Kaufert, Mayor

Attest:



Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:
City Attorney James G. Godlewski
211 Walnut Street
Neenah, WI 54956
State Bar No. 1005210

EXHIBIT A

ARTICLE XIV. ESCORTS AND ESCORT SERVICES

Sec. 4-360. Definitions.

(a) For the purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

Escort means any person who, for a fee, commission, salary, hire, profit, payment or other monetary considerations accompanies or offers to accompany another person to or about social affairs, entertainment or places of amusement or consorts with another person about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.

Escort service means service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons who may accompany other persons to or about social affairs, entertainment or places of amusement, or who may consort with others about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.

Operator means any person, partnership, corporation or other organization operating, conducting, maintaining or owning any escort service.

Person means any individual and is also extended and applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate.

Sec. 4-361. Exemptions.

This section does not apply to businesses, agencies and persons licensed by the State of Wisconsin or the City of Neenah pursuant to a specific statute or ordinance, and employees employed by a business so licensed and which performs an escort or an escort service function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or an escort service.

Sec. 4-362. License required.

(a) No escort service shall operate or provide service in the City of Neenah without first obtaining an escort service license issued by the City of Neenah.

(b) No person shall escort in the City of Neenah unless employed by an escort service licensed by the City of Neenah and properly registered pursuant to §4-369.

(c) Any person, partnership or corporation that desires to operate or provide services from more than one (1) location must have a license for each location.

(d) No license or interest in a license may be transferred to any person, partnership or corporation.

(e) No person may advertise indicating that an escort service is available in the City of Neenah unless that service possesses a valid license. No escort service may in any manner advertise its services as licensed by the City of Neenah.

(f) Licenses issued under this Article shall require a fee as established by the Common Council.

(g) No escort service shall provide a person with the actual services of an escort at its establishment address except when the escort service has met the standards and requirements of an Adult Establishment under the Neenah Zoning Code, Ch. 26. In addition to regulations under the Zoning Code, Escort Services shall comply with the following conditions:

- (1) Escort services shall not be located within five hundred (500) feet of any residentially zoned property.
- (2) Escort services shall not be located within five hundred (500) feet of a public or private educational institution, place of worship, club, park or playground, non-profit recreational facility, child day care center or hotel/motel.
- (3) Escort services shall not be located within five hundred (500) feet of an establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.
- (4) Escort services shall not be located within one thousand (1,000) feet of another Escort Service or Adult Establishment.
- (5) No Escort Service shall be open between the hours of 2 a.m. and 8 a.m., Monday through Friday, between the hours of 3 a.m. and 8 a.m. on Saturdays or between the hours of 3 a.m. and 12 noon on Sundays.
- (6) No escort service shall be situated in such a manner as to allow public view of its stock in trade, advertisements, displays, promotional materials, screens, loudspeakers, sound equipment, videos, photographs or other forms of sexually-oriented entertainment shall be shown, seen, heard, discerned or exhibited from outside of the establishment.
- (7) The operator of an escort service shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone numbers, date of employment and termination. This information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination of the employee and shall be made immediately available for inspection by the Neenah Police Department and/or the Winnebago County Health Department.
- (8) No portion of the exterior of an escort service shall utilize or contain any flashing lights, search lights, spot lights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically permitted pursuant to Ch. 24 of this Code, the Signs ordinance.
- (9) An applicant shall not reside with a person who has been denied a permit by the City to operate an escort service within the preceding twelve (12) months, or shall not reside with a person whose permit to operate an escort service has been revoked within the preceding twelve (12) months.
- (10) An applicant must be eighteen (18) years of age or older.
- (11) Further standards may be established as part of the special use permit process on a case-by-case basis for an escort service.

Sec. 4-363. Application for license.

(a) Any person desiring to secure a license under this article shall make application to the City Clerk.

(b) The application for a license shall be on a form approved by the City Clerk. An applicant for a license (which shall include each partner and limited partner of a partnership applicant, each officer and director of a corporate applicant, each stockholder holding ten percent (10%) or more of the stock or beneficial ownership and every other 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 preceding the date of application;
- (5) Whether the applicant previously operated in this or any other state, county or city under an escort service license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefore and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;
- (6) All convictions and pending charges of felony, misdemeanor or ordinance violations, except minor traffic violations;
- (7) Fingerprints and photograph registration with the Neenah Police Department;
- (8) The address of the escort service 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.

(c) Additional information. Each service shall furnish the following information under oath at the time of application:

- (1) The trade name of the escort service. An escort service may operate under only one (1) trade name per license.
- (2) The complete address of the proposed business location with a copy of the deed, lease, or other document pursuant to which the applicant occupies or will occupy, such premises.
- (3) The service's Federal Employer Identification Number.
- (4) A written plan setting forth:
 - a. Description of the nature of the business to be conducted and services to be offered;
 - b. Hours that the service will be open to the public;
 - c. Copies of contracts to be used with escorts and customers.

(d) A receipt from the Finance Department showing payment of the appropriate fee shall be submitted with the application. The amount of the fee shall be on file in the office of the City Clerk.

Sec. 4-364. Standards for license issuance.

(a) To receive a license to operate an escort service, 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 Ch. 111, Wis. Stats., the applicant shall not have been convicted of or pleaded nolo contendere, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - c. The applicant shall not have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;
 - d. The applicant shall not have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.
- (2) If the applicant is a corporation:
- a. All officers, directors and others required to be named under §4-363(b) shall be at least eighteen (18) years of age;
 - b. Subject to Ch. 111, Wis. Stats., no officer, director or other person to be named under §4-363(b) shall have been convicted of or pleaded nolo contendere, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - c. No officer, director or other person required to be named under §4-363(b) shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity.
 - d. No officer, director or other person required to be named under §4-363(b) shall have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the 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 the 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 Ch. 111, Wis. Stats., have been convicted of or pleaded nolo contendere, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - c. No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;
 - d. 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 this ordinance within five (5) years immediately preceding the date of the application.
- (4) No license shall be issued unless the Neenah Police Department has investigated the applicant's qualifications to be licensed.
- (5) If any charges are currently pending which, if resulting in a conviction, would disqualify the applicant pursuant to subsections (1), (2) or (3) above, the Public Services and Safety Committee may postpone action on the application until such time as the charge is resolved. Should the Public Services and Safety Committee fail to act upon an application within sixty (60) days of the resolution of the charge, the application shall be deemed granted.

Sec. 4-365. Renewal of license.

(a) Every license issued pursuant to this article will terminate on December 31st following its issuance, unless sooner revoked. Application for renewal shall be on a form provided by the City Clerk.

(b) No renewal application will be considered filed in the office of the City Clerk unless it is accompanied by the receipt of the Finance Department showing payment of the appropriate fee. The amount of the renewal fee shall be on file in the office of the City Clerk.

Sec. 4-366. Denial of application.

Whenever an initial application is denied, the duties of the City Clerk and the rights of the applicant shall be as set forth in §4-65(p) of the Neenah Municipal Code.

Sec. 4-367. Suspension, revocation or non-renewal of license.

(a) Any license issued under this article may be suspended for not less than ten (10) days nor more than ninety (90) days, or revoked, pursuant to §4-65(o) of the Neenah Municipal Code. The same provisions shall apply to denial of an application for renewal of a license issued under this article.

(b) Any violation of the requirements of this article shall be grounds for revocation of a license issued under this article.

Sec. 4-368. Responsibilities of the operator.

(a) **Register of Employees or Independent Contractors.** The operator of an escort service shall maintain a register of all employees or independent contractors, 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) **Records and reports required.** Every escort and escort service shall:

(1) Provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

(2) Maintain a legible written record of each transaction of any escort furnished to or arranged for on behalf of any person or customer. The record shall show the date and hour of each transaction, the name, address and telephone number of the person requesting an escort, and the name of every escort furnished.

(3) The record required by subsections (1) and (2) shall be kept available and open for inspection by the Police Department during business hours.

(c) The operator of an escort service shall make the register of employees, along with any other records required to be maintained under this article, available immediately for inspection by police upon demand of a member of the Neenah Police Department at all reasonable times.

(d) Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct. 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.

(e) Any act or omission of any employee constituting a violation of the provisions of this ordinance 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.

(f) No person shall escort or agree to escort a person under the age of eighteen (18) years.

Sec. 4-369. Registration of employees.

(a) All operators or employees working for any escort service and independent contractors shall, prior to beginning employment or contracted duties, obtain a photo identification card from the City Clerk. Prior to issuance, the person shall provide:

(1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer;

(2) Photographs and fingerprinting with the Neenah Police Department.

(b) Upon registration, the Neenah Police Department will provide to each registered employee or independent contractor an identification card, provided by the City Clerk, containing the employee's or independent contractor's photograph identifying the person as such, which shall be kept available for production upon request.

(c) All identification cards shall expire on December 31st following its issuance.

(d) The applicant shall pay a fee, the amount of which is on file in the office of the City Clerk.

(e) Any escort employed by more than one (1) escort service shall submit a separate registration for each service by which the escort is employed.

Sec. 4-370. Penalties.

Any person found to have violated any provision of this article shall be subject to a forfeiture of not less than two thousand dollars (\$2,000) and not more than five thousand dollars (\$5,000).

Sec. 4-371. Severability.

If any provision of this Article is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of same.