

Chapter 173

LOITERING

§173-1. Definitions.

§173-2. Loitering on public property.

§173-3. Loitering on private property.

§173-4. Prowling; circumstances causing alarm for safety.

§173-5. Loitering by underage persons where alcohol beverage is dispensed.

§173-6. Soliciting.

§173-7. Violations and penalties.

[HISTORY: Adopted by the Village Board of the Village of Albany 5-11-1992 as Sec. 11-2-6 of the 1992 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances -- See Ch. 194.

Peace and good order -- See Ch. 202.

§173-1. Definitions.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

KNOWN PROSTITUTE OR PANDERER -- A person who, within five years previous to the date of arrest for violation of this chapter, 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.

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.

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 Village of Albany.

PUBLIC PLACE -- 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.

§173-2. Loitering on public property.

A. 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.

B. 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.

C. 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.

D. 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.

§173-3. Loitering on private property.

A. 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 doorway, 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.

B. 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.

C. 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 motor vehicle be parked upon a public street, alley, parking lot, driveway or private premises.

D. 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.

§173-4. Prowling; circumstances causing alarm for safety.

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 section 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.

§173-5. Loitering by underage persons where alcohol beverage is dispensed.

A. Underage persons and intoxicants. No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

B. 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.

§173-6. Soliciting.

A. 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 are: 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 operators by hailing, waving of arms or any other bodily gesture.

B. 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 section unless the sworn police officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.

§173-7. Violations and penalties.

A. Attempt.

(1) Whoever attempts to commit an act prohibited by this chapter may be required to forfeit amounts not to exceed 1/2 the maximum penalty for the completed act.

(2) An attempt to commit an act prohibited by this chapter requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of this chapter 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.

B. Parties to acts prohibited.

(1) Whoever is concerned in the commission of an act prohibited by this chapter 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 or has been convicted of some other act prohibited by this chapter.

chapter if he: (2) A person is concerned in the commission of an act prohibited by this

(a) Directly commits the act;

(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 a 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 subsection 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 to withdraw.