

TITLE 11

Offenses and Nuisances

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State Statutes Adopted

11-1-1 Offenses Against State Laws Subject to Forfeiture

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 Town of Stephenson 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. 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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Offenses Against Public Safety and Peace

11-2-1	Discharge of Firearms
11-2-2	Sale and Discharge of Fireworks Restricted
11-2-3	Loitering Prohibited
11-2-4	Disorderly Conduct

Sec. 11-2-1 Discharge of Firearms.

- (a) **Statutes Adopted.** Statutory provisions describing and defining regulations with respect to the use of firearms, but not including any provisions therein relating to penalty to be imposed for the violation of said statutes, which said penalty provisions are expressly excluded from this Section, are hereby adopted and by reference as if set forth verbatim herein.
- (b) **Concealed Weapons.** It shall be unlawful to carry and conceal weapons in the Town in violation of the laws of this state.
- (c) **Discharge of Firearms.**
 - (1) Except when a person is on his/her own property or designated hunting areas, no person shall fire or discharge any shotgun loaded with scatter shot or fine shot loads within one hundred fifty (150) yards of any occupied, permanent dwelling or residence in the said Town of Stephenson, and shall not discharge any rifle or shotgun containing ball cartridges or slugs within three hundred (300) yards of any occupied permanent dwelling or residence or on legally posted land forbidding hunting or trespassing.
 - (2) The provisions of this Section shall not apply to any supervised waterfowl shoot or any supervised target practice, nor shall it apply to any navigable waters in or adjacent to the Town of Stephenson.

Sec. 11-2-2 Sale and Discharge of Fireworks Restricted.

No person shall use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Town of Stephenson unless he/she shall be authorized by a fireworks permit as provided in Title 7, Chapter 5 of this Code of Ordinances.

The term "fireworks" as used in this Section shall be defined as provided in Sec. 167.10(1), Wis. Stats., and shall be deemed to include all rockets or similar missiles containing explosive fuel.

Cross-Reference: Title 7, Chapter 5.

Sec. 11-2-3 Loitering Prohibited.

- (a) **General Regulation of Loitering or Prowling.** 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/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement 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/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection if the law enforcement 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 law enforcement officer at the time, would have dispelled the alarm.
- (b) **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 law enforcement 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.
- (c) **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.
 - (2) Upon being . requested to move by any such person in authority or by any law enforcement officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (d) **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 law enforcement officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement 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/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection if the law enforcement 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 law enforcement officer at the time, would have dispelled the alarm.

(e) **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 Permitted.** 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.

(f) **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 Town of Stephenson.

(3) **Prowl.** To move or roam about furtively, particularly on the property of another person.

Sec. 11-2-4 Disorderly Conduct.

(a) **Disorderly Conduct Prohibited.** No person within the Town of Stephenson 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 other than a bona fide athletic contest.

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- (b) **Disorderly Conduct With Motor Vehicle.** No person shall make unnecessary and annoying noises with a motor vehicle, including motorcycles and all-terrain vehicles, by squealing tires, excessive acceleration of the engine or by emitting unnecessary and loud muffler noise.
- (c) **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 Town, or upon any private property in open view of the public, or in the halls, stairways or elevators of public or commercial buildings, or to indecently expose his/her person.

Offenses Against Property

11-3-1	Destruction of Property Prohibited
11-3-2	Littering Prohibited
11-3-3	Abandoned Refrigerators Prohibited
11-3-4	Trespass
11-3-5	Damage to Public Property
11-3-6	Cemetery Regulations
11-3-7	Penalties

Sec. 11-3-1 Destruction of Property Prohibited.

- (a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the Town of Stephenson and belonging to the Town or its departments, or to any private person, without the consent of the owner or proper authority.
- (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).

Sec. 11-3-2 Littering Prohibited.

- (a) **Littering Prohibited.** No person shall deposit, discharge or throw any solid waste, debris, junk, glass, refuse, waste, filth or other litter upon the streets, alleys, highways, public parks, public right-of-ways, or other property of the Town, upon any private property without the owner's express permission, or the surface or ice of any body of water within the Town.
- (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) **Cleanup of Litter.** 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 twenty-four (24) hours of the time the same is deposited or immediately if such litter or debris presents a traffic or safety hazard. **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 Litterer's Expense.** If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(i) within the time specified, the Town shall arrange to have the same picked up by Town crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. 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 Town 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) **Dumping of Refuse and Grass Along Roads.** Except for temporary placement up to twenty-four (24) hours, no person shall deposit any refuse, leaves or grass clippings in any gutter, ditch or drainage way along any public street, road, alley, public right-of-way or highway.
- (d) **Depositing of Materials Prohibited.** Except as provided in Subsection (c), it shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, 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 Town Board, or its designee, 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.
- (e) **Handbills.**
- (1) **Scattering Prohibited.** It shall be unlawful to deliver any handbills or advertising material to any premises in the Town except by being handed to the recipient, placed on the porch, stoop or entrance way of the building, placed in newspaper boxes, 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.

(3) Advertisements Upon Public or Private Property. No person shall place any advertisement upon any public property or any street, alley or public ground or upon any private property situated and fixed in any street, alley or public ground or upon any other private property, except by the permission of the owner thereof, but this Section shall not apply to the posting of notices required by law. (f)

Miscellaneous Provisions.

- (1) This Section does not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or on other public or private property in conformance with Town ordinances.
- (2) This Section does not apply to a person who deposits or discharges solid waste in conformance with Chs. 31, 31, 144 or 147, Wis. Stats., or under a permit, license or other approval issued by the Wisconsin Department of Natural Resources or Transportation under those Chapters.

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/her control in a place accessible to children any abandoned, unattended or discarded freezer, 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/her agent and is securely locked or fastened.

Sec. 11-3-4 Trespass.

- (a) **Purpose.** This Section is created for the purposes of securing to the residents of the Town of Stephenson their rights to enjoyment and use of land and property by providing an efficient and orderly method of enforcement of such rights. This Section is enacted under the authority of sections of the Wisconsin Statutes and acts amendatory thereto.
- (b) **Short Title.** This Section may be referred to and cited as the Town of Stephenson Trespass Ordinance.
- (c) **Violations.** It shall be unlawful and a violation of this Section for any person to commit any of the following acts:
 - (1) Enter upon any enclosed or cultivated land of another with intent to catch or kill any birds, animals, or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any such activities.

- (2) To enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on such premises.
 - (3) To hunt, shoot, fish, or gather any product of the soil on the premises of another, or enter said premises with intent to do any of the foregoing after having been notified by the owner or occupant not to do so.
 - (4) To enter upon any enclosed or cultivated land of another with a vehicle of any kind without the express or implied consent of the owner or occupant.
 - (5) To erect upon the land of another any sign which is the same as or similar to the type of sign described in Subsection (d), unless authorized to do so by the owner of the lands involved.
- (d) **Posting of Lands.** For lands to be posted against entry by another under this Section, a sign at least eleven (11) inches square must be placed in at least two (2) conspicuous places for every forty (40) acres sought to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as herein provided were erected or in existence upon the premises to be protected within six (6) months prior to the event complained of shall be prima facie proof that the premises to be protected were posted as herein provided.
- (e) **How Entry Denied.** A person has received notice from the owner or occupant within the meaning of this Section if he/she has been notified personally, either orally or in writing, or if the land is posted.
- (f) **Failure to Post.** The failure of any person or occupant to post his/her lands shall not be deemed to constitute consent of such owner or occupant to any uninvited entry by another. Any entry by a person other than the lawful owner or lawful occupant of land or building shall constitute a violation of this ordinance if such entry is made under circumstances tending to create or provoke breach of the peace.

Sec. 11-3-5 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, portable toilet, 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 Town.
- (b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or windows of any building, or property or fixture, owned or occupied by the Town.

Sec. 11-3-6 Cemetery Regulations.

- (a) **Purpose and Definition.** In order to protect cemetery areas within the Town 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 Town of Stephenson.
- (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 cemetery owner's consent.
- (2) ***Protection of Cemetery Property.*** No person shall trap in any cemetery without 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.
- (3) ***Motor Vehicles.*** Motor vehicles, including snowmobiles and all-terrain 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 off-roadway operation of a motorized vehicle on cemetery property without the cemetery 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, are prohibited in any cemetery without the cemetery owner's consent.
- (8) **Sound Devices.** No person shall operate or play any amplifying system or sound device in any cemetery without the cemetery 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 under these regulations. 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 or engage in any sport or exercise on any cemetery property without the cemetery owner's consent.
- (11) **Alcoholic Beverages Prohibited.** No person shall consume or have in his/her possession any open container containing an alcohol beverage upon any cemetery property within the Town unless the property is specifically named as being part of a licensed premises.
- (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. 11-3-7 Penalties.

In addition to the general penalty of this Code in Section 1-1-6 or any other penalty imposed for violation of any Section of this Chapter, 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 law enforcement officers from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

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Offenses Involving Alcoholic Beverages

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

Sec. 11-4-1 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 licensee or permittee may sell, vend, deal or traffic in alcohol 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.
 - (4) No adult may intentionally encourage or contribute to a violation of Subsection (a)(1) or (b).

(b) **Penalties.** For purposes of determining previous violations, the thirty (30) month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one (1) violation occurs at the same time, all those violations shall be counted as one (1) violation. A person who commits a violation of Subsection (a) above may be:

- (1) Required to forfeit not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within thirty (30) months of the violation; or

- (2) Fined not more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within thirty (30) months of the violation.
 - (3) Fined not more than One Thousand Dollars (\$1,000.00) if the person has committed two (2) previous violations within thirty (30) months of the violation.
 - (4) Fined not more than Ten Thousand Dollars (\$10,000.00) if the person has committed three (3) or more previous violations within thirty (30) months of the violation.
 - (5) In addition to the forfeitures provided in Subsections (b)(1)-(4) 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) **Exception.** A person who holds a Class "A" license, a Class "B" license or permit, a "Class A" license or a "Class B" license or permit who commits a violation is subject to Subsection (b)(5) but is not subject to Subsection (b)(1)-(4) or Sec. 125.11, Wis. Stats.
- (d) **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.
- (e) **Penalties.** Any person who violates Subsection (d)(1) above shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).

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

Sec. 11-4-2 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, knowingly attempt to 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 Subsection 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 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, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums or public facilities as defined in Sec. 125.51 (5)(b) J.d, Wis. Stats., which are owned by a county or municipality, or centers for the visual. or performing arts.
- (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 Chapters 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
- (5) Ski chalets, golf courses and golf clubhouses, racetracks licensed under Chapter 562, Wis. Stats., curling clubs, private soccer clubs and private tennis clubs.
- (6) Premises operated under both a "Class B" or Class "B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a "Class B" or Class "B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
- (7) Premises operating under both a "Class C" license and a restaurant permit.
- (8) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, 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" or "Class B" premises under this Subsection only if the Town adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this Subsection and the pertinent law enforcement agency issues to the Class "B" or "Class B" 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 pertinent 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 Town. 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 person 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 limited liability company or a person who has an 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 pertinent 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.
- (12) An underage person who enters and remains on premises for which a temporary Class "B" license is issued under Sec. 125.26, Wis. Stats., if the licensee is authorized by the official or body of the Town that issued the license to permit underage persons to be on the premises under Sec. 125.26(6), Wis. Stats., and if the licensee permits underage persons to be on the premises. (b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) above is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

Sec. 11-4-3 Underage Persons; Prohibitions; Penalties.

- (a) **Prohibitions.** 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 11-4-2(a).
 - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) **Adult to Accompany.** Except as provided in Subsection (c) below, 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) **Exceptions.** An underage person may possess alcohol beverages in the course of employment during his or her working hours if employed by any of the following:
- (1) A brewer.
 - (2) A fermented malt beverages wholesaler.
 - (3) A permittee other than a Class "B" or "Class B" permittee.
 - (4) A facility for the production of alcohol fuel.
 - (5) A retail licensee or permittee under the conditions specified in Sec. 125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.
 - (6) A campus, if the underage person is at least eighteen (18) years of age and is under the immediate supervision of a person who has attained the legal drinking age.
- (d) **Penalties for Subsection (a) Violations.** Any person violating Subsection (a) is subject to the following penalties:
- (1) For a first (1 st) violation, a forfeiture of not more than Two Hundred Fifty Dollars (\$250.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) or any combination of these penalties.
 - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not less than Three Hundred Dollars (\$300.00) not more than Five Hundred Dollars (\$500.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) or any combination of these penalties.
 - (3) For a violation committed within twelve (12) months of two (2) previous violations, either a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than Seven Hundred Fifty Dollars (\$750.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) 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 Seven Hundred Dollars (\$700.00) 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 other community service work or any combination of these penalties.
- (e) **Penalties for Subsection (b) Violations.** Any person violating Subsection (b) above is subject to the following penalties:
- (1) For a first (1 st) violation, a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.

- (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.
 - (3) For a violation committed within twelve (12) months of two (2) previous violations, either a forfeiture of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), 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 other community service work under Subsection (g), or any combination of these penalties.
- (f) **Multiple Violations From an Incident.** For purposes of Subsections (a) or (b) above, all violations arising out of the same incident or occurrence shall be counted as a single violation.
- (g) **Work Programs.**
- (1) A supervised work program ordered under Subsections (d) or (e) above shall be administered by the county department under Sec. 46.215 or 46.22, Wis. Stats., or by a community agency approved by the court. The court shall set standards for the supervised work program within the budgetary limits established by the county board of supervisors. The supervised work 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. Community service work ordered under Subsection (d) or (e), other than community service work performed under a supervised work program, shall be administered by a public agency or nonprofit charitable organization approved by the court. The court may use any available resources, including any community service work program, in ordering the child to perform community service work under Subsection (d) or (e).
 - (2) The supervised work program or other community service work 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 a member of the staff of the county department, community agency, public agency or nonprofit charitable organization or other qualified person. The supervised work program or other community service work 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.

- (h) **Disclosure of License Revocation Information.** When a court revokes or suspends a person's operating privilege under Subsections (d) or (e), the Wisconsin 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 Subsection may not disclose the information to any other person or agency.
- (i) **Applicability of Statutory Proceedings.** A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 938.344, 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. 938.344(3), Wis. Stats.

Alcohol Abuse Programs.

- (1) In this Subsection, "defendant" means a person found guilty of violating Subsections (a) or (b) who is eighteen (18), nineteen (19), or twenty (20) years of age.
- (2) After ordering a penalty under Subsections (d) or (e), the court, with the agreement of the defendant, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this Subsection shall require the defendant to do any of the following:
 - a. Submit to an alcohol abuse assessment that conforms to the criteria specified under Sec. 938.547(4), Wis. Stats., and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol abuse assessment and shall specify the date by which the assessment must be completed.
 - b. Participate in an outpatient alcohol abuse treatment program at an approved treatment facility, if an alcohol abuse assessment conducted under Subsection (j)(2)a recommends treatment.
 - c. Participate in a court-approved alcohol abuse education program.
- (3) If the approved treatment facility, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant has submitted to an assessment under Subsection (j)(2)a and that the defendant does not need treatment or education, the court shall notify the defendant of whether or not the penalty will be reinstated.
- (4) **If** the defendant completes the alcohol abuse treatment program or court-approved alcohol abuse education program, the approved treatment facility or court-approved alcohol abuse education program shall, with the written informed consent of the defendant, notify the agency primarily responsible for providing services to the defendant that the defendant has complied with the order and the court shall notify the defendant of whether or not the penalty will be reinstated. If the court had ordered the suspension of the defendant's operating privilege under Subsection (d) or (e), the court may order the secretary of transportation to reinstate the operating privilege of the defendant if he or she completes the alcohol abuse treatment program or court-approved alcohol abuse education program.

- (5) If an approved treatment facility or court-approved alcohol abuse education program, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant is not participating in the program or that the defendant has not satisfactorily completed a recommended alcohol abuse treatment program or an education program, the court shall hold a hearing to determine whether the penalties under Subsection (d) or (e) should be imposed.

Sec. 11-4-4 Defense of Sellers.

- (a) **Defenses.** In determining whether or not a licensee or permittee has violated Sections 11-4-1 (a) or 11-4-2(a), all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages maybe considered, including any circumstances listed below. 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 written 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/she 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 purposes 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. 11-4-5 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 Sec. 343.50, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00). (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 One Thousand Dollars (\$1,000.00).
- (b) Any underage person who does any of the following is subject to the penalties specified under Section 11-4-3(d) or (e):
- (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. 11-4-6 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. 938.344, Wis. Stats., and Section 11-4-3(d) and (e) of this Code of Ordinances provide the penalties applicable to underage persons.

Sec. 11-4-7 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 11-4-3(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. 11-4-8 Solicitation of Drinks Prohibited.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the Town who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Sec. 125.02(1), Wis. Stats., 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.

Title 11 ► Chapter 26

Offenses by Juveniles

- 11-5-1 Town Jurisdiction Over Persons 12 through 17 Years of Age
11-5-2 Enforcement and Penalties

Sec. 11-5-1 Town Jurisdiction Over Persons 12 through 17 Years of Age.

- (a) **Adoption of State Statute.** Section 938.17(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 Sec. 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons twelve (12) through seventeen (17) years of age may be brought on behalf of the Town of Stephenson 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 Town of Stephenson Code of Ordinances, no person age twelve (12) through seventeen (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 twelve (12) through seventeen (17) years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-6 of these ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Sec. 11-5-2 Enforcement and Penalties.

- (a) **Citation Process.** Juveniles may be cited by the citation process on a form approved by the Town 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) **Penalties.** Violations by a person under the age of eighteen (18) shall be punishable according to Sections 938.17(2), 938.343, 938.344 and 938.345 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.

Title 11 ► Chapter 28

Public Nuisances

11-6-1	Title; Authority; Public Nuisances Prohibited Definitions
11-6-2	Public Nuisances Affecting Health or Safety Public
11-6-3	Nuisances Offending Morals and Decency Public
11-6-4	Nuisances Affecting Peace and Safety Exemptions;
11-6-5	Permits
11-6-6	Abatement of Public Nuisances; Permit Revocation
11-6-7	Costs of Abatement/Disposal
11-6-8	Penalties
11-6-9	

Sec. 11-6-1 Title; Authority; Public Nuisances Prohibited.

- (a) **Title/Purpose.** The title of this Chapter is the Town of Stephenson Public Nuisance Ordinance. The purpose of this Chapter is to regulate for public health and safety reasons public nuisances and certain uses and activities in the Town.
- (b) **Authority.** The Town Board has the specific authority under Secs. 29.038, 66.0407, 66.0413, 125.14, 169.01 and 175.25, and Ch. 823, Wis. Stats., and the general authority under its village powers under Sec. 60.22(3), Wis. Stats., to adopt this Chapter.
- (c) **Public Nuisances Prohibited.** No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Stephenson, Marinette County, Wisconsin.

State Law Reference: Secs. 29.038, 66.0407, 66.0413, 125.14, 169.01 and 175.25, and

Ch. 823, Wis. Stats.

Sec. 11-6-2 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Agricultural Use.** Any beekeeping, commercial feed lots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint and

seed crops, raising of fruits, nuts and berries, sod farming, placing land in federal programs in return for payments in kind, owning land, at least thirty-five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836, participating in the milk production termination program under 7 USC 1446(d), and vegetable raising.

- (b) **Appliance.** Any household or office device, instrument, utensil, or apparatus or machine that utilizes power, including, but not limited to, any stove, washer, dryer, refrigerator, dishwasher, freezer, water heater, water pump, furnace, television set, home entertainment device, any computer or peripheral device or other electronic device.
- (c) **Building.** Any building or structure or any portion of a building or structure.
- (d) **Debris.** Any litter, junk, wood, bricks, paper, cement, concrete blocks, or any other unsightly accumulation of items or materials that may tend to depreciate property values in the adjacent or near area, create a blighted condition, present a SUBstantial threat to public health or safety, create a public nuisance or public safety or health hazard, except when such items are determined by the Town Board, Town committee or other agent of the Town to be stored or housed out of public view and are not treated and maintained so as to be a public nuisance.
- (e) **Equipment.** Goods used or bought for use primarily in a business or profession, including farming.
- (f) **Hazardous Waste.** Any solid waste identified by the Wisconsin Department of Natural Resources as hazardous under Sec. 291.05(2), Wis. Stats., or its successor provisions.
- (g) **Junk.** Scrap metal, metal alloy, wood, concrete, synthetic or organic material, or any junked, inoperative, unlicensed, or unregistered motor vehicle structures, equipment, furniture, appliances, or machinery, or any part thereof. This definition of junk includes refuse, used tires, parts of dismantled buildings, agricultural use equipment not in usable condition, parts of agricultural use equipment, and contaminated recyclable material.
- (h) **Junked.** Dismantled for parts or scrapped.
- (i) **Junkyard.** Any place which is owned, maintained, operated or used for storing, keeping, processing, buying or selling junk, including refuse dumps, garbage dumps, automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards and temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises, and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.
- (j) **Local Zoning and Land Use Regulation.** Any applicable county, town, or extraterritorial zoning, subdivision, land division, platting, official map, building code, building permit, or other ordinance adopted pursuant to general police powers that is applicable in any manner to the use of land.
- (k) **Machinery.** A device or assemblage of parts that transmits forces, motion or energy from one part to another in a predetermined way by electrical, mechanical or chemical means. "Machinery" does not include a building.

- (1) **Motor Vehicle.** A vehicle, including a combination of two (2) or more vehicles or an articulated vehicle, that is self-propelled, except a vehicle operated exclusively on a rail, with or without a current and valid registration issued by the State of Wisconsin or other state to the owner of the vehicles.
- (m) **Not Registered.** In reference to all-terrain vehicles, as defined in Sec. 340.01(2g), Wis. Stats., "snowmobiles" as defined in Sec. 340.01 (58a), Wis. Stats., or "boat" as defined in Sec. 29.001(16), Wis. Stats., are those that are required to, but do not have nor bear any current and valid State of Wisconsin registrations.
- (n) **Public Nuisance.** A thing, act, occupation, condition or use of property which shall continue for such length of time as to:
- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
 - (2) In any way render the public insecure in life or in the use of property;
 - (3) Greatly offend the public morals or decency;
 - (4) 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.
 - (5) Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.
- (o) **Recyclable Material.** Material that is suitable for recycling.
- (p) **Scrap Metal Processor.** A fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metal scrap for sale for remelting purposes.
- (q) **Solid Waste.** Any garbage, refuse, sludge, ash, paper, wood, metal, glass, cloth, plastic, lumber, concrete, food waste, and other organics, boxes, barrels, and other containers, tires, and other like materials. "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Ch. 283, Wis. Stats., or source material, as defined in Secs. 254.31(1), Wis. Stats., special nuclear material as defined in Sec. 254.31 (11), Wis. Stats., or byproduct material, as defined in Sec. 254.31 (1), Wis. Stats. "Solid waste" includes paper, wood, metal, glass, cloth, plastic, lumber, concrete, food waste, and other organics, boxes, barrels, and other containers, tires and other like materials, debris and junk.
- (r) **Solid Waste Facility.** A facility for solid waste treatment, solid waste storage or solid waste disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary

landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. This term includes the land where the facility is located. This term does not include a facility for the processing of scrap iron, steel or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for remelting purposes. This term does not include a facility which uses large machines to sort, grade, compact or bale clean wastepaper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes. This term does not include an auto junk yard or scrap metal salvage yard.

- (s) **Town Committee.** A committee or commission established by the Town Board to address and aid in regulation of those uses and activities that may cause public nuisance or public health and safety threats in the Town.
- (t) **Unlicensed or Unregistered.** In reference to motor vehicles, mobile homes, manufactured homes, camper trailers, recreational vehicles, truck bodies, semi-trailers, or trailers, are those that are required for operation in the state, but do not have nor bear required current and valid State of Wisconsin licenses or registration.
- (u) **Vehicle.** Every device in, upon, or by which any person or property is or may be transported. "Vehicle includes, but is not limited to, all of the following:
- (1) **Aircraft** as defined in Sec. 29.001(16), Wis. Stats.
 - (2) **All-Terrain vehicles** as defined in Sec. 340.0I(2g), Wis. Stats.
 - (3) **Antique vehicles** as described in Sec. 341.265, Wis. Stats.
 - (4) **Automobiles** as defined in Sec. 340.01(4), Wis. Stats.
 - (5) **Boats** as defined in Sec. 29.001(16), Wis. Stats.
 - (6) **Camping trailers** as defined in Sec. 340.01(6m), Wis. Stats.
 - (7) **Farm equipment** as defined in Sec. 100.47(I), Wis. Stats.
 - (8) **Farm tractors** as defined in Sec. 340.0I(16), Wis. Stats.
 - (9) **Hobbyist or homemade vehicles** as defined in Sec. 341.268, Wis. Stats.
 - (10) **Junk vehicles** as defined in Sec. 340.0I(25j), Wis. Stats.
 - (11) **Implements of husbandry** as defined in Sec. 340.01(24), Wis. Stats.
 - (12) **Manufactured homes** as defined in Sec. 101.91(2), Wis. Stats.
 - (13) **Mobile homes** as defined in Sec. 340.01(29), Wis. Stats.
 - (14) **Mopeds** as defined in Sec. 340.01(29m), Wis. Stats.
 - (15) **Motor bicycles** as defined in Sec. 340.01(30), Wis. Stats.
 - (16) **Motor buses** as defined in Sec. 340.01(31), Wis. Stats.
 - (17) **Motor homes** as defined in Sec. 340.01(33m), Wis. Stats.
 - (18) **Motor trucks** as defined in Sec. 340.01(34), Wis. Stats.
 - (19) **Motorcycles** as defined in Sec. 340.01(32), Wis. Stats.
 - (20) **Railroad trains** as defined in Sec. 340.01(48), Wis. Stats.
 - (21) **Recreational vehicles** as defined in Sec. 340.01(48r), Wis. Stats.
 - (22) **Road machinery** as defined in Sec. 340.01(52), Wis. Stats.
 - (23) **Road tractors** as defined in Sec. 340.0I(53), Wis. Stats.

- (24) **Salvage vehicles** as defined in Sec. 340.01 (55g), Wis. Stats.
 - (25) **School buses** as defined in Sec. 340.01 (56), Wis. Stats.
 - (26) **Semi trailers** as defined in Sec. 340.01(57), Wis. Stats.
 - (27) **Snowmobiles** as defined in Sec. 340.01(58), Wis. Stats.
 - (28) **Special interest vehicles** as defined in Sec. 341.266, Wis. Stats.
 - (29) **Trailers** as defined in Sec. 340.01(71), Wis. Stats.
 - (30) **Truck tractors** as defined in Sec. 340.01(73), Wis. Stats.
 - (31) **Unlicensed demolition motor vehicles, unlicensed racing motor vehicles, and go carts, garden tractors, riding lawn mowers, and other motorized tractors, motorized carts, and motorized utility vehicles** that require no registration or licensure by the State of Wisconsin.
- (v) **Wild Animal.** Any animal of a wild nature that is normally found in the wild and that is not a domestic animal.

Sec. 11-6-3 Public Nuisances Affecting Health or Safety.

No person may create, contrive, erect, maintain, cause, continue, install, construct or permit to exist in the Town a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to the public health or safety. The following acts, uses, activities, things, occupations, places or physical conditions, not properly and timely removed, after written notice to remove from the Town Board to any owner or occupant of the land where the act, use, activity, thing, occupation, place, or physical condition exists, is located, or occurred or to any person responsible for the creation, maintenance, or providing of the act, use, activity, thing, occupation, place, or physical condition, are specifically declared to be a public nuisance.

- (a) **Noxious Weed Areas.** Pursuant to Section 8-1-3, any place in the Town where noxious weeds conditions are over one (1) foot high, are located on private or public land conditions and are not timely cut or removed within five (5) days after posting or publication of a notice to destroy noxious weeds under Sec. 66.0407, Wis. Stats. and Section 8-1-3 or within five (5) days after receipt of written notice to remove such weeds from the Town Board or designee.
- (b) **Unburied Animal Carcass Areas.** Any place in the Town where unburied animal carcasses are located on private or public land and are not timely removed or discarded, including timely burial in a sanitary manner, within five (5) days after receipt of written notice to remove such carcasses from the Town Board or designee. This Subsection does not apply to any animal or pet cemetery approved in writing by the Town.
- (c) **Noxious or Polluted or Waste Areas.** Any place in the Town where noxious, nauseous, unwholesome, or polluted water and waste are located on private or public land, including Town roads, highways, bridges, sidewalks, alleys, or other public lands owned or controlled by the Town, and these conditions are not timely removed within thirty (30) days after receipt of written notice from the Town Board or designee.

- (d) **Noxious Emission Odor Areas.** Any place in the Town where noxious odor, stench, or gas escape or is emitted into the open air from sources located on public or private land, and these conditions are not timely removed or discontinued within thirty (30) days after receipt of written notice to remove from the Town Board. "Noxious odor" means an odor that is extremely repulsive to the senses of ordinary persons in the Town that seriously annoys or causes serious discomfort or serious injury to the health or causes serious inconvenience to the health or safety of a significant number of persons within the Town, as determined by the Town Board.
- (e) **Rat or Vermin Areas.** Any place in the Town where rats or other vermin are located or frequent on public or private land, and those conditions are not removed or destroyed within ten (10) days after receipt of written notice to remove from the Town Board or designee.
- (f) **Unauthorized Human Burial Area.** Any place in the Town where the body of a deceased person or parts of a deceased person are located and buried on private or public land in the Town without written approval of the Town Board and are not timely removed within thirty (30) days after receipt of written notice to remove from the Town Board. This Subsection does not apply to any established cemetery or burial site grounds approved, owned and operated in accordance with Ch. 157, Wis. Stats.
- (g) **Hazardous, Toxic or Solid Waste Facility or Site Areas.** Any place or solid waste facility in the Town where the discharge, disposal, storage or treatment of hazardous, toxic, or solid waste occurs on private or public lands without approval and licensing or permitting of the discharge, disposal, storage or treatment by all proper federal, state, county and Town governing authorities and full compliance with all applicable laws, rules, regulations or ordinances of the federal, state, county or Town, and the activity or condition is not timely removed or discontinued within thirty (30) days after receipt of written notice to remove from the Town Board. To constitute a public nuisance under this Subsection, an area, facility or site must threaten or cause serious discomfort or serious injury to the health or cause serious inconvenience to the health or safety of a significant number of persons within the Town, as determined by the Town Board.
- (h) **Dangerous Wild Animal Areas.** Any place in the Town where live dangerous wild animals are kept, sold, or in any manner controlled or possessed on private or public land without written approval of the Town Board and/or in violation of any applicable animal control ordinance in Title 7, Ch. 1 of this Code of Ordinances, and the animals are not removed or destroyed within ten (10) days after receipt of written notice from the Town Board unless written approval of the Town Board is obtained within said time. To constitute a dangerous wild animal, under this Subsection, the species of animal must pose a threat to the safety of persons within the Town, including a keeper of such animal, as determined by the Town Board. **It** is not necessary that the Town Board find that a specific animal is dangerous in order to find a nuisance under this Subsection.
- (i) **Improper Sewage Areas.** Any place in the Town where effluent from a septic system, sewer, holding tank, cesspool, or other human waste container is located on private or

public land and the effluent is not timely removed or properly treated within ten (10) days after receipt of written notice to remove from the Town Board or designee.

- (j) **Dangerous or Dilapidated Building Areas.** Any place in the Town where a building or structure, the contents therein, or any associated electrical, heat, water or sewer system located on public or private lands is so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, in violation of Town ordinances, or otherwise render the building unfit for human habitation are not timely removed or discontinued within thirty (30) days of receipt of written notice to remove from the Town Board or designee.
- (k) **Dangerous Tree Areas.** Any place in the Town where any trees or the tree's limbs located on private or public lands constitute a dangerous or unsafe condition and these dangerous or unsafe conditions have not been timely removed within thirty (30) days after receipt of written notice to remove from the Town Board or designee.
- (l) **Fire Hazard Areas.** Any place in the Town where combustible materials are located and stored on private or public lands and the materials are not timely removed or safely stored within ten (10) days after receipt of written notice from the Town Board, Fire Inspector or designee.
- (m) **Improper Encroachment or Discharge Areas.** Any unauthorized or improper encroachments and discharges, including solid waste, trees, limbs, vehicles, structures, equipment, signs, manure, weeds, crops, and other materials on any Town roadway or on other Town public lands without written permission from the Town Board, and the improper or unauthorized encroachment or discharge is not timely removed or discontinued within thirty (30) days of the receipt of written notice to remove from the Town Board or designee.
- (n) **Junked Motor Vehicle and Junk Part Areas.** Any place in the Town within five hundred (500) feet of the center line of any Town highway in the Town, or within seven hundred fifty (750) feet of the center line of any county trunk, state trunk, or federal highway where a junked motor vehicle or junk motor vehicle parts are accumulated or stored or any place in the Town where a junked motor vehicle, junk vehicles or junk parts are accumulated or stored outside of a building for a period exceeding seventy-two (72) hours if upon public property, or for a period exceeding thirty (30) days if upon private property without obtaining a Junked Motor Vehicle Permit from the Town in accordance with applicable Town ordinances adopted under Sec. 175.25, Wis. Stats., except when applicable exemptions apply.
- (o) **Junkyard and Junked Vehicle, Appliance, and Machinery Areas.** Any place in the Town where junked vehicles, not otherwise subject to Subsection (n) above, junked appliances, junked equipment and junked machinery are accumulated or stored for a period exceeding seventy-two (72) hours if upon public property, or for a period exceeding thirty (30) days if upon private property and any place otherwise within the definition of junkyard elsewhere in this Chapter that is not timely removed or discontinued within thirty (30) days of receipt of written notice to remove from the Town Board or designee, unless applicable exemptions apply.

- (p) **Unlicensed or Unregistered Vehicle Area.** Any place in the Town where for a period exceeding thirty (30) days upon private property a not "registered", "unlicensed", or "unregistered" vehicle is parked, stored, or otherwise kept outside a building without the written permission of the Town Board or designee that is not timely removed or discontinued within thirty (30) days of receipt of written notice to remove from the Town Board, or designee, unless applicable exemptions apply.
- (q) **Abandoned Vehicles on Public Lands.** No person regardless of physical condition, registration, or license held shall leave unattended or stored any motor vehicle or other vehicle, appliance, equipment, or machinery, or parts thereof, on any public street, public road, public highway, or public property in the Town, including the road right-of-way, for such time and under such circumstances so as to cause the vehicle, appliance, equipment, or machinery to reasonably appear to have been abandoned. When any such vehicles, machinery, appliances, or equipment has been left unattended, parked, or stored on any public street, public road, public highway, or public property, including the Town road right-of-way, within the Town for a period of more than seventy-two (72) hours, the vehicle, structure, machinery, appliances or equipment is deemed by the Town abandoned and to be a public nuisance.
- (r) **Animals at Large.** All animals running at large.
- (s) **Abandoned Wells.** All abandoned wells not securely covered or secured from public use.

Sec. 11-6-4 Public Nuisances Offending Morals and Decency.

No person shall create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in the Town a public nuisance associated with, causing or likely to cause danger, disturbance, or injury to public morals or decency. The following acts, uses, activities, things, occupations, places, or physical conditions, not properly and timely removed by the owner or occupant of the land, after written notice to remove from the Town Board or designee to the owner or occupant of the land where the public nuisance occurs or to any person responsible for the creation, maintenance, or permitting of such nuisance in the Town, are specifically declared to be a public nuisance:

- (a) **Improper Establishments.** Pursuant to Sec. 823.09, Wis. Stats., whoever shall erect, establish, continue, maintain, use, occupy, or lease any building or part of building, erection or place to be used for the purpose of lewdness, assignation or prostitution, or permit the same to be used, in the State of Wisconsin, shall be guilty of a nuisance and the building, erection, or place, in or upon which such lewdness, assignation or prostitution is conducted, permitted, carried on, continued or exists, and the furniture, fixtures, musical instrument and contents used therewith for the same purpose are declared a nuisance, and shall be enjoined and abated.
- (b) **Illegal Drug Houses.** Pursuant to Sec. 823.113(1), Wis. Stats., any building or structure that is used to facilitate the delivery, distribution or manufacture, as defined in Sec.

961.01(6), (9) and (13), Wis. Stats., respectively of a controlled substance, as defined in Sec. 961.01(4), Wis. Stats., or a controlled substance analog, as defined in Sec. 961.01(4m), Wis. Stats., and any building or structure where those acts take place, is a public nuisance and may be proceeded against under Sec. 823.113, Wis. Stats.

- (c) **Criminal Gang Houses.** Pursuant to Sec. 823.113(1), Wis. Stats., any building or structure that is used as a meeting place of a criminal gang, as defined in Sec. 939.22(9), Wis. Stats., or that is used to facilitate the activities of a criminal gang, is a public nuisance and may be proceeded against under Sec. 823.113, Wis. Stats.
- (d) **Gambling Houses.** Pursuant to Sec. 823.20, Wis. Stats., any gambling place, as defined in Sec. 945.01 (4)(a), Wis. Stats., is a public nuisance and may be proceeded against under Ch. 823, Wis. Stats.
- (e) **Illegal Alcohol Houses.** Pursuant to Sec. 125.14(5), Wis. Stats., any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured or rectified without a valid permit or license issued under this Chapter or Ch. 139, Wis. Stats., or where persons are permitted to drink alcohol beverages in violation of Ch. 125, Wis. Stats., is a public nuisance and may be closed until the activity in violation of Ch. 125, Wis. Stats., is abated. When the activity is abated, the building or place may be used for any lawful purpose.
- (f) **Continuous Violation of Town Ordinances.** Any place or premises within the Town where Town Ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

Sec. 11-6-5 Public Nuisances Affecting Peace and Safety.

No person shall create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in the Town a public nuisance associated with, causing or likely to cause, potential danger, disturbance or injury to the public peace and order. The following acts, uses, activities, things, occupations, places, or physical conditions, not properly and timely removed, after written notice to remove from the Town Board or designee to the owner or occupant of the land where the public nuisance occurred or is maintained or to any person responsible for the creation, maintenance, or permitting of such nuisance in the Town, are specifically declared to be a public nuisance:

- (a) **Loud Noise Areas.** Any place in the Town where any unreasonably loud, discordant and unnecessary sound conditions, including sounds from non-farm animals or from any human created or aided sounds, including alleged music, is located on private or public land, without written approval of the Town Board or its designee and is not timely removed or discontinued within ten (10) days of the written receipt of notice to remove from the Town Board or designee.
- (b) **Disorderly Conduct Area.** Any place in the Town where unpermitted, abusive, indecent, profane, or boisterous sounds, unpermitted fighting, brawling, or rioting or other

unpermitted disorderly conduct conditions are located or occur on private or public lands and these disorderly conditions have not been timely removed or discontinued within ten (10) days of receipt of written notice to remove from the Town Board or designee.

- (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 traffic 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) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- (f) **Abandoned Refrigerators.** All abandoned refrigerators or freezers from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

Sec. 11-6-6 Exemptions; Permits.

(a) Exemptions.

- (1) **Motor Vehicle Storage.** Any storage of junked motor vehicles and vehicle parts on private lands in the Town that is in conformity with local zoning and land use regulations and other applicable laws and ordinances for which the owners, operators, or person otherwise responsible for the storage of the vehicles or parts have met the requirements established by the Town Board as authorized under Sec. 175.25(3), Wis. Stats., may be exempt from the provisions of this Chapter applicable to storage of junked motor vehicles and vehicle parts. The exemption granted under this Subsection is strictly limited to the extent allowed by the permit under applicable ordinances.
- (2) **Junkyards.** Any operation of a junkyard on private lands in the Town that is in conformity with local zoning and land use regulations, if appropriate conditional use permits have been issued, for which the owners, operators, or persons otherwise responsible for the operation of the junkyard have obtained all the proper and necessary federal, state, county, town and extraterritorial municipal approvals, permits, or licenses for the operation or licenses for operation of a junkyard on that privately owned premise under Sec. 84.31, Wis. Stats., may be exempt from the provisions of this Chapter applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this Subsection is strictly limited to the extent allowed by the approvals, permits or licenses.

- (3) **Salvage Operations.** Any commercial motor vehicle salvage or motor vehicle retail sales business on private lands in the Town that is in conformity with local zoning and land use regulations for which the owners, operators, or persons otherwise responsible for the conduct of the business hold a current motor vehicle salvage dealer license under Sec. 218.205, Wis. Stats., authorizing storage uses, operations and activities at property locations in the Town or hold a current motor vehicle dealer license under Sec. 218.0114, Wis. Stats., for salvage, sale, or storage operation and activities at a property location in the Town, and are actively engaged in the Town, as determined in writing by the Town Board, in the commercial motor vehicle salvage or motor vehicle retail sales business on property in the Town may be exempt from the provisions of this Chapter applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this Subsection is strictly limited to the extent allowed by the applicable license/ordinance.
- (4) **Manufactured Homes Dealers.** Any business engaged in the retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles on private lands in the Town that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the conduct of the business hold a current and valid manufactured home dealers license under Sec. 101.951, Wis. Stats., or a current and valid recreational vehicle dealers license under Sec. 218.12, Wis. Stats., issued by the State of Wisconsin and are actively engaged in the Town, as determined in writing by the Town Board, in the business of commercial retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles on property in the Town may be exempt from the provisions of this Chapter applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this Subsection is strictly limited to the extent allowed by the applicable license.
- (5) **Permitted Parking of Vehicles.** Any parking, storage, or other keeping outside of buildings in the Town of two (2) or fewer unlicensed, inoperable, or unregistered motor vehicles or two (2) or fewer boats, snowmobiles, or all-terrain vehicles, not registered with the State of Wisconsin, on private lands owned or leased by the owner of the vehicles that is in conformity with local zoning, land use or other applicable regulations, even if the vehicles are not stored for purposes of sale or repair, may be exempt from the provisions of this Chapter relating to the keeping and storage of unlicensed or unregistered vehicles.
- (6) **Agricultural Machinery.** Any parking, storage, or other keeping of any agricultural use vehicles in the open on private lands in the Town that is in conformity with local zoning, land use or other applicable regulations, by the owner or leaseholder of the land, if the vehicles are and can be used by the owner or leaseholder, without repair, for normal agricultural use in the Town is exempt from the provisions of this Chapter applicable to junked vehicles, junked machinery, junked appliances, or junked

equipment and parts thereof. Notwithstanding anything contained in this Subsection, storage of inoperable junk or other unrepaired agricultural use vehicles on private property of any person for more than ninety (90) days in the open shall be deemed a violation of this Chapter, unless the storage is at a commercial implement repair location where the equipment or implements can and will be timely repaired. (b)

Permits.

(1) ***Exceptions Allowed by Permit.***

- a. The Town Board may permit on public or private lands in the Town, with or without conditions and restrictions:
 1. The storage in the open on private premises vehicles, structures, machinery, appliances, or equipment in the Town subject to Section 11-6-5.
 2. The maintenance of certain buildings, structures, or dwellings in the Town subject to Section 11-6-5.
 3. The storage, disposal, treatment, or discharge of certain items, waste and materials in the Town described in Section 11-6-5.
- b. Such applications are conditioned upon proper and timely application of an owner or occupant of the premises in the Town to the Town Clerk for a permit, regardless of the ownership or possession rights to the vehicles, implements, machinery, structures, equipment, appliances, buildings, structures, dwellings, items, waste or materials to be stored, maintained, disposed, treated or discharged.
- c. The Town Board may specify the quantity and manner, including the timeline, for such storage, maintenance, disposal, treatment, or discharges after a public hearing held by the Town Board pursuant to Subsection (b)(2) below.

- (2) ***Hearing; Determinations; Conditions.*** The applicant shall be notified of the public hearing required under Subsection (b)(1) above at least twenty (20) days before the public hearing by the mailing by U.S. mail of a First Class notice letter to the last known address of the applicant noted on the application. The permit shall be for a specific location and may be established for a term of months or years and may be re-issued upon application by the permit holder if the permit holder is in full compliance with this Chapter and with the permit conditions and restrictions as issued. The conditions and restrictions, if any, in the permit established by the Town Board for such storage, maintenance, disposal, treatment, or discharge shall be reasonable restrictions and conditions to protect the public health, safety, and welfare of persons within the Town and to limit or negate potential public nuisances caused by such storage, maintenance, disposal, treatment or discharge. The conditions and restrictions shall be stated in writing and attached to the written permit upon issuance by the Town Board. The owner or occupant of the permitted premises shall be responsible for compliance with the conditions and restrictions in the permit issued regardless of whether the owner or occupant of the premises has any legal or equitable interest in the vehicles, structures, machinery, appliances, or equipment subject to the permit.

Sec. 11-6-7 Abatement of Public Nuisances; Permit Revocation.

(a) Inspection of Premises.

- (1) Complaints.** Whenever one (1) or more complaints are made to the Town Board, Town Clerk, Town Chairperson or any appropriate Town committee or agent, that a public nuisance under this Chapter or a violation of a permit issued under this Chapter exists within the Town, or a Town official in his/her official capacity has determined that a public nuisance exists, the Town Chairperson, Town Committee, or other agents of the Town Board may inspect or cause to be inspected the premises complained of, and then make a written report of its findings to the Town Board. If the Town Chairperson, Town Committee or other agents of the Town Board performing the inspection also received the complaints, he, she, or they shall file a copy of the report with the Town Clerk. Whenever practicable, the Town Chairperson, Town Committee or other agents of the Town Board shall cause photographs to be made of the premises and shall file the photographs with a written report in the office of the Town Clerk.
- (2) Noncompliance Hearing.** If the person subject to complaint has a current permit under this Chapter, any Town Building Permit or Junked Motor Vehicle Permit issued under Sec. 175.25, Wis. Stats., the Town Chairperson, the Town Committee or other agents of the Town Board may immediately request the Town Board to hold a public hearing, to consider suspension or revocation of the permit, for refusal to comply with the permit and the conditions attached therein. The Town Board shall hold a public hearing prior to taking any action to revoke or suspend a permit. The permit holder shall be notified of the public hearing at least twenty (20) days before the public hearing by the mailing by U.S. mail of a First Class notice letter to the last known address of the permit holder noted on the permit or permit application.
- (3) Suspension Option.** The Town Board may, in the alternative to revocation, suspend any issued permit for a period up to six (6) months. Any revocation shall be in excess of six (6) months and no reapplication can be received or acted upon by the Town Board for the premises or for the owner or occupant of the premises for any activity, use, or item prohibited by or requiring a permit under this Chapter during the revocation period.
- (4) Determinations.** For any decision regarding the revocation or suspension of any permit, the Town Board shall determine and state the reason or reasons for any revocation, non-revocation, or suspension of the permit based on the lack of compliance with the permit conditions and this Chapter by the permit holder or by any employees or agents of the permit holder. The reason or reasons for the decision shall be stated in writing and sent to the permit holder within ten (10) days after the decision by the Town Board by mailing by U.S. mail of a First Class letter to the last known address of the permit holder noted on the permit or permit application.

- (b) **Owner of Premises Responsibility.** Any owner or occupant of land in the Town shall be responsible for compliance with this Chapter and other applicable ordinances on the land regardless of ownership of and responsibility for the uses, activities, or things located on the land that are subject to this Chapter.
- (c) **Summary Abatement in Emergency Situations.**
- (1) **Notice to Owner.** If the Town Chairperson, Town Committee, or other agents of the Town Board determine, by written notice to the Town Board, that a public nuisance exists under this Chapter within the Town on private or public land and that there is great, immediate, and substantial danger or threat to the public health or safety, the Town Board, Town Chairperson, Town Committee, or other agents of the Town Board shall serve a written notice upon the person who is causing, permitting, or maintaining the public nuisance, and the owner or occupant of the premises where the public nuisance is caused, permitted, or maintained. If immediate personal service cannot be made, one (1) copy of the written notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant of the premises the person who is causing, permitting, or maintaining the public nuisance, and one copy of the notice shall be served by mailing by U.S. mail of a First Class letter to the last known address for the owner or occupant of the premises. The order notice shall direct the owner or occupant to remove the public nuisance within twenty-four (24) hours and shall state that unless the public nuisance is so timely abated, the Town may cause, due to the emergency conditions, the public nuisance to be abated and shall charge the costs of abatement to the owner, occupant, or person causing, permitting, or maintaining the public nuisance.
- (2) **Abatement by Town in Non-Emergency Situations.** If the public nuisance is not abated within the time provided in the notice under Subsection (c)(1), or if the owner, occupant, or person causing the public nuisance, if known, cannot be found, the Town Chairperson, the Town Committee or other agents of the Town Board, with approval of the Town Board, shall cause the abatement or removal of the public nuisance by immediately seeking for the Town a court order that allows for the immediate enjoinder and abatement of the public nuisance.
- (d) **Abatement by Court Action.** If the Town Board determines that a public nuisance exists on public or private premises but that the nature of the nuisance does not threaten great, immediate, and substantial danger to the public health or safety, the Town Board shall file a written report or its resolution of its findings with the Town Clerk who shall, after approval and filing of the report or resolution by the Town Board, take one or more of the following actions, as directed by the Town Board:
- (1) **Notice.** Contact in writing the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located with a notice order to cease and desist the public nuisance;
- (2) **Citation.** Issue or have issued and served a citation upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located for violation of this Chapter; and/or

- (3) Civil Complaint.** Cause the Town attorney to draft a formal civil complaint to be filed upon the alleged violators based upon an alleged violation of this Section or the conditions of any permit as issued, or have drafted by the Town Attorney to be filed and served a formal complaint for abatement of the public nuisance under Ch. 823, Wis. Stats.
- (e) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the enjoinder and abatement of public nuisances against any person by the Town, or its officials in accordance with the laws of the State of Wisconsin or this Chapter, including against a permit holder that holds a current and valid permit issued by the Town under this Chapter.
- (f) **Citations.** The Town Board may enforce against such public nuisance violations in this Chapter by issuance and service of a citation against any alleged violation of this Chapter.

Sec. 11-6-8 Costs of Abatement/Disposal.

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance, or maintenance of a public nuisance and violation of this Chapter, the cost of abatement of any public nuisance by the Town may be collected under this Chapter or Sec. 823.06, Wis. Stats., as a debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining the public nuisance. If notice to abate the nuisance has been given to the owner or occupant previously, the cost of abatement may be assessed against the real property for services rendered and incurred by the Town to enjoin or abate the public nuisance as a special charge under Sec. 66.0627, Wis. Stats., unless paid earlier. If any vehicle, structure, equipment, implement, or appliance noted in this Chapter is abandoned or remains unclaimed, the Town Board may proceed to declare this personal property abandoned and proceed to dispose of this personal property under Sec. 66.0139, Wis. Stats., by public auction or other means as determined in writing by the Town Board.

Sec. 11-6-9 Penalties.

- (a) **First Offense/Penalty.** Any person who violates this Chapter shall, upon conviction, be subject to a forfeiture as prescribed in Section 1-1-6 together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.
- (b) **Second Offense/Penalty.** Any person guilty of violating this Chapter or any who has previously been convicted of a violation of this Chapter or shall, upon conviction, be subject to a forfeiture as prescribed in Section 1-1-6 for each offense, together with the

costs of prosecution and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until said forfeiture and costs of prosecution are paid, but not to exceed six (6) months. (c) **Separate Violations.** Each day of violation of this Chapter shall constitute a separate offense.

Regulation of Lewd and Sexually Explicit Conduct

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Article A: Introduction

Sec. 11-7-1 In General; Background Findings.

The Town of Stephenson, Marinette County, Wisconsin has made the following findings associated with adult-oriented activities and adult establishments:

- (a) It is a lawful purpose of the Town Board of the Town of Stephenson, Wisconsin, to enact regulatory ordinances protecting and promoting the general welfare, orderly conduct, health and safety of its citizens.
- (b) The Town Board of the Town of Stephenson believes that it is in the best interest of the health and safety of the citizens of the Town of Stephenson to regulate, and thereby diminish the dangerous or harmful secondary effects that accompany adult-oriented establishments. These dangerous and negative secondary effects associated with adult-oriented businesses include, but are not limited to:
 - (1) Increased criminal activity of both a sexual and/or violent nature;
 - (2) Lowered area property values;
 - (3) Urban blight and a loss of pride in a community; and
 - (4) An increase in sexually transmitted diseases.
- (c) The Town Board of the Town of Stephenson has knowledge of studies conducted by Phoenix, Arizona, Whittier, California, Adams County, Colorado, Indianapolis, Indiana, New York, New York, New Hanover County, North Carolina, Cleveland, Ohio, Austin, Texas, Beaumont, Texas, Dallas, Texas, El Paso, Texas, and Newport News, Virginia, that indicate that adult-oriented establishments have either a strong or a direct correlation to increased crime.
- (d) The Town Board of the Town of Stephenson has knowledge of a land use study conducted by the City of Phoenix, Arizona, which concentrated on the link between adult-oriented establishments and their relation to increased crime found that the number of sex offenses was five hundred and six percent (506%) greater in neighborhoods where adult-oriented establishments were located, and which also concluded that the crimes of rape (sexual assault), lewd and lascivious behavior, and child molestation were one hundred and thirty-two percent (132%) greater in neighborhoods in which adult-oriented establishments were located.
- (e) The Town Board of the Town of Stephenson has knowledge of studies conducted by Garden Grove, California, Los Angeles, California, Indianapolis, Indiana, Minneapolis, Minnesota, Las Vegas, Nevada, New York, New York, New Hanover County, North Carolina, Oklahoma City, Oklahoma, Austin, Texas, El Paso, Texas, Newport News, Virginia, and St. Croix County, Wisconsin, that indicate a correlation between the location of adult-oriented establishments and decreased property values of the surrounding areas. A study surveying one hundred Oklahoma City real estate appraisers concluded that a concentration of adult-oriented businesses may mean large losses in property values.

- (f) The Town Board of the Town of Stephenson has knowledge of studies conducted by Minneapolis, Minnesota, Ellicottville, New York, Islip, New York, New Hanover County, North Carolina, Amarillo, Texas, and El Paso, Texas, which conclude that when adult-oriented establishments are allowed to concentrate in one area the negative secondary effects of adult-oriented establishments may be magnified.
- (g) The Village Board of Trustees of Ellicottville, New York, found that isolation of adult-oriented establishments limits their negative secondary effects.
- (h) A report by the Islip, New York, Department of Planning found that the location of two (2) adult-oriented establishments located near each other created a "dead zone" in an otherwise healthy business district.
- (i) A legislative report prepared by the Sexually Oriented Business Revision Committee for the Houston City Council concluded that due to criminal activity associated with adult-oriented establishments, licenses should be required of all adult-oriented establishment employees.

A report based on a memorandum from the Tucson Police Department Investigative Services to the City Prosecutor conducted by the City of Tucson, Arizona, dated May 1, 1990, concluded that police officers found a wide variety of illegal sexual conduct at all adult-oriented establishments and that virtually every establishment had employees arrested for prostitution or obscene sex shows and which found that one of the employees arrested for such acts was a fifteen (15) year old girl.

- (k) A legislative report prepared by the Sexually Oriented Business Revision Committee for the Houston City Council concluded that the lack of clear lines of view, insufficient lighting and locked rooms decreases the ability of adult-oriented establishment owners, managers and employees from monitoring behavior and preventing lewd behavior on the part of customers, and that this is behavior which may lead to unsanitary conditions and the spread of communicable diseases.
- (1) It** is a lawful purpose of the Stephenson Town Board to enact rules and regulations as are necessary for the preservation of health and to prevent the spread of AIDS and other communicable or sexually transmitted diseases in the Town of Stephenson. It has been found by localities through the State of Wisconsin, particularly Milwaukee, Racine, Waukesha, Delafield, Kenosha and West Allis, as well as communities around the country, including Indianapolis, Indiana; Boston, Texas; Chattanooga, Tennessee; Newport News, Virginia; Marion County, Indiana; Detroit, Michigan; and Seattle, Washington; as well as other communities around the country, that sexually oriented adult entertainment establishments are predisposed to the creation of unsafe and unsanitary conditions; that operators and employees of such businesses tend to participate in sex-related offenses on the premises, creating substantial law enforcement problems, and that the operational characteristics of such businesses have a deleterious effect on surrounding areas, resulting in neighborhood blight and reduced property values, especially when such businesses are concentrated in one (1) area. Many of such establishments install movie viewing booths with doors in which patrons view videotapes, movies, films and other forms of

entertainment characterized by their emphasis on depicting, describing or relating to specified sexual activities or specified anatomical areas, and that such booths have been and are being used by patrons to engage in sexual acts resulting in unsanitary, unhealthy and unsafe conditions in said booths and establishments. This Chapter is intended to establish standards in order to prevent the spread of AIDS and other communicable or sexually transmitted diseases, and to eliminate the deleterious effects described above in the Town of Stephenson.

- (m) The Town of Stephenson also finds that there is an increasing likelihood of commercial exploitation of human sexuality by owners of premises holding "Class B" alcohol beverage licenses in the State of Wisconsin. Such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or semi-nude bodies to other persons as an inducement to other persons to purchase alcohol beverages. The direct result of such exploitation is criminal activity, moral degradation and disturbance of the peace and good order of the community. In addition, this commercial exploitation of such nude and semi-nude acts is adverse to the public's interest in the quality of life, commercial activity and total community environment in the Town of Stephenson.
- (n) The Town Board of the Town of Stephenson, based on part upon the foregoing and with the purpose to diminish negative secondary effects of adult-oriented establishments, adopts this Chapter.

Sec. 11-7-2 Definitions.

The following definitions are applicable in this Chapter:

- (a) **Adult Bath House.** An establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, 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 as defined in this Article.
- (b) **Adult Body Painting Studio.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this Chapter, an adult body painting studio shall not be deemed to include a tattoo parlor.
- (c) **Adult Bookstore.** An establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein. This includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have

facilities for the presentation of adult entertainment, including adult oriented videotapes, films, motion pictures or other offered entertainment for observation by patrons therein.

- (d) **Adult Cabaret.** A cabaret which features dancers, strippers, male or female impersonators, or similar entertainers, performing or presenting material having as its dominant theme, or distinguished or characterized by, an emphasis on any actual or simulated "specified sexual activities" or "specified anatomical areas" as defined herein.
- (e) **Adult Entertainment.** Any exhibition of any motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, as defined herein, appearing unclothed, or the removal of articles of clothing to reveal specified anatomical areas.
- (f) **Adult Massage Parlors.** An establishment or business, with or without sleeping accommodations, which provides services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in "specified sexual activity" as defined in this Chapter.
- (g) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity for less than twenty-five (25) patrons, including establishments that have coin operated video or motion picture booths, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.
- (h) **Adult Modeling Studio.** An establishment or business 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.
- (i) **Adult Motel.** A hotel, motel, or similar commercial establishment which:
 - (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and which may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
 - (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (l) **Adult Motion Picture Theater.** An enclosed building with a capacity of twenty-five (25) or more persons at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating

to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.

- (k) **Adult Motion Picture Theater (Outdoor).** A parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activity or specified anatomical areas, as defined herein, for observation by patrons.
- (l) **Adult Novelty Shop.** An establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on, or designed for, specified sexual activities or specified anatomical areas, as defined herein, or stimulating such activity.
- (m) **Adult Oriented Establishment.** An establishment which includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.
- (n) **Booth, Room or Cubicle.** Such enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, room, or cubicle does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50, Wis. Stats.
- (o) **Church.** A building whether situated within the Town of Stephenson or not, in which persons regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.
- (p) **Customer.** Any person who:
 - (1) Is allowed to enter an adult oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or

- (2) Enters an adult oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
 - (3) Is a member of and on the premises of an adult oriented establishment operating as a private club.
- (q) **Community.** The Town of Stephenson, Marinette County, State of Wisconsin.
- (r) **Day Care Center.** A facility licensed by the State of Wisconsin pursuant to Sec. 48.65, Wis. Stats., whether situated within the Town or not.
- (s) **Door, Curtain or Portal Partition.** A nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed from outside the booth, room or cubicle.
- (t) **Employee.** 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 goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.
- (u) **Entertainer.** Any person who provides entertainment within an adult oriented establishment as defined in this Chapter, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or independent contractor.
- (v) **Harmful to Minors.** That quality of any description or representation, in whatever form, of nudity, specified sexual activities or specified anatomical areas, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
- (w) **Knowingly.** Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
- (1) The character and content of any material described herein which is reasonably suspect under this Section; and
 - (2) The age of a minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
- (x) **Knowledge of Minor's Age.** Means:
- (I) Knowledge or information that the person is a minor; and

- (2) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor. (y) **Manager.** The operator or agent licensed under this Chapter who shall not be licensed as a massage technician.
- (z) **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 consideration.
- (aa) **Massage Room.** The area where private massage is performed.
- (bb) **Massage Technician.** A person who practices, administers or uses massage for a consideration, and who holds a valid license under this Chapter. (cc)
- Minor.** Any person under the age of eighteen (18) years.
- (dd) **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.
- (ee) **Operator.** Any person operating, conducting, maintaining or owning any adult-oriented establishment establishment.
- (ff) **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 therefor.
- (gg) **Residential.** Pertaining to the use of land, whether situated within the Town or not, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premises which is designed primarily for living, sleeping, working and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes and hospitals shall not be considered to be residential.
- (hh) **Sadomasochistic Abuse.** Flagellation or torture by a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (ii) **School.** A building, whether situated within the Town or not, where persons regularly assemble for the purpose of instruction or education, together with playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:
- (1) Public and private schools used for primary or secondary education in which any regular kindergarten or grades one (1) through twelve (12) classes are taught; and
 - (2) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one (1) through twelve (12).
- Uj) Sensitive Areas.** Includes land which has been designated for park or recreational activities, including but not limited to: a park, playground, nature trail, swimming pool,

reservoir, river, athletic field, basketball or tennis courts, pedestrianbicycle paths, open space, wilderness areas, or similar public land within the Town which is under the control, operation, or management of the Town, county or state authorities. (kk) **Sexual Conduct.** The commission of any of the following: sexual intercourse, sodomy,

bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals. (ll) **Sexual Intercourse.** Physical sexual contact between individuals that involves the

genitalia of at least one (I) person including, but not limited to, heterosexual intercourse, sodomy, fellatio, or cunnilingus. (mm) **Specified Anatomical Areas.** Less than completely and opaquely covered:

- (1) Human genitals, pubic region;
- (2) Buttock; or
- (3) Female breast below a point immediately above the top of the areola.
- (4) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(nn) **Specified Sexual Activities.** Simulated or actual:

- (1) Showing of human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

(oo) **Substantial.** As used in various definitions, shall mean fifty percent (50%) or more of a business' stock in trade, display space, floor space or retail sales in anyone (1) month during the license year.

(pp) **Waiting Area.** An area adjacent to the main entrance that is separate from any area where massages are gIven.

(qq) **Youth Center.** Any center that provides, on a regular basis, recreational, vocational, academic or social services for persons younger than twenty-one (21) years old for those persons and their families.

Sec. 11-7-3 Public Indecency Prohibited.

- (a) Any person who, within the Town of Stephenson limits, knowingly or intentionally, in a public place, commits public indecency by doing one of the following:
 - (1) Engaging in specified sexual activities;
 - (2) Displaying specified anatomical areas; or
 - (3) Appearing in a state of nudity.
- (b) In addition to any other actions allowed by law or taken by the Town Board, 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 Two Thousand Dollars (\$2,000.00), for each offense, together with costs, and if such forfeiture and costs are not paid, such person so convicted shall be subject to such other penalties available by law.

Sec. 11-7-4 Exposing Minors to Harmful Materials.

- (a) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, or specified sexual activities and which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.
- (b) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:
 - (1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts specified anatomical areas or shows specified sexual activities and which is harmful to others.
 - (2) Any book, pamphlet, magazine, printed matter however produced, or sound recording which contains any material enumerated in Subsection (b)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of specified sexual activities and which, taken as a whole is harmful to minors.
- (c) It shall be unlawful for any person knowingly to admit a minor to any premises whereon there is exhibited nudity or specified sexual activities which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.
- (d) Any person violating this Section shall be subject to the penalty provisions of Section 11-7-53.

Sec. 11-7-5 through Sec. 11-7-19 Reserved for Future Use.

**Article B: Entertainment Featuring Live Sexually
Explicit Performances**

**Sec. 11-7-20 Prohibitions Applicable to Premises Holding
Alcohol Beverage Licenses.**

- (a) It shall be unlawful for any owner or operator of premises holding a Class "A," "Class A," Class "B," or "Class B," or "Class C" Alcohol Beverage license to permit any person to expose to public view on the licensed premises any specified anatomical area as defined in this Chapter, or to employ any device which is intended to give the appearance of or simulate such specified anatomical areas or publicly display or perform any specified sexual activities on the licensed premises.
- (b) Any licensee who permits a violation of Subsection (a) above shall be subject to revocation of all alcohol beverage licenses issued by the Town to the licensee.

Sec. 11-7-21 Sexually Explicit Live Adult Entertainment.

- (a) This Section applies only to premises offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings. Appearance in public in a state of nudity is prohibited by Section 11-7-3.
- (b) No person shall open premises to the public offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings, whether such persons are paid for such performance or not, unless the person opening the premises has obtained an adult-oriented establishment license from the Town Clerk.

Sec. 11-7-22 through Sec. 11-7-39 Reserved for Future Use.

Article C: Adult Oriented Establishments

Sec. 11-7-40 Intent of Article.

It is the purpose of this Article to regulate adult oriented establishment businesses (hereinafter referred to as adult oriented establishments) to promote the health, safety, morals, and the general welfare of the citizens of the Town of Stephenson, to aid in the alleviation and prevention of the adverse and deleterious effects of criminal activity and disruption of the public peace associated with such establishments, and to establish reasonable and uniform regulations to prevent the serious health hazards associated with unsafe and unsanitary conditions known to exist in those establishments and to alleviate the spread of sexually transmitted diseases and other contagious diseases in those establishments.

Sec. 11-7-41 Adult Oriented Establishment License Required.

- (a) Except as provided in Subsection (d) below, no adult oriented establishment shall be operated or maintained within the corporate limits of the Town of Stephenson without first obtaining a license to operate issued by the Town of Stephenson.
- (b) A license may be issued only for one (1) adult oriented establishment located at a fixed and certain place per filed application. Any person, partnership, or corporation which desires to operate more than one (1) adult oriented establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person, partnership, or corporation except as set forth in Section 11-7-48.
- (d) All adult oriented establishments 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 said ninety (90) day period, then such existing adult oriented establishment shall cease operations.

Sec. 11-7-42 Application for License.

- (a) **License Procedure.** Any person, partnership, or corporation desiring to secure an adult oriented establishment license shall make application to the Town Clerk. The application shall be filed in triplicate with and dated by the Town Clerk. A copy of the application shall be distributed within ten (10) days of receipt thereof to the Fire Inspector, Building Inspector, appropriate law enforcement authorities, and to the applicant.
- (b) **Required Information.** The application for a license shall be upon a form provided by the Town Clerk. An applicant for a license, which shall include all partners or limited partners

of a partnership applicant, all officers or directors of a corporate applicant, all members of any limited liability company applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- (1) Name, including all aliases, address and date of birth of applicant;
- (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) The exact nature of the adult-oriented use to be conducted and the address of the adult-oriented establishment to be operated by the applicant.
- (6) Whether the applicant previously operated in *this* or any other state, county or municipality under an adult oriented 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;
- (7) All criminal convictions, whether federal or State, or municipal Ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except traffic offenses;
- (8) Fingerprints and two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant;
- (9) The address of the adult oriented establishment to be operated by the applicant;
- (10) Proof of right to occupy under Section 11-7-43(d); and
- (11) **If** the applicant is a corporation, the date and state of incorporation, the name and address other registered agent and the name and address of any shareholder(s) who individually or jointly owns or controls more than ten percent (10%) of the stock in said corporation and all persons responsible for the management and operation of the adult-oriented establishments;
- (12) **If** the applicant is a partnership or joint venture or any other type of organization where two (2) or more persons have a financial interest, the application shall specify the name of the entity, the name and address of any general partner(s) and all persons responsible for the management and operation of the adult-oriented establishment.
- (13) The application shall be accompanied by:
 - a. A sketch or diagram drawn to scale of the floor planes). A professionally prepared sketch or diagram in the nature of an engineer or architect's blueprint is recommended but shall not be required. Each sketch or diagram shall be oriented to the north or to some designated street or landmark. Each sketch or diagram shall be drawn to a designated scale or with marked dimensions sufficient to show the various dimensions of all areas, walls, doors, windows or other material aspects of the premises. Each sketch or diagram shall include at least the following:

- b. The internal and external configuration of the premises, including a statement of total floor space occupied by the structure.
 - c. A statement fully describing the external signage to be displayed on the premises, as well as signage intended to be displayed elsewhere in the Town to advertise the business.
 - d. The location of one (1) or more manager's station or office.
 - e. The location of all electrical wiring and fixtures, including but not limited to lighting fixtures, sound systems, special effects equipment, video display equipment, video surveillance systems, etc.
 - f. Designation of any portion of the premises in which customers will not be permitted or in which sexually oriented business activities will not be conducted.
 - g. A plan or description of the safety and security measures for the inside and outside of the premises, its customers and employees.
 - h. A designation of the place(s) at which the license, a copy of the floor plan(s) and other necessary permits, licenses and signage will be conspicuously posted.
 1. The Town Board may waive the foregoing sketch or diagram requirements only for renewal applications if the applicant expressly adopts by reference a floor plan that was previously approved and certifies that the configuration of the premises has not been altered or enlarged since it was approved.
- (14) All new applications shall include a certified survey map prepared by a licensed surveyor or licensed engineer which shows the required minimum distances from properties with protected uses.
- (15) A nonrefundable application fee of One Thousand Dollars (\$ 1,000.00) shall accompany all applications. An application shall not be considered filed until all applicable fees are paid and all information required by the application form has been submitted.
- (16) A copy of all applications and supporting documentation for licensing shall be maintained in the Town Clerk's office.
- (17) The operator of a sexually oriented business shall permit and cooperate with the appropriate town, county or state enforcement personnel regarding lawful inspections of the entire premises and all activities being conducted therein.
- (18) Each applicant shall sign a waiver and authorization form authorizing the Town to request on behalf of the applicant criminal history reports from any appropriate state and/or federal agency.
- (19) Each application shall contain the following statements signed by applicant:
- a. "I represent that I have personal knowledge of all statements made and information given in this application and that the information is true and correct";
 - b. **If** required by law, that an outdoor sign was posted in conformance with this Chapter and state law not later than the 60th day before the date the application was filed; and
 - c. The applicant has read the provisions of this Chapter.

- (c) **Failure to Provide Information.** Failure or refusal of the applicant to provide any information for the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation required by this Section, shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof.

Sec. 11-7-43 Standards for Issuance of a License.

- (a) **General Requirements.** To receive a license to operate an adult oriented 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 III, Wis. Stats., the applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within ten (10) years immediately preceding the date of the application; and
 - c. The applicant shall not have been found to have previously violated this Article within ten (10) 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 Section 11-7-42(b) shall be at least eighteen (18) years of age;
 - b. Subject to Chapter III, Wis. Stats., no officer, director, or other person shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within ten (10) years immediately preceding the date of the application; and
 - c. No officer, director or other person required to be named under this Chapter shall have been found to have previously violated this Article within ten (10) years immediately preceding the date of the application.
 - (3) **If the applicant is a partnership, joint venture, limited liability company 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. Subject to Chapter III, Wis. Stats., no person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within ten (10) years immediately preceding the date of the application; and

- 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 this Article within five (5) years immediately preceding the date of the application.
- (b) **Investigation.** No license shall be issued unless law enforcement authorities have investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the Town Clerk no later than fourteen (14) days after the application.
- (c) **Inspection.** The Building Inspector, Fire Inspector, and/or law enforcement authorities shall inspect the premises proposed to be licensed to verify compliance with their respective Codes, and shall report compliance findings to the Town Clerk within fourteen (14) days of the date of application.
- (d) **Proof.** No license shall be issued unless the applicant provides proof of one (I) of the following:
- (1) Ownership of a properly zoned building or parcel of real property under the Marinette County Zoning Code upon which a building can be constructed. "Proper" includes permissible non-conforming use status.
 - (2) A lease on a building which is properly zoned under the Marinette County Zoning Code to house a venture. Proper zoning includes permissible non-conforming use status.
 - (3) An option to purchase property which is properly zoned under the Marinette County Zoning Code for the venture.
 - (4) An option to lease property which is properly zoned under the Marinette County Zoning Code for the venture. Proper zoning includes permissible non-conforming use status.
- (e) **Drawing.** The applicant shall file with the Town Clerk a current surveyor's certificate and straight line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand five hundred (1,500) feet of the property proposed to be licensed, and the property lines of any sensitive area within one thousand five hundred (1,500) feet of the property proposed to be licensed. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted. Measurements shall be from the closest exterior wall of the structure of the business to the nearest property line of sensitive areas.

Sec. 11-7-44 License Fee.

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

Sec. 11-7-45 Display of License or Permit.

The adult oriented establishment license shall be displayed in a conspicuous public place in the adult oriented establishment. Any license of employees or agents that work in said establishment that relate to this license or establishment shall be displayed with the adult oriented establishment license.

Sec. 11-7-46 Approval or Renewal of License or Permit.

- (a) **Notice of Determination on Application.** Within sixty (60) days of receiving an application for a license, the Town Clerk shall notify the applicant whether the application is granted or denied or whether the application period is being extended for another sixty (60) day period.
- (b) **Renewals.**
 - (1) Every license issued pursuant to this Article will terminate on June 30 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 Town Clerk. The application for renewal must be filed not later than ninety (90) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Town Clerk. A copy of the application for renewal shall be distributed by the Town Clerk to the Building Inspector, Fire Inspector, law enforcement authorities, and the applicant. The application for renewal shall be upon a form provided by the Town Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
 - (2) A license renewal fee as prescribed in Section 1-3-1 shall be submitted with the application for renewal. In addition to the renewal fee, double the basic renewal fee shall be assessed against an applicant who does not file for a renewal ninety (90) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

Sec. 11-7-47 Denial of Application.

- (a) Whenever an initial application is denied, the Town Clerk shall, within fourteen (14) days 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 next regularly scheduled meeting of the Town Board.
- (b) Failure or refusal of the applicant to give any 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 or her 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 grounds for denial thereof by the Town Clerk.

Sec. 11-7-48 Transfer of License.

- (a) A license is personal to the owner(s) and operator designated in the application, provided it may be transferred pursuant to this Section. A transfer application must be filed no less than ten (10) days before any change of the owner(s) or operators designated on the application. In the event that a transfer application is not timely filed, then the license shall be invalid for any purpose relating to the operation of the adult oriented business, and any transfer shall require the filing of an original application and be subject to the regulations applicable thereto.
- (b) The Town Clerk shall prescribe a form on which license transfer applications shall be made. The form shall include a statement under oath that the original application remains correct as previously submitted in all respects except those that are amended by the transfer application. The transfer application shall contain a statement under oath that the individual signing the transfer application has personal knowledge of the information contained therein and that the information is true and correct and shall not be complete unless accompanied by a nonrefundable transfer fee of per Section 1-3-1. Transfer applications shall be filed in the same place and at the same time as original applications, and the fee shall be payable in the same manner as for original applications.
- (c) Transfer applications shall be reviewed, issued and subject to appeal in the same manner as original applications, and they shall be issued for the remaining term of the license to be transferred.
- (d) Any transfer of an adult oriented establishment, other than as provided in this Section, from the licensed premises to any other premises shall cause such license to lapse and become void. A license which has lapsed and become void shall be subject to revocation under Section 11-7-54.

Sec. 11-7-49 Physical Layouts and Layouts of Adult Oriented Establishments.

Any adult oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any motion picture, videotape or compact disc in which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas 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 oriented 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 times 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 colored, 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 specified sexual activity, cause any bodily discharge or litter while in the booth. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this Section.
- (d) **Location.**
 - (1) No adult-oriented establishment shall be located:
 - a. Within one thousand (1,000) feet of an existing adult-oriented establishment, or other late night business including but not limited to laundromats, video rental stores or movie theaters.
 - b. Within one thousand (1,000) feet of any premises of a licensee of a Class "B" Fermented Malt Beverage Retailer's License or Retail "Class B" Liquor License.
 - c. Within one thousand (1,000) feet of a "youth center" or "sensitive area" as defined in Section 11-7-2.
 - d. Upon any land except lands within the Town of Stephenson which are in an industrial district classification or primary use.
 - e. Within one thousand (1,000) feet of an area predominantly used for residential purposes or within one thousand (1,000) feet of a school or church. No building used in part for an adult-oriented establishment activity if the structure also contains a residential use such as an apartment(s).
 - (2) For purposes of this Subsection, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment to the nearest property line of another adult-oriented establishment, sensitive area, youth center or the premises of a licensee of a "Class B" Fermented Malt Beverage Retailer's License or Retail "Class B" Liquor License, or a residential dwelling.

- (3) The Town Board may waive or modify the above restrictions if it is found that an adjacent activity or proposed use is in the best interest of the Town and general public, and that the safety and welfare of the community is protected. The waiver or modification may be introduced by the Town Board, or by written request or petition. (e) **Hours of Operation.** No adult-oriented establishment shall be open between the hours of 12:00 midnight and 8:00 a.m., including for private or by invitation-only events.

Sec. 11-7-50 Responsibilities of Operators.

- (a) An operator, licensed under this Chapter 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 of a period of three (3) years following termination.
- (b) The operator shall make the register of employees available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency 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 Chapter 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 oriented establishment shall allow any minor to loiter around or to frequent an adult oriented establishment or to allow any minor to view sexually-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas 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 Chapter.
- (h) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an un-mutilated and undefaced sign or poster supplied by the Town which contains information regarding sexually transmitted diseases and the telephone numbers 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 Town pertaining to sexually transmitted diseases.

- (j) A copy of this Chapter shall be displayed on the exterior of every licensed premise with such ordinance to be clearly visible to patrons entering the premises from the outside and shall be posted within eight (8) feet of any exterior entryway. A copy of this Chapter shall also be placed in each room and any enclosed location or booth within an establishment licensed under this Article. The Town Board of the Town of Stephenson may, by formal motion or resolution, authorize the posting of an abbreviated form of this Chapter, so as to notify patrons, employees and operators of the regulations stated in this Chapter. The exterior signs shall be in block letters, written in black on a white background surface, and be no less than one (1) inch in size. The interior signs shall be of a similar type and color with a minimum height on one-half (1/2) inch each. Upon application of the owner, abbreviated versions of this Chapter may be posted or other amendments to this Chapter may be approved, consistent with the intent of this Chapter in keeping affected persons apprised of the requirements of this Chapter.
- (k) The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one (1) foot candle of illumination in said aisles, as measured from the floor.
- (l) No operator shall suffer, allow, or permit any employee or entertainer and no employee or entertainer shall intentionally touch the clothed or unclothed body of any patron or customer at the establishment premises, at any point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, commonly referred to as the hand. It shall further be unlawful for any patron or customer in or upon the establishment premises, to touch any portion of the clothed or unclothed body of an operator, employee or entertainer below the neck and above the knee, excluding that part of the operator's, employee's or performer's arm below the wrist, commonly referred to as the hand. Included within improper conduct under this Subsection are any acts in violation of Sec. 944.36, Wis. Stats.
- (m) Good order shall be maintained at all times on the premises. 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/tenants, patrons urinating in public, profane language, disorderly conduct, and violations of other Town ordinances.
- (n) The operator shall comply with building capacity limits as set by the Fire Department, Town Building Code and/or state regulations are complied with at all times. (o) The operator and/or license holder shall comply with all applicable State Statutes and regulations and Town and/or county ordinances. (p) 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..

- (q) The use of simulated sexual organs during dances or performances is prohibited.
- (r) No operator or license holder shall permit any amateur dancing, entertainment, or performances on the license holder's premises in violation of this Chapter or any applicable state or federal laws or municipal ordinance.
- (s) The Town shall charge its reasonable costs for supplying any posters, brochures, pamphlets and other information required under this Chapter.

Sec. 11-7-51 Registration of Employees.

- (a) **Registration Requirement.** All operators, employees, independent contractors and entertainers working in any adult oriented establishment shall, prior to the beginning of employment or contracted duties, register with the Town of Stephenson Office of Town Clerk. Specifically included within the scope of this Section is any person desiring to provide entertainment in the Town as an entertainer at any facility governed by this Chapter. Such registration shall include the following:
 - (1) Full name and any aliases used;
 - (2) Stage name and booking agent, if any;
 - (3) Permanent address and any temporary address;
 - (4) Date and place of birth;
 - (5) Telephone number(s);
 - (6) Date of employment and name of employer;
 - (7) Description information concerning height, weight, hair and eye color, gender and race;
 - (8) Two (2) forms of identification with at least one form being photo identification confirming such information and identity; and
 - (9) If requested, by the Town or a law enforcement agency, fingerprints.
 - (10) Social Security Number.
 - (11) Proof that the individual is at least eighteen (18) years old.(Note: The personal information provided in this Section shall be confidential, and shall not be disclosed to the public except to the extent required by state or federal law).
- (b) **Employee Background Checks.**
 - (1) Prior to employment of any person by the sexually oriented business, the owner or operator of the sexually oriented business shall conduct a criminal background check of all prospective employees to ensure that no person employed has any conviction(s) or any time of service in jail or prison for any of the following offenses:
 - a. Sexual assault or aggravated sexual assault;
 - b. Incest, solicitation or a child or harboring a runaway child;
 - c. Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, display or distribution, sale, distribution or

- display of harmful material to a minor, sexual performance by a child, employment harmful to minors, possession or promotion of child pornography;
- d. Criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses; or
 - e. Public lewdness, indecent exposure, public intoxication, drinks solicitation, or possession of a controlled substance.
- (2) The operator shall maintain a current registration card or file on the premises clearly identifying all managers, employees, and/or entertainment personnel currently on the premises or employed by the business. The information contained on the registration card shall include at least:
- a. Full legal name.
 - b. All aliases or stage names.
 - c. Date of birth.
 - d. Race.
 - e. Hair and eye color.
 - f. Current residence address and telephone number.
 - g. Wisconsin drivers license number or Wisconsin ID.
 - h. Social Security Number.
 - i. Color photograph of full-face view.
 - j. Date of criminal background check.
- (3) The following records shall be supplied:
- a. Within five (5) days of employment of an employee, each manager shall send a copy of the criminal background check (with redacted social security number) and registration card to the Town Clerk.
 - b. Each manager shall maintain on the premises and make available for inspection upon request by Town enforcement personnel the criminal background information and current registration card for all current employees.
 - c. A manager commits an offense if he/she fails to make the criminal background information or current registration card available for immediate inspection upon request by Town enforcement personnel.
- (c) **Registration Validity.** Such registration shall be valid for one (1) year from the date of registration, or, if employed by an establishment holding an alcohol beverage license, on June 30th following issuance.
- (d) **Duty of Employer.** No person shall permit entertainment or employment by an individual subject to this Section without prior registration as required herein.
- (e) **Fees.** The registration fee as prescribed in Section 1-3-1 shall be paid per registration, which shall be paid to the Town to cover costs of the identification card.

Sec. 11-7-52 Exclusions.

All private schools and public schools as defined in Chapter 115, Wis. Stats., located within the Town of Stephenson are exempt from obtaining a license hereunder when instructing pupils in professional care nursing or human growth and development as a part of its curriculum. All

licensed medical care or professional nursing care facilities or state-licensed massage therapy clinics located within the Town of Stephenson, and agents of the Town of Stephenson and all corresponding town, municipal, county, state and federal departments and agencies are exempt from obtaining a license hereunder when engaged in the providing of medical care or human growth and development education,

Sec. 11-7-53 Penalty.

Unless a specific penalty is provided for elsewhere in this Chapter and in addition to all other remedies available to the Town of Stephenson in equity and under law, any person who shall violate any provision of this Chapter or who shall fail to obtain a license or permit as required hereunder, or who shall operate after his/her license or permit is revoked, shall be subject to penalties, on a per diem or per occurrence basis, as follows:

- (a) Any person who operates an adult-oriented establishment who fails to obtain a license or permit as required under this Chapter shall be subject to initial to an initial forfeiture of Five Hundred Dollars (\$500.00) and additional forfeitures of Three Hundred Dollars (\$300.00) per day for each day that the person continues to operate an adult-oriented establishment without a license or permit in violation of this Chapter.
- (b) Any person who operates an adult-oriented establishment after his/her license has been revoked shall be subject to an initial forfeiture of Five Hundred Dollars and additional forfeitures of Three Hundred Dollars (\$300.00) per day for each day the person continues to operate an adult-oriented establishment in violation of this Chapter.
- (c) Any person with a valid permit or license for an adult-oriented establishment who violates any provision of this Chapter shall be subject to a forfeiture of Three Hundred Dollars (\$300.00) per day for each day the person is in violation of this Chapter.
- (d) For other violations not enumerated above, the general penalty provisions of Sec. 1-1-6 shall be applicable.
- (e) In addition to the above forfeitures, violators shall pay all costs of prosecution and any state penalty assessments.

Sec. 11-7-54 License Suspension, Revocation or Non-Renewal of Licenses.

- (a) **In General.** Any license granted herein may be revoked, suspended, or not renewed by the Town of Stephenson because, but not limited to, of the following:
 - (1) If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent or intentionally deceptive;
 - (2) For the violation of any provision of this Chapter, except for establishment license matters involving a violation of Building Codes;

- (3) After one (1) conviction of any establishment personnel of an offense under Ch. 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 Subsection II of Ch. 961, 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.
 - (4) If the licensee, operator or employer becomes ineligible to obtain a license.
 - (5) If an operator employs an employee who is not registered or who provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without being registered with the Town of Stephenson.
 - (6) If any cost or fee required to be paid by this Chapter is not paid.
 - (7) If any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult oriented establishment.
 - (8) If any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any material depicting specified sexual activities or specified anatomical areas.
- (b) **Notice of Hearing.** No license shall be revoked, suspended, or not renewed by the Town of Stephenson except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Town Board. 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.
- (c) **Hearing.** 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 Town Board if such is required, on his or her own behalf under subpoena by the Town Board 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 Town Board shall prepare findings of fact and conclusions as to what, if any, action the Town Board will take with respect to the license. The Town Board shall provide the complainant and licensee with a copy of the report.
- (d) **Miscellaneous.**
- (1) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
 - (2) Any operator whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult oriented establishment for six (6) months from the date of revocation of the license.