

TITLE 11

Offenses and Nuisances

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Title 11 ► Chapter 1

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 Warren 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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- 940.19(1) Battery
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- 943.20(3)(a) Theft of Property
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- 945.01 Definitions Relating to Gambling
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- 946.42(2) Escape
- 946.46 Encouraging Violation of Probation or Parole
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- 947.01 Disorderly Conduct
- 947.012 Unlawful Use of Telephone
- 947.013 Harassment
- 947.047 Littering Shores
- 947.06 Unlawful Assemblies
- 948.01 Definitions Relating to Crimes Against Children
- 948.09 Sexual Intercourse With a Child Age 16 or Older
- 948.10 Exposing a Sex Organ
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- 951.14 Providing Proper Shelter
- 951.15 Animals; Neglected or Abandoned; Police Powers

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- 951.16 Investigation of Animal Cruelty Complaints
- 951.17 Reimbursement for Expenses

Title 11 ► Chapter 2

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 Warren, 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 Warren.

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 Warren 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 Warren.
- (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 Warren 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.

Title 11 ► Chapter 3

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 Warren 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)(1) 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 drainageway 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.
- (3) A One Hundred Dollars (\$100.00) reward will be given to any person who files a complain resulting in a conviction under this Section.

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 Warren 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 Warren 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.
- (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, 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 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 Warren.

- (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 specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb any animals, birds or waterfowl, wild or domestic, within any cemetery in any manner except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery.
 - (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.

Title 11 ► Chapter 4

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)1.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 (1st) 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 (1st) 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.
- (j) **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 5

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 Warren 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 Warren 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.

11-5-2

- (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 6

Public Nuisances

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

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

- (a) **Title/Purpose.** The title of this Chapter is the Town of Warren 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 Warren, St. Croix 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.

- (l) **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. 340.01(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(1), Wis. Stats.
 - (8) **Farm tractors** as defined in Sec. 340.01(16), Wis. Stats.
 - (9) **Hobbyist or homemade vehicles** as defined in Sec. 341.268, Wis. Stats.
 - (10) **Junk vehicles** as defined in Sec. 340.01(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. 340.01(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 twenty-four (24) 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 ten (10) days after receipt of written notice from the Town Board or designee; immediate abatement may be ordered by the Town Board in situations where there are grave or exceptionally serious threats to the public health and safety.

- (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-Treasurer 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-Treasurer, 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-Treasurer. 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-Treasurer.
- (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-Treasurer 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.

Title 11 ► Chapter 7

Sexually Oriented Businesses

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Sec. 11-7-1 Purpose.

- (a) Sexually oriented businesses require special supervision from the public safety agencies of the Town of Warren in order to protect and preserve the health, safety and welfare of the patrons of such businesses as well as the citizens of the Town of Warren; and
- (b) The Town Board finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and
- (c) The concern over sexually transmitted diseases is a legitimate health concern of the Town Board, which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and
- (d) There is convincing documented evidence that sexually oriented businesses have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and
- (e) The Town Board desires to minimize and control these adverse effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and
- (f) The Town Board has determined that locational criteria will assist in the protection of the health, safety and general welfare of the people of the Town of Warren; and
- (g) It is not the intent of the Town Board to condone or legitimize the distribution of obscene material, and the Town Board recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the Town of Warren.

Sec. 11-7-2 Statement of Findings and Intent.

- (a) **Intent.** It is the intent of this Chapter to promote the health, safety and general welfare of the citizens of the Town of Warren and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town of Warren. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene materials.
- (b) **Findings.** Based on evidence concerning the adverse secondary effects of adult uses on communities stated above, and on findings incorporated in the cases of *City of Erie v. Pap's A.M.*, 120 S.Ct 1382 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes V. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky.*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *Schultz v. City of Cumberland*, Case Nos. 98-4126 and 98-4209 (7th Cir., September 26, 2000) (2000 U.S. App. LEXIS 23773); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Key, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *East of the River Enterprises II v. City of Hudson*, 2000 Wisc. App. Lexis 734 (Ct. App. Aug. 1, 2000); and *Urmanski v. Town of Bradley*, 2000 WI App. 141, 613N.W.2d 905 (Ct. App. 2000), as well as studies conducted in other cities, including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the "Regulation of Adult Entertainment Establishments in St. Croix County, Wisconsin"; and the "Report of the Attorney General's Workshop of Sexually Oriented Businesses" (June 6, 1989, State of Minnesota), the Town Board finds that:
- (1) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.
 - (2) Studies of the relationship between sexually oriented businesses and neighborhood property values have found a negative impact on both residential and commercial property values.
 - (3) Sexually oriented businesses may contribute to an increased public health risk through the spread of sexually transmitted diseases.
 - (4) There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct.

- (5) The consumption of alcoholic beverages on the premises of a sexually oriented business exacerbates the deleterious secondary effects of such businesses on the community.

Sec. 11-7-3 Definitions.

The following definitions are applicable in this Chapter:

- (a) **Adult Arcade.** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- (b) **Adult Bookstore or Adult Video Store.** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - (2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities".

NOTE: A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.
- (c) **Adult Cabaret.** A nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features:
 - (1) Persons who appear in a state of nudity or semi-nudity; or
 - (2) Live performances that are characterized by "specified sexual activities"; or
 - (3) Films, motion pictures, videocassettes, slides, or other photographic or computer reproductions or depictions that are characterized by the depiction or description of "specified sexual activities" or "nudity".
- (d) **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.
- (e) **Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".
 - (f) **Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the "exposure of specified anatomical areas" or by "specified sexual activities."
 - (g) **Breast.** The female mammary gland.
 - (h) **Buttocks.** The area at the rear of the human body referred to as the gluteus maximus, the fleshy part of the body at the back of the hips upon which a person sits.
 - (i) **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.
 - (j) **Entertainer.**
 - (1) Any person who appears in a state of nudity or semi-nudity in a sexually oriented business; or
 - (2) Any person who engages in live performances that are characterized by "specified sexual activities".
 - (k) **Escort.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
 - (l) **Escort Agency.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
 - (m) **Establishment.** Includes any of the following:
 - (1) The opening or commencement of any sexually oriented business as a new business;

- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
 - (4) The relocation of any sexually oriented business; or
 - (5) A sexually oriented business or premises on which the sexually oriented business is located.
- (n) **Licensed Day Care Center.** A facility licensed by the State of Wisconsin, under Sec. 48.65, Wis. Stats., whether situated within the Town or not, that provides care, training, education, custody, treatment or supervision for more than four (4) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for profit or charges for the services it offers.
- (o) **Nudity or State of Nudity.** The appearance of the human bare anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or the nipple or areola of the female breast, with less than a fully opaque covering; or the showing of the covered male genitals in a discernibly turgid state.
- (p) **Operator.** The person on the premises who is responsible for the control and management of the sexually oriented business.
- (q) **Patron.** A customer on the premises of a sexually oriented business.
- (r) **Person.** An individual, proprietorship, partnership, corporation, association, or other legal entity.
- (s) **Premises.** The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the owner or operator of the business.
- (t) **Sexual Encounter Center.** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.
- (u) **Sexually Oriented Business.** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, or sexual encounter center.
- (v) **Specified Anatomical Areas.** Less than completely and opaquely covered:
- (1) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
 - (2) Less than completely and opaquely covered human anus, anal cleft or cleavage, genitals, pubic region, or the nipple or areola of the female breast.

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(w) **Specified Sexual Activity** means:

- (1) The fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts, whether covered or uncovered;
- (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in Subsection (w)(1) through (3) above.

Sec. 11-7-4 Location Restrictions.

Sexually oriented businesses shall not be permitted in any residential district.

- (a) The sexually oriented business may not be operated within (whether the following are located in or outside of the Village):
 - (1) Five hundred (500) feet of a church, chapel, synagogue, or regular place of religious worship.
 - (2) Five hundred (500) feet of a school; public or private preschool, elementary, middle or high school; or youth recreational center, or library;
 - (3) Five hundred (500) feet of a licensed day care center, clinic or hospital;
 - (4) Five hundred (500) feet of a public park;
 - (5) Five hundred (500) feet of any residential district; R-1, One-Family Residential District; R-2, Two-Family Residential District and RM-1, RM-2, RM-3, RM-4 Multiple Family Residential Districts; R-T, Transitional Two-Family Residential District and AR, Agricultural Residential District.
- (b) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
- (c) For the purpose of this Chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line or boundary of a property listed in Subsection (a) above.

Sec. 11-7-5 Regulation of Sexually Oriented Businesses.

- (a) **State of Nudity.** It shall be a violation of this Chapter for any person to knowingly and intentionally appear in a state of nudity in a sexually oriented business.
- (b) **Consumption of Alcohol.** The sale, use or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.
- (c) **Physical Contact With Entertainers.** No person, employee or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance.

All performances shall only occur on a stage or table that is elevated at least eighteen (18) inches above the immediate floor level. To prevent actual physical contact between an entertainer and any other person, employee, or patron, all performances shall not be less than five (5) feet from any area occupied by any patron, persons, employees and patrons shall not have any physical contact with, and shall not be less than five (5) feet from any entertainer during the payment of a tip or gratuity.

- (d) **Underage Persons On Premises.** It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.
- (e) **Duties of Operators.** It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years of age from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished a valid:
 - (1) Operator's, commercial operator's or chauffeur's driver's license; or
 - (2) Personal identification card issued by the state of residence of the individual seeking entry reflecting that such person is eighteen (18) years of age; or
 - (3) Passport or official identity card issued by the government of the nation of which the individual seeking entry is a citizen.
- (f) **Ordinance Violations.** No person shall cause another to commit a violation of this Chapter, nor shall any person permit such violation to occur on any premises under his/her control, tenancy, management or ownership.
- (g) **Hours of Operation.** No sexually oriented business regulated by this Chapter may remain open between the hours of 2:00 a.m. and 8:00 a.m., except on Saturday and Sunday, when the closing hours shall be between 2:30 a.m. and 8:00 a.m.
- (h) **Signs Posted.** All premises governed by this Chapter shall be required to post signs provided by the Town of Warren that are visible to patrons, which state:

"By Town of Warren Ordinance: The use or consumption of alcoholic beverages on these premises is prohibited. No person shall be permitted to have any physical contact with any entertainer. No person shall be less than five (5) feet from any entertainer, including during the payment of tips. Violators may be subject to a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00) per violation.

- (i) **Doors and Interior Premises.** Each entryway to a sexually oriented business featuring live entertainment shall through use of a vestibule, screening, or double doors, and with window coverings, eliminate any direct line of sight from the exterior of the building to any

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entertainer on the premises. There shall be no interior entrance to or exit from a sexually oriented business from or into an adjoining premise which is not a sexually oriented business. The interior premises of a sexually oriented business shall not be visible by any means from another premise, whether adjoining or separate, which is not a sexually oriented business.

Sec. 11-7-6 Exemptions.

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