

## CHAPTER 9

### PUBLIC PEACE AND GOOD ORDER

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**9.29.288 TO 9.948.16** OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE. The following statutes following the prefix "9" 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, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under Sec. 25.04 of this Municipal Code.

9.29.288	Throwing Refuse in Waters/Abandoning Vehicles
9.50.58	Careless Smoking
9.110.075(7)	Producing/Using Inspection Sticker Fraudulently
9.134.06	Motor Vehicles Sales/Bonus to Chauffeur Prohibited
9.144.142(2)	Pollution by Motor Vehicle/Failure to Repair
8.175.25	Illegal Storage of Junked Vehicles
9.194.21	Accepting or Receiving Transportation Rebates

9.218.01(7a)	Used Cars/prohibited Acts
9.218.01(7b)	Motor Vehicles/Sale to Minor
9.346.935	Drinking in Motor Vehicles on Highway
9.939.22	Words and Phrases Defined
9.941.03	Highway Obstruction
9.941.10	Negligent Handling of Burning Material
9.941.12	Interfering with Fire Fighting
9.941.13	False Alarms
9.943.01(1)	Criminal Damage to Property (Less than \$200)
9.943.13	Criminal Trespass to Land
9.943.14	Criminal Trespass to Dwellings
9.946.40	Refusing to Aid Officer
9.946.41	Resisting or Obstructing Officer
9.946.65	Obstructing Justice
9.946.70	Personating Peace Officer
9.946.72	Tampering with Public Records and Notices
9.947.01	Disorderly Conduct
9.947.047	Littering Shores
9.947.06	Unlawful Assemblies
9.947.08	Crime Comics
9.948.01-9.948.16	Crimes Against Animals

**9.02 FIREARMS.** No person except an authorized peace officer shall discharge any firearm within the Town or have any firearm in his possession within the Town unless it is unloaded and knocked down and enclosed in a carrying case or other suitable container, provided the Board may issue permits to an organized gun club to engage in target practice within the Town at times and places designated by the constables.

**9.03 THROWING OR SHOOTING MISSILES AND PROJECTILES.** No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Town.

**9.04 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.** Sec. 167.10, Wis. Stats., regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this chapter as though set forth in full.

**9.05 OBSTRUCTING ROADS PROHIBITED.** No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public road, bridge or public ground within the Town in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress to or egress from any place of business or amusement or any church, public hall or meeting place.

**9.06 LOUD AND UNNECESSARY NOISE PROHIBITED.** No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities in or about any public street, alley, park or private residence.

**9.07 LOITERING.** (1) LOITERING OR PROWLING PROHIBITED, GENERALLY. 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 peace officer, refuses to identify himself or manifestly endeavors to conceal himself or an object. Unless flight by the person or other circumstances makes it impracticable, a peace officer shall, prior to any arrest for an offense under this subsection, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the peace 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 peace officer at the time, would have dispelled the alarm.

(2) **OBSTRUCTION OF TRAFFIC BY LOITERING.** No person shall loiter upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Town in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, alleys, street crossings or bridges or other public places by persons passing along and over the same. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after a request to do so by a peace officer.

(3) **OBSTRUCTION OF ENTRYWAYS BY LOITERING.** No person shall loiter upon the public streets, private driveways, sidewalks or in adjacent doorways or entrances so as to obstruct the free entry of persons to the adjacent property, driveways, or other entrances to such property. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after being requested to do so by a peace officer.

(4) **LOITERING IN PLACES OF PUBLIC ASSEMBLY OR USE.** No person shall by loitering interfere with the free use of any place of public assembly or public use by others using such place of public assembly. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after a request to do so by a peace officer or by the person in charge of the place of public assembly.

(5) **LOITERING ON PRIVATE PREMISES WITHOUT INVITATION.** No person shall loiter on any private premises without invitation from the owner or occupant. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after being requested to do so by a peace officer or by the owner or occupant.

**9.08 ANIMALS AND FOWL NOT TO RUN AT LARGE.** No person having any animal or fowl under his control shall allow the same to run at large within the Town.

#### **9.09 STORAGE OF JUNK, ETC., REGULATED**

### **ORDINANCE NO. 30**

## **AN ORDINANCE REGULATING JUNK AND ABANDONED AND JUNKED VEHICLES IN THE TOWN OF CONCORD**

The Town Board of the Town of Concord, Jefferson County, Wisconsin, having by law powers pursuant to §60.18(12), Wis. Stats./ and in addition as provided in §342.40, Wis. Stats., and deeming it necessary in order to promote the public health, safety morals and welfare, does ordain as follows:

### **SECTION 1. STORAGE OF JUNK, ETC., REGULATED.**

#### **(1) GENERALLY.**

- (a) Restricted. No person shall store junked or discarded property including automobiles, automobile parts, farm implements, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris which depreciates property values in the neighborhood, except in an enclosure which houses such property shielding it from public view or upon permit issued by the Town Board. In all cases the aforementioned property, if permitted to be stored on the landowner's property, shall be at least five hundred (500) feet from the nearest property boundary.
- (b) Order for Compliance. The police department or any other Town official may require by written order any premises in violation of this section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

#### **(2) ABANDONED VEHICLES.**

- (a) **Vehicle Abandonment Prohibited.** No person shall leave unattended any motor vehicle, trailer, semi-trailer or mobile home on any Town road or public or private property for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any Town road or on any public or private property within the Town without the permission of the owner for more than forty-eight (48) hours, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view.
- (b) **Removal and Impoundment of Abandoned Vehicles.** Any vehicle in violation of this subsection shall be impounded until lawfully claimed or disposed of under paragraph (c) except if the Town Board or its authorized representative determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the Town prior to expiration of the impoundment period upon determination by the Town Board or its authorized representative that the vehicle is not stolen or otherwise wanted for evidence or other reason. If impounded, there shall be a storage charge assessed at the rate of Five (\$5.00) Dollars per day.
- (c) **Disposal.** Any vehicle which is deemed abandoned by the Town Board or its authorized representative and not disposed of under paragraph (b) shall be retained in storage for a minimum period of ten (10) days after certified mail notice has been sent to the owner and lien holders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lien holders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lien holders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title and interest in the vehicle and a consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lien holder may be sold. The Town may dispose of the vehicle by sealed bid or auction sale as provided by ordinance. At such sale the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by the Town Board, in which event all bids may be rejected. If all bids are rejected or no bid is received, the Town may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. A public notice shall be posted at the office of the Town Clerk. The posting of the notice at the office of the Town Clerk shall be in the same form as the certified mail notice sent to the owner or lien holders of record. Upon sale of an abandoned vehicle, the Town shall supply the purchaser with a completed form designed by the Department of Transportation enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten (10) days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the Town for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten (10) days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. The listing of vehicles to be sold by the Town shall be made available to any interested person or organization which makes a written request for such list. The Town may charge a fee for the list.
- (d) **Owner Responsible for Impoundment and Sale Costs.** The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered by the sale of the vehicle may be recovered in a civil action by the Town against the owner.
- (e) **Notice of Sale or Disposition.** Within five (5) days after the sale or disposal of a vehicle as provided in paragraph (c), the Town Board or its authorized representative shall advise the state Department of Transportation, Division of Motor Vehicles, of such sale or disposition on a form supplied by the Department of Transportation. A copy of such form shall also be given to the purchaser of the vehicle, and a copy shall also be retained on file in the Town Clerk's office.

### **(3) JUNKED VEHICLES, TRACTORS AND FARM EQUIPMENT.**

- (a) **Junked Vehicles, Tractors and Farm Equipment Prohibited.** No persons owning or having in their possession or under their control any disassembled, dismantled, junked, wrecked or inoperable and unlicensed motor vehicle, tractor or farm equipment or any part or parts of any motor vehicle shall store or permit any such vehicle, tractor or farm equipment or part to remain on any private property within the Township for more than thirty (30) days after receipt of the notice referred to in paragraph (c), and no person owning any private property in the Town shall store or permit to remain any such vehicle, tractor

or farm equipment or part on his property for more than a like period. No person, after receipt of such notice, shall remove such motor vehicle, tractor or farm equipment or parts to any other private property upon which storage is not permitted or onto any public highway or other public property for purposes of storage. Such storage is declared to be a public nuisance and may be abated or removed and penalties imposed as provided in this ordinance.

- (b) Storage Permitted. This section shall not apply to any motor vehicle, tractor or farm equipment or parts stored within an enclosed building, in a storage place or depository maintained in a lawful place and manner, or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise. Such business enterprises shall include auto junk yards, auto repair, farm machinery repair and auto body shops but shall not include automobile service stations.
- (c) Notice of Removal. Whenever the police department or other Town official finds or is notified that any such motor vehicle or motor vehicle parts have been stored or permitted to remain on any private property within the Township, the police officer or other Town official shall send by certified mail a notice to the owner of record of such motor vehicle or parts, if such owner can be ascertained, and also to the owner of the property upon which it is stored, to remove the vehicle or vehicle parts within thirty (30) days. Such notice shall describe the vehicle or parts, shall order the removal within thirty (30) days, and shall set forth the possible penalties.

**(4) PENALTIES.** In addition to any other penalties, any person violating this ordinance shall forfeit a penalty of not less than Fifty (\$50.00) Dollars and not more than Two Hundred (\$200.00) Dollars, together with the costs for each day said violation continues.

**(5) SEVERABILITY.** Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

**SECTION 2. EFFECTIVE DATE.** This ordinance shall take effect and be in full force from and after the date of its passage and publication according to law.

DATED: <u>Oct 11, 1993</u>	TOWN OF CONCORD
	By: <u>Clarence Schloff</u> Clarence Schloff, Chairman
ATTEST:	
<u>[Signature]</u> Clerk	
Date Adopted: <u>Oct 11, 1993</u>	
Date Published: <u>Oct 14, 1993</u>	
Effective Date: <u>Oct 16, 1993</u>	

## **DRAFT COOPERATIVE AGREEMENT**

WHEREAS, Jefferson County and Town of Concord Township are both

concerned about unlicensed junkyards or sites containing large amounts of junk or trash as a source of public complaints, an esthetic problem and a possible health problem,

NOW, THEREFORE, IT IS AGREED that the County and the Township will cooperate in prosecuting legal actions against such unlicensed junkyards or sites containing large amounts of junk or trash.

FURTHER AGREED that the District Attorney and the County Corporation Counsel may represent the Township in prosecuting Town ordinances against such nuisances.

FURTHER AGREED that in appropriate cases the Township will advance the cost of cleanup and will tax that cost as a special assessment against the property from which trash, junk, etc. is removed.

Date <u>9-6-73</u>	Date _____
 Town Chairperson	Jefferson County

**9.10 LITTERING PROHIBITED.** No person shall throw any glass, refuse, waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Town or upon any private property or upon the surface of any body of water within the Town.

**9.11 OBEDIENCE TO OFFICERS.** No person shall resist or interfere with any officer of the Town while such officer is doing any act in his official capacity and with lawful authority, nor shall any person refuse to assist an officer in carrying out his duties when so requested by the officer.

**9.12 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.** No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person; and any cover shall be of such design, size and weight that the same cannot be removed by small children.

**9.13 ABANDONED OR UNATTENDED REFRIGERATORS, ETC, 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 control in a place accessible to children, any abandoned, unattended or discarded ice box, 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 unless such door or lid, snap lock or other locking device has been removed from such ice box, refrigerator or container or unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

**9.14 BURNING OF GRASS AND TRASH RESTRICTED.** (1) GRASS FIRES REGULATE DL No person shall kindle any grass or trash fire within the Town without first securing a written permit from the Town Clerk, who shall issue such permit only upon the approval of the Town Supervisor and subject to any conditions for the protection of life and property imposed by the same. Ref. 26.13 and 26.14.

(2) BONFIRES REGULATED. No person shall kindle or cause to be kindled any fire in or upon any street, alley, public way, park or public or private grounds within 20' of any building or within any fire lane unless the same is attended and is confined within a substantial burner built of metal, concrete or brick, well covered or screened to prevent sparks or burning embers from escaping.

**9.15 REGULATING LARGE GATHERINGS.** (1) INTENT, (a) It is the purpose of the Town Board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Town, in order that the health, safety and welfare of all persons in the Town, residents and visitors alike, may be protected.

(b) It is the intent of the Town Board that all sections and provisions of this legislation have an independent existence, and, should any section or provision be declared invalid or unconstitutional by a court of competent jurisdiction, it is their intent that any section or provision so declared shall be severable from and shall not affect the validity of the remainder of the legislation.

(3) LICENSE REQUIRED, (a) No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage, or sell or give tickets to an actual or reasonably anticipated assembly of 300 or more people which continues or can reasonably be expected to continue for 18 or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the Town Board. Application for the license shall be made at least 30 days in advance of the assembly.

(b) As used in this section:

1. Person means any individual, partnership, corporation, firm, company, association, society or group.
2. Assembly means a company of persons gathered together at any location at any single time for any purpose.

(c) A separate license shall be required for each day and each location in which 300 or more people assemble or can reasonably be anticipated to assemble. The fee for each license shall be \$100.

(d) A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble at the licensed location more than the maximum permissible number of people.

(e) The license shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.

(f) This section shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place for assemblies which do not exceed by more than 250 people the maximum seating capacity of the structure.

(g) This section shall not apply to government sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed by other laws and regulations of the Town.

(4) CONDITIONS FOR ISSUING LICENSE. Before he may be issued a license the applicant shall first:

- (a) Determine the maximum number of people which will be assembled or admitted to the location of the assembly. The maximum number shall not exceed the maximum number which can reasonably assemble at the location. If the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinances of the Town.
- (b) Provide proof that he will furnish at his own expense before the assembly commences
  1. A fence completely enclosing the proposed location, of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least 4 gates, at least one at or near 4 opposite points of the compass.
  2. Portable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day and water for bathing at the rate of at least 10 gallons per person per day.
  3. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one toilet for every 200 females and at least one toilet for every 300 males together with an efficient, sanitary of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations A lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.
  4. A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled together with a plan for holding and a plan for collecting all such waste at least once each day in the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.
  5. Physicians, nurses, or licensed EMT sufficient to provide average medical care enjoyed by residents of Wisconsin for the maximum number of people at the rate of at least one health care professional for every 1,000 people and one additional health care professional for every 500 additional people together with an enclosed structure where treatment may be rendered containing separately enclosed treatment rooms for each health care professional and at least one emergency vehicle available for use at all times.
  6. If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least 5' candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.
  7. A free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every 4 persons

8. Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 1,000 persons.
9. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of the Town, sufficient to provide camping accommodations for the maximum number of people to be assembled.
10. Security guards, either regularly employed, duly sworn, off-duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one security guard for every 750 people.
11. Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all State and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of the Town. and sufficient emergency personnel to efficiently operate the required equipment.
12. All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.
13. A bond, filed with the Town Clerk, underwritten by a surety company licensed to do business in Wisconsin at the rate to be determined per event by the Town Board for the maximum number of people permitted to assemble which shall indemnify and hold harmless the Town or any of its agents, officers, servants and employees, from any liability or causes of action which might arise by reason of granting this license and from any cost incurred in cleaning up any waste materials produced or left by the assembly.

(5) APPLICATION, (a) Application for a license to hold an actual or anticipated assembly of 300 people or more persons shall be made in person to the Town Board at least 30 days in advance of such assembly.

(b) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the person making application.

(c) The application shall contain and disclose:

1. The name, age residence and mailing address of all persons required to sign the application, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding 10% or more of the stock of such corporation.
2. The address and legal description of all property upon which the assembly is to be held together with the name, residence and mailing address of the record owner(s) of all such property.
3. Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner(s) of all such property that the applicant has permission to use such property for an assembly of 500 or more persons.
4. The nature or purpose of the assembly.
5. The total number of days or hours during which the assembly is to last.
6. The maximum number of persons which the applicant shall permit to assemble at any time is not to exceed the maximum number which can reasonably assemble at the location of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the applicable zoning ordinances if the assembly is to continue overnight.
7. The maximum number of tickets to be sold, if any.
8. The plans of the applicant to limit the maximum number of people permitted to assemble.
9. The plans for fencing the location of the assembly and the gates contained in such fence.
10. The plans for supplying potable water including the source, amount available and location of outlets.
11. The plans for providing toilet and lavatory facilities including the source, number and location, type, and



the means of disposing of waste deposited.

12. The plans for holding, collection, and disposing of solid waste material.
13. The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.
14. The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.
15. The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots.
16. The plans for telephone service including the source, number and location of telephones.
17. The plans for camping facilities, if any, including facilities available and their location.
18. The plans for security including the number of guards, their deployment, and their names, addresses, credentials and hours of availability.
19. The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
20. The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.
21. The plans for food concessions and concessioners who will be allowed to operate on the grounds including the names and addresses of all concessioners and their license or permit numbers.

(d) The application shall include the bond required in subpart. (3)(b)13 and the license fee.

(6) ISSUANCE. The application for a license shall be processed within 20 days of receipt and shall be issued if all conditions are complied with.

(7) REVOCATION. The license may be revoked by the Town Board at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any condition previously met ceases to be complied with.

(8) ENFORCEMENT, (a) The provisions of this section may be enforced by injunction in any court of competent jurisdiction.

(b) The holding of an assembly in violation of any provision or condition contained in this section shall be deemed a public nuisance and may be abated as such.

(c) Any person who violates sub. (2)(a) or who violates any condition upon which he is granted a license shall be subject to a forfeiture of not less than \$1,000 nor more than \$10,000. Each day of violation shall be considered a separate offense.

**9.16 JUVENILE CURFEW.** (1) No person under the age of 18 years shall congregate, loiter, or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or any public places in the Town, either on foot or in, or upon any conveyance being driven or parked thereon between 11 p.m. and 5 a.m. on Sundays through Thursdays, and between 1159 p.m. and 5 a.m. of the following day on Friday and Saturday, unless such person is accompanied by his or her parent, guardian or other adult person responsible for the care, custody or control of such minor, or unless such minor is engaged in the performance of a necessary errand or duty directed by such parent, guardian, or other adult person having care and custody of the minor, or unless such minor's employment makes it necessary for him to be in or upon such streets, alleys, or other places specified above after the hour specified, or unless such minor is going home from school activities, church programs, or other approved organizational activities.

(2) No parent, guardian or other adult person having the care and custody of a person under the age of 18 years shall permit such person to congregate, loiter, or play in the areas mentioned above during the hours stated in sub. (1) unless the person under the age of 18 years is accompanied by his or her parent, guardian or other adult person

responsible for his or her care, custody, or control, or unless such minor is engaged in a permissible activity as described in sub. (1).

(3) PENALTY, (a) Any person under the age of 18 found violating the provisions of this section for the first time shall be warned of the penalty and taken and delivered by a constable to the custody of the person having legal custody over the minor. A record of such violation shall be made and filed by the constable. Any person under the age of 18 years found violating these provisions a second or subsequent time, shall be referred to the proper authorities as provided in Ch. 48, Wis. Stats.

(b) Any person who shall violate any provision of sub. (2) of this provision shall upon conviction thereof be fined not less than \$10 nor more than \$200.

(c) Each violation of any of the provisions of this section shall constitute a separate offense.

**9.17 USE OF TOWN PARKS REGULATED.** (1) Overnight parking or camping in any Town park is prohibited.

(2) **MOTORIZED VEHICLES RESTRICTED.** No person shall operate a motor vehicle, as defined in Sec. 340.01(35), Wis. Stats., in any Town park except upon a highway as defined in Sec. 340.01(22), Wis. Stats.

**9.18 REGULATION OF SALES OF INTOXICANTS AND PROVIDING OF ENTERTAINMENT ON LICENSED PREMISES.** (1) Nudity, sexual conduct, sexual excitement, sadomasochistic abuse as defined by Wis. Stats. Sec. 944.25 (1) DEFINITIONS, (b) (c) (d) and (e) is prohibited on premises licensed for the sale of intoxicating liquor or fermented malt beverages.

(2) On premises licensed for the sale of intoxicating liquor or fermented malt beverages, the licensee shall abide by and uphold the Wis. State Statutes, Chapter 176 and Sec. 66.054 regulating the sale thereof.

(3) Therefore, under Sec. 66.054(13) Municipal Regulations, the Town Board of Concord does ordain that: On premises licensed for the sale of intoxicating liquor or fermented malt beverages, no person shall;

- (a) Employ or use any person in the sale of service of intoxicants on the licensed premises who is nude or in such attire, costume, or clothing as to expose the female breast below the top of the areolae or of pubic hair, anus, cleft of the buttocks, vulva, or genitals.
- (b) Employ or use any person to mingle with the patrons while nude or in such attire, costume, or clothing described in Sec. 3(a).
- (c) Encourage or permit any person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
- (d) Permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.

(4) Live entertainment and the showing of film, still pictures, or electronic reproductions is permitted on licensed premises. However, no licensee shall permit any person to perform acts (or show visual reproductions) which depict:

- (a) Acts of sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, anilingus, fellatio, flagellation, or any sexual act prohibited by law.
- (b) The touching, caressing, or fondling on the breast, buttocks, anus, or genitals.
- (c) The displaying of the pubic hair, anus, vulva, or genitals

(5) (a) Every licensee on premises licensed for the sale of intoxicating liquor or fermented malt beverages shall consent to the inspection by any duly authorized law officer, or other authorized representative of the township, of the licensed premises during normal business hours, not including compulsory closing hours S.S. Sec. 66.054(10).

(b) All windows in the front of any licensed premises shall be of clear glass, and the premises shall be arranged to furnish a clear view of the entire premises from the front of said premises. There shall be no partition, box, stall, screen, curtain, or other device which shall obstruct the view of said premises from general observation provided, however, that partition, subdivision, or panels not higher than 48" from the floor shall not be construed as in conflict with the foregoing; and provided, however, Retail Class B licenses shall entitle the holder thereof to serve such beverages in a separate room at banquets or dinners.

(6) (a) If observation 5(b), or entrance during regular business hours 5(a), is denied by a licensee on a licensed premises, a summons shall be issued (as in S.S. 176.11) and action for revoking of the license as provided under S.S. 176.12 (shall be initiated).

(b) Any person who shall violate any provision of this Ordinance shall, upon conviction of such violation, forfeit not less than Five Dollars (\$5.00), nor more than Five Hundred Dollars (\$500.00), 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 costs and forfeiture are paid, but not exceeding ninety (90) days.

(c) Each violation and each day a violation continues or occurs shall constitute a separate offense.

(7) (a) If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

(b) All ordinances or parts of ordinances which are inconsistent with or contrary to this Ordinance are hereby repealed.

**9.19 CONSUMPTION AND POSSESSION OF INTOXICATING LIQUORS OR FERMENTED MALT BEVERAGES ON PUBLIC WAYS AND PUBLIC PROPERTY.** (1) No person shall consume any intoxicating liquor or fermented malt beverage upon the public highways, streets, alleys, sidewalks, street crossings, bridges, public parking lots or upon premises held out to the public for use of their motor vehicles, whether such premises are publicly or privately owned, in the Town except for municipality approved community functions or events where authorized by specific resolution of the Town Board of Supervisors.

(2) All purchases of intoxicating liquor or fermented malt beverage by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed therefrom to any public highway, street, alley, sidewalk, street crossing, bridge, public parking lot or premises held out to the public for use of their motor vehicles, whether such premises are publicly or privately owned, within the Town.

(3) No person shall bring upon, use, consume, sell or convey any intoxicating liquor or fermented malt beverage in or upon any property, building or other structure which is owned or under the control of the Town except in such places as may be designated by the Town and in accordance with the rules and regulations as may be from time to time adopted by the Town Board.

**9.20 TRESPASS ON LANDS PROHIBITED.** No person shall intentionally enter or remain upon any land of another within the Town of Concord or hunt upon the same, without the express written consent of the owner or occupant of such land.

**9.25 PENALTY.** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Sec. 25.04 of this Municipal Code. In addition to any penalty imposed for violation of Sec. 9.943.01(1), any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property, the parent of any unemancipated minor child who violates Sec. 9.943.01(1) may also be held liable for the cost of repairing such damaged or destroyed property in accordance with Sec. 895.035, Wis. Stats.

## **TOWN OF CONCORD ORDINANCE SALE AND POSSESSION OF FIREWORKS**

**THE TOWN BOARD OF THE TOWN OF CONCORD, JEFFERSON COUNTY, WISCONSIN, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1: TITLE/PURPOSE.** The Town of Concord Town Board has determined that the public health, safety and welfare of its citizens will be promoted by the adoption of an Ordinance prohibiting the sale and possession with intent to sell fireworks within the Town of Concord.

**SECTION 2: AUTHORITY.** The Town Board of the Town of Concord has specific statutory authority, powers and duties to prohibit the sale or possession with intent to sell fireworks by its adoption of village powers, pursuant to Section 60.10, Wis. Stats., and by the specific authorization granted by the Wisconsin Legislature to regulate the sale and possession of fireworks. Pursuant to Section 167.10 (5), Wis. Stats.

**SECTION 3: DEFINITIONS.** In this ordinance, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion that does not have another common use, but does not include any of the following:

- A. Fuel or lubricant.
- B. A firearm cartridge or shotgun shell.
- C. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- D. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- E. A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- F. A toy snake, which contains no mercury.
- G. A model rocket engine.
- H. Tobacco and a tobacco product.
- I. A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible and/or visible effects.
- J. A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- K. A fuseless device that is designed to produce an audible sound and/or visible effects but not explode, spark, move or emit an external flame after ignition and that contains less than one-quarter grain of explosive mixture.
- L. A device that is designed primarily to burn pyrotechnic, smoke-producing mixtures, at a controlled rate, and that produces audible and/or visible effects.
- M. A cylindrical fountain that consists of one or more tubes and that is classified by the United States Department of Transportation as a Division 1.4 Explosive, as defined in 49 CFR 173.50.
- N. A cone fountain that is classified by the United States Department of Transportation as a Division 1.4 Explosive, as defined in 49 CFR 173.50.

**SECTION 4: GENERAL PROVISIONS.** No person, firm or entity may sell, possess with intent to sell, or store/warehouse fireworks, as defined by this Ordinance, within the Town of Concord, except that this Ordinance shall not apply to the possession of fireworks in the Town of Concord while transporting the fireworks to a city, village, town or user where the possession of fireworks is authorized by permit or ordinance or while transporting the fireworks through the Town of Concord; provided that, in no event shall the transported fireworks remain in the Town of Concord longer than three (3) hours.

**SECTION 5: SEVERANCE CLAUSE.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance.

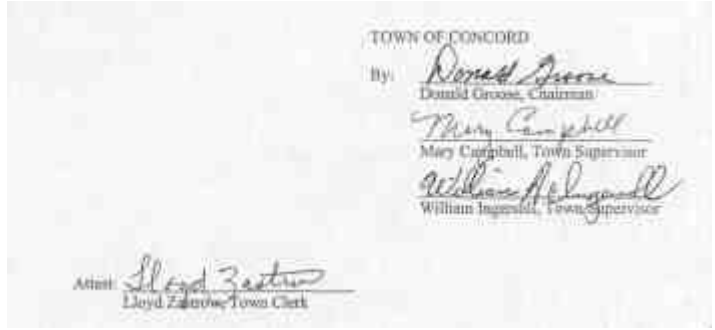
**SECTION 6: ENFORCEMENT AND PENALTY.**

- A. Any person, firm, or entity violating any provision of this Ordinance shall be subject to a forfeiture of not more than Five Hundred Dollars (\$500) for each offense, and each day or fraction of a day on which any provision of this Ordinance is violated shall be deemed a separate offense. This penalty is in addition to other remedies allowed in law or equity.
- B. As a distinct and separate remedy, at the option of the Town of Concord, the Town may petition the Circuit Court for Jefferson County, Wisconsin, for an order enjoining violations of this Ordinance, subject to the penalties outlined in Section 167.10 (9) (a) and (b), Wis. Stats., as from time to time amended.

- C. Fireworks sold, held for sale, possessed, stored, or handled by a person who violates this Ordinance or Wisconsin or federal law may be immediately seized by the Town of Concord, to be held as evidence of the violation, pursuant to Section 167.10(8)(b), Wis. Stats, as from time to time amended.

**SECTION 7: EFFECTIVE DATE.** This Ordinance shall become effective on its passage and publication as provided by law.

ADOPTED by the Town Board of the Town of Concord, Jefferson County, Wisconsin, this 11<sup>th</sup> day of March, 2002.



**ORDINANCE NO. 26**

**AN ORDINANCE OF THE TOWN OF CONCORD RELATIVE TO ADULT-ORIENTED ESTABLISHMENTS**

THE TOWN BOARD OF SUPERVISORS OF THE TOWN OF CONCORD, JEFFERSON COUNTY, WISCONSIN, having by law village powers pursuant to SEC. 60.18 (32) Wisconsin Statutes, deeming it necessary in order to promote the public health, safety, morals and welfare, do ordain as follows:

WHEREAS, it is a lawful purpose of the Town Board of Supervisors for the Town of Concord, Wisconsin, to enact regulatory ordinances protecting and promoting the general welfare, health and safety of its citizens; and

WHEREAS, the Town is empowered to enact such ordinances pursuant to the Constitution and Laws of the State of Wisconsin/- and

WHEREAS, the Town Board of Supervisors deems It necessary to provide for licensing and regulation of adult oriented establishments including; but not limited to, adult bookstores, adult mini-motion picture establishments, adult motion picture theaters and adult cabarets; and

WHEREAS, many adult oriented establishments install booths with doors in which patrons can view adult oriented movies or videotape or film or view other forms of adult entertainment; and

WHEREAS, it is well known and has been found in Milwaukee

and Kenosha Counties, Wisconsin; Chattanooga, Tennessee, Newport News, Virginia; and Marion County, Indiana, to name a few

locales, that the viewing booths in adult oriented establishments

have been and are being used by patrons of said establishments

for engaging in sexual acts, particularly between males, including but not limited to intercourse, sodomy, oral copulation and masturbation, resulting in unsafe and unsanitary conditions in said booths; and

WHEREAS, the State of Wisconsin Division of Health has Indicated that as of November 1, 1989, 553 cases of Acquired Immune Deficiency Syndrome were reported in the State, including 334 that resulted in death and that Wisconsin can expect a significant increase in reported cases; and

WHEREAS, AIDS is a sexually transmitted disease which destroys the body's immune system, is always fatal, and has no known cure; and

WHEREAS, the viral agents responsible for AIDS and other sexually transmitted diseases have all been isolated at one time or another from semen

NOW THEREFORE, be it ordained by the Town Board of Supervisors for the Town of Concord as follows:

Ordinance \_\_\_\_\_ is created to read:

### **SECTION 1. Definitions**

For the purpose of this ordinance, the following words and phrases shall mean:

- (a) "Adult-oriented establishment," shall include, but is not limited to, "adult bookstores," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths cubicles, rooms, compartments or stalls separate from the common **areas** of the premises for the purposes of viewing adult-oriented motion pictures or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.
- (b) "Adult bookstore" means an establishment having as its stock in trade, for sale, rent lease. Inspection or viewing books, films, video cassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matter0! depleting, describing or relating to "specific sexual activities" or "specified anatomical areas" as defined below and in conjunction therewith have facilities for the presentation of adult entertainment, as defined, below, including adult oriented films, movies or live performances!, for observation by patrons there in.
- (c) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to "specified sexual activities," or "Specified sexual activities," or "specified anatomical areas," as defined below, for observation by patrons therein.
- (d) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to "specified sexual activities, " or "specified anatomical areas," as defined below, for observation by patrons therein.
- (e) "Adult cabaret" means a cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers.
- (f) "Board" means the Town Board of Supervisors for the Town of Concord, Wisconsin.
- (g) "Adult entertainment" means any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated "specified sexual activities," or "specified anatomical areas," as defined below, or the removal of articles of clothing or appearing partially or totally nude.
- (h) "Operators" means any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
- (i) "Specified sexual activities" means simulated or actual•
  - 1) showing of human genitals in a state of sexual stimulation or arousal;
  - 2) acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;
  - 3) fondling or erotic touching of human genitals, pubic region, buttock, or female breasts.
- (j) "specified anatomical areas" means:
  - 1) less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola;

- 2) human male genitals in a discernible turgid state, even if opaquely covered.
- (k) "premises" means the area described in the license or permit.

## **SECTION 2. License**

- (a) Except as provided in subsection (d) below, from and after the effective date of this ordinance, no adult-oriented establishment shall be operated or maintained in the Town of Concord without first obtaining a license to operate issued by the Town of Concord.
- (b) A license may be issued only for one(1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult-oriented establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person, partnership or corporation.
- (d) All adult-oriented establishments existing at the time of the passage of this ordinance must submit an application for a license within ninety (90) days of the passage of this ordinance. If an application is not received within said ninety (90) day period, then such existing adult-oriented establishment shall cease operations.

## **SECTION 3. Application for License**

- (a) Any person, partnership or corporation desiring to secure a license shall make application to the Town Clerk. The application shall be filed in triplicate with and dated by the Town Clerk. A copy of the application shall be distributed promptly by the Town Clerk to the Concord Police Department and to the applicant.
- (b) The application for a license shall be upon a form provided by the Town Clerk. An applicant for a license, shall furnish the following information under oath:
  - (1) Name and address.
  - (2) Written proof that the individual is at least eighteen (18) years of age.
  - (3) The address of the adult-oriented establishment to be operated by the applicant.
  - (4) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and the name and address of all shareholders owning more than five percent (5%) of the stock in said corporation and all officers and directors of the corporation.
- (c) Within twenty-one (21) days of receiving an application for a license the Town Clerk shall notify the applicant whether the application is granted or denied.
- (d) Whenever an application is denied, the Town Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held within ten (10) days thereafter before the Board, as hereinafter provided.
- (e) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this ordinance shall constitute an admission by the application that he or she is ineligible for such license and shall be grounds for denial thereof by the Town Clerk.

## **SECTION 4. Standards for Issuance of License.** (a) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

- (1) If the applicant is an individual:
  - (i) The applicant shall be at least eighteen (18) years of age.
  - (ii) The applicant shall not have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.
- (2) If the applicant is a corporation:
  - (i) All officers, directors and stockholders required to be named under Section 3 (b) shall be at least

eighteen (18) years of age.

- (ii) No officer, director, or stockholder required to be named under Section 3 (b) shall have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.
- (3) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:
  - (i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
  - (ii) No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this ordinance within five (5) years immediately preceding the date of the application.

#### **SECTION 5. Fees**

(a) A license fee of TWO HUNDRED FIFTY AND 00/100 (\$250.00) DOLLARS shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

#### **SECTION 6. Display of License or Permit**

(a) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

#### **SECTION 7. Renewal of License or Permit**

(a) Every license Issued pursuant to this Ordinance will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Town Clerk. The application for renewal must be filed not later than sixty (60) days before the license\* expires. The application for renewal shall be filed in triplicate with and dated by the Town Clerk. A copy of the application for renewal shall be distributed promptly by the Town Clerk to the Concord Police Department and to the operator. The application for renewal shall be upon a form provided by the Town Clerk and shall contain such Information and data, given under oath or affirmation, as is required for an application for a new license.

(b) A license renewal fee of TWO HUNDRED FIFTY AND 00/100 (\$250.00) DOLLARS Shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of ONE HUNDRED AND 00/100 (\$100.00) DOLLARS shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(c) If the Concord Police Department is aware of any information bearing on the operator's qualifications, that Information shall be filed in writing with the Town Clerk.

#### **SECTION 8. Revocation of License**

(a) The Board shall revoke a license or permit for any of the following reasons:

- (1) Discovery that false or misleading Information or data was given on any application or material facts were omitted from any application.
- (2) The operator or any employee or the operator, violates any provision of this Ordinance or any rule or regulation adopted by the Board pursuant to this Ordinance; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Board shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge,
- (3) The operator becomes ineligible to obtain a .license or permit.
- (4) Any cost or fee required to be paid by this Ordinance is not paid.
- (5) Any intoxicating liquor or cereal malt beverage or alcohol beverages as defined by Wis. Stat. Chapter 125, is served or consumed on the premises of the adult- oriented establishment.



(b) The Board, before revoking or suspending any license or permit, shall give the operator at least ten (10) days' written notice of the charges against him, and the opportunity for a public hearing before the Board, as hereinafter provided.

(c) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(d) Any operator whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for six (6) months from the date of revocation of the license.

**SECTION 9. Physical Layout of Adult-Oriented Establishment.** Any adult-oriented establishment having available for customer, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

(a) Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment, and shall be unobstructed by any door, lock or other control-type devices.

(b) Construction. Every booth, room or cubicle shall meet the following construction requirements:

- (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.
- (2) Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
- (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable.
- (4) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
- (5) The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

(c) Occupants. Only one Individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No Individual shall damage or deface any portion of the booth.

#### **SECTION 10. Responsibilities of the Operator**

(a) Every act or omission by an employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(b) Any act or omission of any employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(c) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(d) The operator shall maintain the premises in a clean and sanitary manner at all times.

(e) The operator shall maintain at least 10 foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one (1) foot candle of illumination in said aisles, as measured from the floor.

(f) The operator shall insure compliance of the establishment and its patrons with the provisions of this Ordinance.

#### **SECTION 11. Administrative Procedure and Review**

Chapter 68, Wisconsin Statutes, concerning contested cases shall govern the administrative procedure and review regarding the granting, denial, renewal, non-renewal, revocation or suspension of a license.

**SECTION 12. Exclusions**

All private schools, and public schools, as defined in Chapter '135, Wisconsin Statutes, located within the Town of Concord are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

**SECTION 13. Penalties and Prosecution**

(a) Any person, partnership, or corporation who is found to have violated this Ordinance shall] be fined a definite sum not exceeding TWO HUNDRED FIFTY AND 00/100 (\$250.00) DOLLARS and shall result in the revocation of any license.

(b) Each violation of this ordinance shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

**SECTION 14. Severability**

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, section or portions thereof of the ordinance which shall remain in full force and effect. Any other ordinances whose terms are In conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**SECTION 15. Enforcement**

The Town of Concord Police Department, Constable, Building Inspector, Health Officer or the Jefferson County Department of Public Health representatives shall have the authority to enter any adult-oriented establishment at all reasonable times to inspect the premises and enforce this ordinance.

