

CHAPTER 8
OFFENSES AND NUISANCES

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SECTION 8.01 **ALLOWING DEPOSITS ON PUBLIC ROADS****(a) Damage and Washing on to Roads.**

- (1) All owners of property which abuts on a public road shall be liable for all damage caused by the washing of dirt, gravel, or other substance onto public highways, or anywhere within the public right of way including ditches.
- (2) If an owner of such abutting property fails to repair the damage or remove deposits caused by such washing within five days from receipt of written notice by the Town Clerk of such damage or fails to rectify the condition that caused said washing within six (6) weeks of said notice, the Town may repair the damage and bill the cost of such repairs including costs as described to the abutting property owners. If such owner fails to pay such cost within 30 days of receipt, the Town Clerk shall place such costs on the tax roll as a special charge against said property pursuant to Wis. Stats. § 66.0627.

History Note: Ordinance No. 14, adopted July 14, 1969; amended through codification November 1999; amended by Ordinance 2007-13 on 12/11/07

SECTION 8.02 **LIVE ADULT ENTERTAINMENT****(a) Purpose.**

- (1) The Town Board of the Town of Dekorra has explicit authority under Wis. Stats. § 125.10(1) to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Wis. Stats. Chap. 125.
- (2) It is a lawful purpose of the Town Board to enact rules and regulations as are necessary for the preservation of health and to prevent the spread of AIDS and other communicable or sexually transmitted diseases in the Town of Dekorra. It has been found by municipalities through the State of Wisconsin, particularly Milwaukee, Racine, Waukesha, Delafield, Kenosha and West Allis, as well as communities around the country, including Indianapolis, Indiana; Boston, Texas; Chattanooga, Tennessee; Newport News, Virginia; Marion County, Indiana; Detroit, Michigan; and Seattle, Washington; as well as other communities around the country, that sexually oriented adult entertainment establishments are predisposed to the creation of unsafe and unsanitary conditions; that operators and employees of such businesses tend to participate in sex-related offenses on the premises, creating substantial law enforcement problems, and that the operational characteristics of such businesses have a deleterious effect on surrounding areas, resulting in neighborhood blight and reduced property values, especially when such businesses are concentrated in one area. Many of such establishments install movie viewing booths with doors in which patrons view videotapes, movies, films and other forms of entertainment characterized by their emphasis on depicting, describing or relating to specified sexual activities or specified anatomical areas, and that such booths have been and are being used by patrons to engage in sexual acts resulting in unsanitary, unhealthy and unsafe conditions in said booths and establishments. This Ordinance is intended to establish standards in order to prevent the spread of AIDS and other communicable or sexually transmitted diseases, and to eliminate the deleterious effects described above in the Town of Dekorra.
- (3) The Town Board finds that there is an increasing likelihood of commercial exploitation of human sexuality by owners of premises holding "Class B" and Class "B" alcohol beverage licenses in the State of Wisconsin. Such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or semi-nude bodies to other persons as an inducement to other persons to purchase alcohol beverages. The direct result of such exploitation is criminal activity, moral degradation and disturbance of the peace and good order of the community. In addition, this commercial exploitation of such nude and semi-nude acts is adverse to the public's interest in the quality of life, commercial activity and total community environment in the Town of Dekorra.

(b) **Definitions.**

The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this Subsection, except where the context clearly indicates a different meaning:

- (1) **Adult Bath House.** An establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this Section.
- (2) **Adult Body Painting Studio.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this Section, an adult body painting studio shall not be deemed to include a tattoo parlor.
- (3) **Adult Bookstore.** An establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein. This includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment for observation by patrons therein.
- (4) **Adult Cabaret.** A cabaret which features male or female impersonators or similar entertainers.
- (5) **Adult Entertainment.** Any exhibition of any motion pictures, live performance, display or dance of any type, which has as a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, as defined herein, appearing unclothed, or the removal of articles of clothing to reveal specified anatomical areas.
- (6) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity for less than fifty (50) people, including establishments that have coin operated video or motion picture booths, used for presenting material

distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.

- (7) Adult Modeling Studio. An establishment or business which provides the services of modeling for the purpose of reproducing the human body wholly or partially nude by means of photography, painting, sketching, drawing or otherwise.
- (8) Adult Motel. A hotel, motel, or similar commercial establishment which:
 - (A) 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
 - (B) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (C) 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.
- (9) Adult Motion Picture Theater. An enclosed building with a capacity of fifty (50) or more people at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.
- (10) Adult Motion Picture Theater (Outdoor). A parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activity or specified anatomical areas, as defined herein, for observation by patrons.
- (11) Adult Novelty Shop. An establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on, or designed for, specified sexual activities or specified anatomical areas, as defined herein, or stimulating such activity.

- (12) Adult Oriented Establishment. An establishment which includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, regardless of whether such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.
- (13) Booth, Room or Cubicle. Such enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, room, or cubicle does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to anyone other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.
- (14) Church. A building whether situated within the Town or not, in which people regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.
- (15) Customer. Any individual who:
- (A) Is allowed to enter an adult oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or
 - (B) Enters an adult oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

- (C) Is a member of and on the premises of an adult oriented establishment operating as a private club.
- (16) Community. The State of Wisconsin.
- (17) Day Care Center. A facility licensed by the State of Wisconsin pursuant to Wis. Stats. § 48.65, whether situated within the Town or not.
- (18) Door, Curtain or Portal Partition. A nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed from outside the booth, room or cubicle.
- (19) Employee. Any and all individuals, including independent contractors, who work in or at or render any services directly or indirectly related to the operation of an adult oriented establishment.
- (20) Entertainer. Any person who provides entertainment within an adult oriented establishment as defined in this Ordinance, regardless of whether a fee is charged or accepted for entertainment and regardless of whether entertainment is provided as an employee or independent contractor.
- (21) Harmful to Minors. That quality of any description or representation, in whatever form, of nudity, specified sexual activities or specified anatomical areas, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
- (22) Knowingly. Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
- (A) The character and content of any material described herein which is reasonably suspect under this Section; and
- (B) The age of a minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable *bona fide* attempt to ascertain the true age of such minor.
- (23) Knowledge of Minor's Age. Means:
- (A) Knowledge or information that the individual is a minor; and

- (B) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.
- (24) Manager. The operator or agent licensed under this Ordinance who shall not be licensed as a massage technician.
- (25) Minor. Any individual under the age of eighteen (18) years.
- (26) Nudity. The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.
- (27) Operator. Any person operating, conducting, maintaining or owning any adult-oriented establishment or massage establishment.
- (28) Patron. Any individual who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefor.
- (29) Person. Any individual, corporation, limited liability company, partnership, limited partnership, association or other entity recognized by the State of Wisconsin as being capable of owning property or engaging in business operations.
- (30) Residential. Pertaining to the use of land, whether situated within the Town or not, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premises which is designed primarily for living, sleeping, working and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes and hospitals shall not be considered to be residential.
- (31) Sadomasochistic Abuse. Flagellation or torture by an individual clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (32) School. A building, whether situated within the Town or not, where people regularly assemble for the purpose of instruction or education, together with playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:

- (A) Public and private schools used for primary or secondary education in which any regular kindergarten or grades one through twelve classes are taught; and
 - (B) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through twelve.
- (33) Sexual Conduct. The commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.
- (34) Sexual Intercourse. Physical sexual contact between individuals that involves the genitalia of at least one (1) person including, but not limited to, heterosexual intercourse, sodomy, fellatio, or cunnilingus.
- (35) Specified Anatomical Areas. Less than completely and opaquely covered:
- (A) Human genitals, pubic region;
 - (B) Buttock;
 - (C) Female breast below a point immediately above the top of the areola; or
 - (D) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- (36) Specified Sexual Activities. Simulated or actual:
- (A) Showing of human genitals in a state of sexual stimulation or arousal;
 - (B) Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
 - (C) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.
- (37) Substantial. As used in various definitions, shall mean fifty percent (50%) or more of a business' stock in trade, display space, floor space or retail sales in any one month during the license year.

- (38) Waiting Area. An area adjacent to the main entrance that is separate from any area where massages are given.

(c) **Prohibitions Applicable To Premises Holding Alcohol Beverage Licenses.**

- (1) It shall be unlawful for any owner or operator of premises holding a Class "A," "Class A," Class "B," "Class B," Reserve "Class B" or "Class C" Alcohol Beverage license to permit any person to:
- (A) expose to public view on the licensed premises any specified anatomical area as defined in this Ordinance;
 - (B) appear in a state of nudity;
 - (C) employ any device which is intended to give the appearance of or simulate such specified anatomical areas; or
 - (D) publicly display or perform any specified sexual activities on the licensed premises.
- (2) Any licensee who permits a violation of (c)(1), above, shall be subject to revocation of all alcohol beverage licenses issued by the Town to the licensee.
- (3) Subsection 8.02(c)(1) shall not apply to live theatrical, musical or dance performances occurring or conducted at a theater, playhouse, community center, civic center, or performing arts center where the predominant business attraction is not the offering to patrons of entertainment which is intended to provide sexual stimulation or sexual gratification to such patrons and where the establishment is not distinguished by an emphasis on or the advertising or promotion of employees engaging in nude erotic dancing. This exception shall only apply to establishments whose receipts from alcohol or liquor sales do not exceed fifteen percent (15%).

(d) **License Required.**

- (1) This Section applies only to premises and persons not licensed to sell alcohol beverages by the Town of Dekorra that offer live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings.
- (2) No person shall open premises to the public offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings, regardless of whether such persons are paid for such performance, unless the person opening the premises has obtained a license from the Town Clerk.

- (3) Subsections 8.02(d)(1) and (2) shall not apply to live theatrical, musical or dance performances occurring or conducted at a theater, playhouse, community center, civic center, or performing arts center where the predominant business attraction is not the offering to patrons of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on or the advertising or promotion of employees engaging in nude erotic dancing. This exception shall only apply to establishments whose receipts from food and beverage sales do not exceed fifteen percent (15%) of gross receipts.

(e) **License Application, Review and Issuance.**

- (1) Application. Applications for an annual adult entertainment license shall be made to the Town Clerk. The Town Clerk shall notify the Columbia County Sheriff's Department, Building Inspector, Town Code Enforcement Officer and Fire Inspector of the license application, publish a Class II notice of such application and have the license application submitted to the Town Board within thirty (30) days of application. Investigating officials shall submit written reports and recommendations to the Town Board prior to the Town Board's review of the application. A public hearing shall be held on the application, preceded by a Class II notice. The Town Board may take any testimony regarding the granting or denial of such license.
- (2) Action. The Town Board shall either approve, modify or reject the application within sixty (60) days of the application; the reasons for the action taken shall be specified in the written findings of fact of the Town Board.
- (3) Denial of Application. Whenever an initial application is denied, the Town Clerk shall, within fourteen (14) days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held before the Town Board within thirty (30) days of the denial of the application.
- (4) Probationary Period. If license issuance is approved by a majority of the Town Board, an initial applicant shall be granted a probationary license by the Town Clerk. An annual license shall be granted if, upon the expiration of the six (6) month probationary period, no violations under this Section occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct. If, however, for any reason, the application is denied by the Town Board, the Town Board shall specify the findings made that support that denial.

- (5) License Term. The license granted under this Section shall expire on June 30th of each year and each license shall be subject to revocation as hereinafter provided.
 - (6) Form of License. The Town Clerk shall be responsible for drafting and issuing all licenses under this Subsection. All such licenses shall specify the nature of the holder and the license and the date for which it is applicable, as well as any conditions that may be imposed by the Town. All such licenses shall be open to public inspection and posted in public view on the premises for which issued.
 - (7) Fee. All such license applications shall be accompanied by a fee as specified on the current Town of Dekorra Fee Schedule. If for any reason the license is denied, one-half (1/2) of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be kept by the Town.
 - (8) Number of Licenses Limited. No more than three (3) annual licenses, issued under this Section, shall be issued to license holders within the Town of Dekorra at one (1) time.
- (f) **Renewals.**
The holder of an annual license granted under this Section shall submit an application for renewal at least sixty (60) days before the expiration of the license. Such license may be renewed pursuant to the provisions of Section 8.02(e) as that Section applies to notice being given by the Town Clerk and provisions for publication and action by the Town Board.
- (g) **Regulations.**
Any license holder governed by this Section shall comply with the following regulations:
- (1) No dancing shall be permitted by any performers under the auspices of the management, whether paid or not, within six (6) feet from any location from which patrons are directly served, while so entertaining the patrons;
 - (2) No dancer, performer, or any individual, who is performing, singing, or dancing, shall have either direct or indirect physical contact with any patron;
 - (3) While dancing is in progress, the establishment shall be adequately illuminated so as to permit safe ingress and egress from the premises;
 - (4) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this Section shall be deemed to include persistent loud noises to the annoyance or detriment of surrounding property owners, patrons urinating in public, profane language and/or fighting;

- (5) Hours of Operation. The premises shall close and all customers shall vacate the premises between 12:00 midnight and 10:00 a.m. Monday through Saturday, and 12:00 midnight and noon on Sunday;
 - (6) The license holder shall comply at all times with building capacity limits as set by the Fire Department and/or Building Code;
 - (7) The license holder shall comply with all applicable State Statutes and regulations and all County and Town Ordinances;
 - (8) The management, license holder and employees shall obey all reasonable orders or directions of any law enforcement officer;
 - (9) The performance of any dance by performers under the auspices of the management shall be given only on a raised portion of the floor separated by a railing or other device from the patrons so as to deter patrons from participating in the dance;
 - (10) The license holder shall not permit any person to publicly perform specified sexual activities on the licensed premises;
 - (11) The license holder shall not permit any person to touch any performer's specified anatomical areas during a public performance;
 - (12) The use of simulated sexual organs during dances or performances is prohibited; and
 - (13) No license holder shall permit any amateur dancing, entertainment, or performances on the license holder's premises in violation of this Subsection or any applicable State or Federal laws.
- (h) Location.
- (1) No establishment licensed under this Section shall permit any performance or entertainment governed by this Section to occur within one thousand (1,000) feet of any area zoned for residential, church, school, nursing home, public park, or day care center uses. No establishment licensed under this Section shall be located within five hundred (500) feet of any other establishment licensed under this Section, or within five hundred (500) feet of any business holding an alcohol beverage license.
 - (2) For purposes of this Subsection, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment to the nearest property line of

another adult-oriented establishment, school, place of worship, residential district or business holding an alcohol beverage license.

(i) **Penalty.**

In addition to any other actions allowed by law or taken by the Town Board, including the action of license revocation or nonrenewal, anyone who violates any of the provisions of this Section shall be subject to the penalties set forth in Section 1.03 of this Code. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

(j) **License Suspension, Revocation Or Nonrenewal.**

(1) **In General.** Any license granted herein may be revoked, suspended, or not be renewed by the Town Board as follows:

(A) If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent;

(B) For the violation of any provision of this Section, except for establishment license matters involving a violation of Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year; or

(C) After one (1) conviction of any establishment employee of an offense under Wis. Stats. Chapter 944, or of an offense against the person or property of a patron or customer of the establishment or of an offense involving substances scheduled in Subchapter II of Wis. Stats. Chapter 961, where there is shown the participation or knowledge of any other establishment employee or of any individual within the business structure of the applicant.

(2) **Notice of Hearing.** No license shall be revoked, suspended, or not renewed by the Town Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Town Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.

(3) **Hearing.** The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on the licensee's own behalf under subpoena by the Town Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Town Board shall prepare findings of fact and conclusions of law as to what, if any,

action the Town Board will take with respect to the license. The Board shall provide the complainant and licensee with a copy of the report.

(k) **License Transfer.**

Any license granted under the provisions of this Section shall be transferable in accordance with the procedure set forth in Sec. 8.03(j) of this Ordinance.

(l) **Severability.**

If any provision of this Section is deemed invalid or unconstitutional, or if the application of this Section to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Section which can be given effect without the invalid or unconstitutional provision or application.

History Note: Ordinance No. 11.01, adopted May 9, 1995; repealed and recreated through codification as Sections 8.02-8.04. Amended June 8, 2004 Ordinance No. 6-2004. Amended December 14, 2004 Ordinance No. 12-2004.

SECTION 8.03**ADULT ORIENTED ESTABLISHMENTS.****(a) Purpose.**

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

(b) All definitions set forth in Section 8.02 shall apply throughout section 8.03.

(c) License Required.

(1) Except as provided in Subsection (4) below, no adult oriented establishment shall be operated or maintained within the Town of Dekorra without first obtaining a license to operate issued by the Town of Dekorra.

(2) A license may be issued only for one (1) adult oriented establishment located at a fixed and certain place per filed application. Any person, partnership, limited liability company or corporation which desires to operate more than one (1) adult oriented establishment must have a license for each.

(3) No license or interest in a license may be transferred to any person, partnership, limited liability company or corporation except as set forth in Subsection 8.03(j) of this Ordinance.

(4) All adult oriented establishments existing at the time of the original passage of this Section must submit an application for a license within ninety (90) days of the passage of this Section. If an application is not received within said ninety (90) day period, then such existing adult oriented establishment shall cease operations.

(d) Application For License.

(1) License Procedure. Any person, partnership, limited liability company 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 to the Columbia County Sheriff's Department, Fire Inspector, Building Inspector, and to the applicant. The procedures prescribed in Subsection 8.02(e)(1) through (4) shall be applicable to adult entertainment licenses under this Section.

- (2) Required Information. The application for a license shall be upon a form provided by the Town Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, all officers or directors of a corporate applicant, all members of any limited liability company applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:
- (A) Name, including all aliases, address and date of birth of applicant;
 - (B) Written proof that the individual is at least eighteen (18) years of age;
 - (C) All residential addresses of the applicant for the past ten (10) years;
 - (D) The business, occupation, or employment of the applicant for ten (10) years immediately preceding the date of application;
 - (E) The exact nature of the activities to be conducted at the adult oriented establishment;
 - (F) Whether the applicant previously operated in this or any other State, County or municipality under an adult oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;
 - (G) All criminal convictions, whether federal or State, or municipal Ordinance violation convictions, forfeiture of bond and pleadings of *nolo contendere* on all charges, except traffic offenses;
 - (H) Fingerprints and two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant;
 - (I) The address of the adult oriented establishment to be operated by the applicant;
 - (J) Proof of right to occupy under Section 8.03(c)(4) of this Ordinance; and
 - (K) If the applicant is a corporation, the application shall specify the name of the corporation, the date and State of incorporation, and the name and address of the registered agent of the corporation.

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

(e) **Requirements.**

- (1) **In General.** To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:

- (A) If the applicant is an individual:

- (i) The applicant shall be at least eighteen (18) years of age;
- (ii) Subject to Wis. Stats. Chap. 111, the applicant shall not have been convicted of or pleaded *nolo contendere* to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
- (iii) The applicant shall not have been found to have previously violated this Section within five (5) years immediately preceding the date of the application.

- (B) If the applicant is a corporation:

- (i) All officers, directors, and others required to be named under Subsection 8.03(d)(2) shall be at least eighteen (18) years of age;
- (ii) Subject to Wis. Stats. Chap. 111, no officer, director, or other person required to be named under Subsection 8.03(d)(2) shall have been convicted of or pleaded *nolo contendere* to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
- (iii) No officer, director or other person required to be named under Subsection 8.03(d)(2) shall have been found to have previously violated this Section within five (5) years immediately preceding the date of the application.

- (C) If the applicant is a partnership, joint venture, limited liability company or any other type of organization:
- (i) All persons having a financial interest in the partnership, joint venture, limited liability company or other type of organization shall be at least eighteen (18) years of age;
 - (ii) Subject to Wis. Stats. Chap. 111, no person having a financial interest in the partnership, joint venture, limited liability company or other type of organization shall have been convicted of or pleaded *nolo contendere* to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
 - (iii) No person having a financial interest in the partnership, joint venture, limited liability company or other type of organization shall have been found to have violated any provision of this Section within five (5) years immediately preceding the date of the application.
- (2) Investigation. No license shall be issued unless the Columbia County Sheriff's Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the Town Clerk no later than fourteen (14) days after the application.
- (3) Inspection. The Building Inspector, Fire Inspector, and Columbia County Sheriff's Department shall inspect the premises proposed to be licensed to verify compliance with their respective Codes, and shall report compliance findings to the Town Clerk within fourteen (14) days of the date of application.
- (4) Proof. No license shall be issued unless the applicant provides proof of one (1) of the following:
- (A) Ownership of a properly zoned building or parcel of real property upon which a building can be constructed. Proper zoning includes permissible non-conforming use status;
 - (B) A lease on a building which is properly zoned to house an adult oriented establishment. Proper zoning includes permissible non-conforming use status;
 - (C) An option to purchase property which is properly zoned for the adult oriented establishment; or

- (D) An option to lease property which is properly zoned for the adult oriented establishment. Proper zoning includes permissible non-conforming use status.
- (f) **License Fee.**
A non-refundable license application fee as specified on the current Town of Dekorra Fee Schedule shall be submitted with the application for a license.
- (g) **Display of License.**
The license shall be displayed in a conspicuous public place in the adult oriented establishment.
- (h) **Renewal of License.**
- (1) Every license issued pursuant to this Section will terminate on June 30th of the year it is issued, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Town Clerk. The application for renewal must be filed not later than 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 by the Town Clerk to the Columbia County Sheriff's Department, Building Inspector, Fire Inspector and the applicant. The application for renewal shall be upon a form provided by the Town Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
 - (2) A license renewal fee as specified on the current Town of Dekorra Fee Schedule shall be submitted with the application for renewal.
 - (3) If the Columbia County Sheriff's Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Town Clerk.
- (i) **Denial of Application.**
- (1) Whenever an initial application is denied, the Town Clerk shall, within fourteen (14) days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held before the Town Board within thirty (30) days of the denial of the application.
 - (2) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation

required by this Section shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof by the Town Clerk.

(j) **Transfer of License.**

- (1) A license is personal to the owner and operator designated in the application, provided it may be transferred pursuant to this Subsection. A transfer application must be filed no less than ten days before any change of the owner or operators designated on the application. In the event that a transfer application is not timely filed, then the license shall be invalid for any purpose relating to the operation of the adult oriented business, and any transfer shall require the filing of an original application and be subject to the regulations applicable thereto.
- (2) The Town Clerk shall prescribe a form on which license transfer applications shall be made. The form shall include a statement under oath that the original application remains correct as previously submitted in all respects except those that are amended by the transfer application. The transfer application shall contain a statement under oath that the individual signing the transfer application has personal knowledge of the information contained therein and that the information is true and correct and shall not be complete unless accompanied by a nonrefundable transfer fee as specified on the current Town of Dekorra Fee Schedule. Transfer applications shall be filed in the same place and at the same time as original applications, and the fee shall be payable in the same manner as for original applications.
- (3) Transfer applications shall be reviewed, issued and subject to appeal in the same manner as original applications, and they shall be issued for the remaining term of the license to be transferred.
- (4) Any transfer of an adult oriented establishment, other than as provided in this Subsection, from the licensed premises to any other premises shall cause such license to lapse and become void. A license which has lapsed and become void shall be subject to revocation under Subsection 8.03(p) of this Ordinance.

(k) **Physical Layouts of Adult Oriented Establishments.**

Any adult oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any motion picture, videotape or compact disc in which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas must comply with the following requirements:

- (1) 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.
 - (2) Construction. Every booth, room or cubicle shall meet the following construction requirements:
 - (A) Each booth, room or cubicle shall be separated from adjacent booths, rooms, cubicles and any non-public areas by a wall;
 - (B) Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same;
 - (C) All walls shall be solid and without any openings, extended from the floor to a height of not less than eight (8) feet, and be light colored, non-absorbent, smooth textured and easily cleanable;
 - (D) The floor must be light colored, non-absorbent, smooth textured and easily cleanable; and
 - (E) 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.
 - (3) Occupants. Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this Section.
- (1) **Responsibilities of Operators.**
- (1) An operator, licensed under this Section, shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, Social Security Number, and date of employment and termination. The above information on each employee shall be maintained in the register on the premises of a period of three (3) years following termination.
 - (2) The operator shall make the register of employees available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency at all reasonable times.

- (3) Every act or omission by an employee constituting a violation of the provisions of this Section 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.
- (4) Any act or omission of any employee constituting a violation of the provisions of this Section 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.
- (5) No employee of an adult oriented establishment shall allow any minor to loiter around or to frequent an adult oriented establishment or to allow any minor to view sexually-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas as defined in Section 8.02.
- (6) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (7) The operator shall ensure compliance of the establishment and its patrons with the provisions of this Section.
- (8) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an unmutated and undefaced sign or poster supplied by the Town which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.
- (9) The operator shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures, or pamphlets supplied by the Town pertaining to sexually transmitted diseases.
- (10) The operator shall ensure there are posted regulations concerning booth occupancy on signs, with lettering at least one (1) inch high, that are placed in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.
- (11) The Town shall charge its reasonable costs for supplying such posters, brochures, pamphlets and other information required under this Section.

(m) **Registration of Employees.**

- (1) All operators and employees working in any adult oriented establishment hereunder shall, prior to beginning employment or contracted duties, register with the Town Clerk. Such registration shall include the following:
 - (A) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer; and
 - (B) Photographs and fingerprinting.
- (2) Upon registration, the Town will provide to each registered employee an identification card containing the employee's photograph identifying the employee as such, which shall be kept available for production upon request of all inspecting officers while on duty at such adult oriented establishment.
- (3) All registrations hereunder are valid for a period of one(1) year.
- (4) The registration fee of \$10.00 shall be paid per registration, which shall be paid to the Town to cover costs of the identification card.

(n) **Exclusions.**

All private schools and public schools, as defined in Wis. Stats. Chapter 115, located within the Town of Dekorra are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

(o) **Penalty.**

In addition to any other actions allowed by law or taken by the Town Board, including the action of license revocation, suspension or nonrenewal, anyone who violates any of the provisions of this Section shall be subject to the penalties set forth in Section 1.03 of this Code. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

(p) **Suspension, Revocation or Nonrenewal of Licenses.**

- (1) **In General.** Any license granted herein may be revoked, suspended, or not renewed by the Town Board as follows:
 - (A) If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent;
 - (B) For the violation of any provision of this Section, except for establishment license matters involving a violation of Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year;

- (C) After one (1) conviction of any establishment employee of an offense under Wis. Stats. Chapter 944, or of an offense against the person or property of a patron or customer of the establishment or of an offense involving substances in Subsection II of Wis. Stats. Chapter 961 where there is shown the participation or knowledge of any other establishment employee or of any individual within the business structure of the applicant;
 - (D) If the licensee, operator or employer becomes ineligible to obtain a license;
 - (E) If an operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without being registered with the Town Clerk;
 - (F) If any cost or fee required to be paid by this Section is not paid;
 - (G) If any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult oriented establishment; or
 - (H) If any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any material depicting specified sexual activities or specified anatomical areas.
- (2) Notice of Hearing. No license shall be revoked, suspended, or not renewed by the Town Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Town Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.
- (3) Hearing. The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on the licensee's own behalf under subpoena by the Town Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Town Board shall prepare findings of fact and conclusions as to what, if any, action the Town Board will take with respect to the license. The Board shall provide the complainant and licensee with a copy of the report.

(q) **Severability.**

If any provision of this Section is deemed invalid or unconstitutional, or if the application of this Section to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Section which can be given effect without the invalid or unconstitutional provision or application.

History Note: Ordinance No. 11.01, adopted May 9, 1995; repealed and recreated through codification as Sections 8.02-8.04. Amended June 8, 2004 Ordinance No. 6-2004. Amended December 14, 2004 Ordinance No. 12-2004.

SECTION 8.04 **HOUSES OF PROSTITUTION.**(a) **Owners and Keepers.**

No person shall keep or maintain or in any way be connected with, or contribute to the support of any prostitution house or house of ill fame or shall knowingly own, or be interested therein as proprietor or landlord thereof.

(b) **Inmate or Frequenter.**

Any person engaging in prostitution of or found at or frequenting either of the places described in this Section shall be deemed a disorderly person and shall be subject to the penalty hereinafter provided.

(c) **Prostitution.**

It shall be unlawful for any person to commit or offer or agree to commit a lewd act or an act of prostitution.

(d) **Penalty.**

Any person violating this Ordinance shall be subject to the penalties set forth in Section 1.03 of this Code.

History Note: Ordinance No. 11.01, adopted May 9, 1995; repealed and recreated through codification as Sections 8.02-8.04; amended December 14, 2004 Ordinance No. 12-2004.

SECTION 8.05 **TREES IN ROAD RIGHT OF WAY**

- (a) No person shall cause, allow, or permit any person to fail to immediately remove fallen trees from any public highway, road, street, or alley in the Town where these trees originated from property owned or leased by that person.

- (b) No person shall cause, allow, or permit any person to plant any tree or cut any tree on the public highway, road, street, or alley in the Town without a permit issued by the Town Board or its designee. No permit shall be issued by the Town Board to plant any tree if the planting and location of the tree will substantially impair, now or in the future, the public safety of persons in the Town. No permit will be issued by the Town Board to cut any tree if the cutting of the tree, with the safety precautions to be taken, as described by the applicant or permittee, will substantially impair, now or in the future, the public safety of persons in the Town or if the cutting and removal of the tree will substantially destroy the aesthetic beauty in the Town.

History Note: Adopted through codification November 1999.

SECTION 8.06 **PERSONAL PROPERTY, OBJECTS OR OBSTRUCTIONS
PROHIBITED ON TOWN LANDS AND RIGHTS OF WAY**
[Title Amended by Ord. 2013-08.]

- (a) **Occupation, Storage or Obstruction Prohibited.**
[Section 8.06(a) repealed and recreated by Ord. 2013-08.]
- (1) No person may place, maintain or caused to be placed or maintained any personal property, including, but not limited to, any object, burn barrel, landscaping, junk, debris, shed, boat, trailer (all types), canoe, kayak, pole structure or other similar structures, on any Town owned lands including, but not limited to, easements, town road rights of way, parks and conservancies. All retaining walls, fences, stairways, railings, walking bridges, improved parking spots, structures or other improvements on Town-owned property existing prior to September 23, 2014 may remain in place unless and until they are found to be unsafe in the reasonable judgment of the Town Engineer or Building Inspector at which time they may be removed by order of the Town Board.
 - (2) Any property found in violation this ordinance may, upon 30 days notice, be removed by the Town and treated as abandoned property pursuant to Wis. Stats. § 66.0139. If the owner of the property is known, notice shall be provided by certified mail. If the owner of the property is unknown, notice shall be posted conspicuously upon the property and posted and published as a Class 1 notice under Wis. Stats. Chap. 985 in the same manner as notices for Town meetings. Property that remains unclaimed for 10 days after removal may be sold by public auction or disposed of as determined by the Town Board by ordinance. If the Town takes action to remove any property placed at a time or in a manner that violates the terms of this ordinance, the Town shall charge the cost of such removal and any storage costs to the owner of the property, if known, as a special charge pursuant to Wis. Stats. § 66.0627. No property removed pursuant to this subsection shall be released to its owner until all costs of removal and storage have been paid. Any substantially complete motor vehicles less than nineteen (19) model years of age shall be disposed of according to the provisions of Wis. Stats. §§ 340.20(3)(c) and (e).
 - (3) In addition to the forfeiture established in subsection (c), and any other remedies provided by law, the Town may seek to recover the actual costs, including staff and administrative costs, related to the removal and storage of any property found in violation of this section.
 - (4) This subsection shall not apply to:
 - (A) Property placed in accordance with a valid permit under Section 9.02 or other specific authorization under this Code of Ordinances.

- (B) Vehicles lawfully parked in the public right of way in accordance with State statute and Chapter 12 of this Code.
 - (C) Mailboxes erected consistent with U.S. Postal Service Standards and Regulations.
 - (D) Vehicles lawfully parked in any area designated by the Town, whether by signage or permanent markings, for parking vehicles.
 - (E) Property placed or used in accordance with any properly authorized governmental purpose.
 - (F) Property placed for properly authorized utility purposes.
- (b) **Use of Town Land for Commercial or Storage Purposes.**
No person shall make use of Town lands for purposes of selling any objects, or for the purpose of storage of personal property.
- (c) **Forfeiture.**
Any person violating this Ordinance shall be subject to a forfeiture pursuant to Section 1.03 of this Code.

History Note: Adopted through codification November 1999; amended by Ord. 2013-08, 3/12/13; amended by Ord. 2013-19B, 11/12/13 and Ord. 2020-01; 1/14/20.

SECTION 8.07 **ABANDONED EXCAVATIONS**

Any excavation which exists for six months, as well as any foundation or basement that has been opened for six months without the placement of subflooring covering a basement, shall be considered abandoned and shall be refilled and leveled to grade by the owner of the land within ten days after receiving written notice from the Town Engineer of such requirement. Upon the failure of such owner to comply with such requirement within the ten day period, the work may be done by the Town or by the Town's agents, and the expense of refilling and leveling to grade shall be charged against such land as a special charge pursuant to Wis. Stats. § 66.0627.

History Note: Adopted through codification November 1999.

SECTION 8.08 VEHICLES DAMAGING TOWN ROADS.**(a) Liability for Damages.**

The owner or operator of any motor vehicle who drives or causes a motor vehicle to be driven or otherwise operated or used upon any Town highway shall be liable for all damages to such Town Highway that are caused thereby to such Town highway by reason of the operation of such motor vehicle. This section does not create liability for normal wear and tear created by normal operation of motor vehicles of a type and weight typical for which the road in question was designed. Town shall have any damage repaired and will bill the individual causing damage, or owner of the vehicle causing the damage to be paid within 30 days of billing or incur interest penalty of 1% per month.

(b) Forfeiture.

Any person who damages any Town highway as set forth in Section 8.08(a) shall be subject to a forfeiture pursuant to Section 1.03 of this Code.

History Note: The above and foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Dekorra on the 8th day of May, 2001 Ordinance 2001-05-08(a); amended by Ord. 2007-13 on 12/11/07

SECTION 8.09 **MEASURES TO PROTECT TOWN ROADS.****(a) Definitions.**

- (1) **Heavy Equipment.** All vehicles not operating completely on pneumatic tires and all vehicles or combination of vehicles, other than motor buses, not licensed for operation on public highways, and having a gross weight of more than 6,000 pounds.

(b) Protection of Roadway.

No person shall load, unload, drive or permit the loading, unloading or driving of heavy equipment onto the roadway of a Town highway, as defined in Wis. Stats. § 340.01(54), without placing material upon the roadway designed to protect the roadway from any damage caused by but not limited to heavy equipment, trailer tongues or ramp edges. Such protective measures for the Town roadway include, but are not limited to, mats, sand, tires or plywood sheets or a combination thereof as required to meet the particular circumstance. **[Amended by Ord. No. 2009-08, 6/23/09.]**

(c) Forfeiture and Penalty.

Any person who fails to protect the Town roadway from heavy equipment by loading, unloading or driving on, as set forth in (b) above, shall be subject to forfeiture pursuant to Section 1.03 of this Code and shall be liable for the cost of repairs of damage caused. Town will have damage repaired and will bill the individual causing damage, to be paid within 30 days of billing or incur interest penalty of 1% per month.

(d) Exception.

This section shall not apply to the unloading of heavy equipment onto a Town roadway when the purpose for unloading said heavy equipment is to repair or replace the section of the roadway onto which the heavy equipment is unloaded and such unloading or movement will not increase the cost of repair or replacement.

History Note: The above and foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Dekorra on the 8th day of May, 2001 Ordinance 2001-05-08(b); repealed and recreated by the Town Board of Dekorra on the 9th day of September, 2003; repealed and recreated by Ord. 2007-13; amended June 23, 2009, Ord. No. 2009-08.

SECTION 8.10 **PROHIBITION OF ENGINE BRAKING**

(a) **Definition.**

“Engine braking” means the use of a dynamic braking device (commonly referred to as jake brake, jacob's brake, engine brake or compression brake) for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without or limiting the use of wheel brakes.

(b) **Use Prohibited.**

It is unlawful for any person to engage in engine braking in any motor vehicle on roads within the Town where signs have been erected stating “ENGINE BRAKING PROHIBITED,” except for emergency situations for the purpose of avoiding a collision with another object or vehicle.

(c) **Penalty.**

Any person violating this Ordinance shall be subject to the penalties set forth in Section 1.03 of this Code. Each day of violation shall constitute a separate offense.

History Note: Section 8.10 created by Ord. 2009-17, 12/8/09.

SECTION 8.11 **FIREARMS AND DANGEROUS WEAPONS PROHIBITED
IN PUBLIC BUILDINGS.**

- (a) Pursuant to Wis. Stats. § 943.13(1m)(c)4, no person shall enter or remain in any part of a building owned, occupied or controlled by the State or a local governmental unit if the State or local governmental unit has notified the person not to enter or remain in the building while carrying a firearm, specific type of firearm or dangerous weapon.
- (b) The Town Clerk shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the Town of Dekorra providing notice that no person is to enter or remain in any such building while carrying a firearm or dangerous weapon. Such signs shall be five inches by seven inches or larger.
- (c) Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Town Board to possess a firearm or dangerous weapon in any public building. Notwithstanding Wis. Stats. § 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a State certified commission warden.
- (d) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats. §§ 941.23 or 941.235.
- (e) The term “dangerous weapon” shall have the meaning set forth in Wis. Stats. § 939.22(1).

History Note: Section 8.11 created November 11, 2011 by Ord. 2011-12.

SECTION 8.12 **DISCHARGE OF FIREARMS AND OTHER WEAPONS****(a) General Prohibition.**

No person shall discharge or cause the discharge of any firearm in the Town of Dekorra in the following areas and situations:

- (1) Within any property zoned Single-Family Residence of one (1) acre or less in size, unless such property abuts agriculturally zoned lands upon which:
 - (A) express permission to discharge firearms has been granted by the owner or occupant; and
 - (B) only if discharging the firearm towards the agriculturally zoned property;
- (2) Within or towards any property zoned Multi-Family Residence, Manufactured/Mobile Home Park, Commercial or Industrial, Civic and Institutional, Utility, Communication and Transportation;
- (3) Within 100 yards of any dwelling or other occupied building other than:
 - (A) when express permission to discharge firearms has been granted by the owner or occupant; and
 - (B) only if discharging the firearm away from (*see* Wis. Stats. § 941.20(1)(d)) any other dwelling or occupied building;
- (4) From or across any public highway or road or within 50 feet of the centerline of a highway (*see* Wis. Stats. § 167.31(2)(d));
- (5) Within 150 yards of or towards any public park, square, rest area, boat landing, school, or town facility;
- (6) Intentionally in the direction of a Transmission Facility (*see* Wis. Stats. § 167.31(3m)(a)).

(b) Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "Firearm." Any weapon that acts by force of gunpowder including a rifle, pistol, or revolver of any caliber or shotgun of any gauge.
- (2) "Handgun." Any firearm (such as a revolver or pistol) that is designed to be held and fired with one hand.

- (3) “Rifle.” Any firearm other than a handgun having a grooved (i.e. rifled) barrel that, upon discharge, projects a round or elongated projectile.
 - (4) “Shotgun.” A firearm that discharges any size pellet or slugs.
 - (5) “Muzzle-loading weapons” are considered to be firearms.
 - (6) “Sport shooting range.” An area designed and operated for the practice of weapons used in hunting, skeet shooting and similar sport shooting.
 - (7) “Transmission facility.” Any pipe, pipeline, duct, wire, cable, line, conduit, pole, tower, equipment, or other structure used to transmit or distribute utilities to or for the public or to transmit or distribute communications or data to or from the public.
- (c) **Exceptions.**
Unless otherwise indicated, the prohibitions of this Section shall not apply to:
- (1) Peace officers in the performance of their duties.
 - (2) Any member of the U.S. armed forces or the national guard in the performance of their duties.
 - (3) Any private security person as defined in Wis. Stat. § 440.26(1m)(h) who meets all of the requirements under Wis. Stats. § 167.31(4)(a)(4).
 - (4) Activities within any bona fide sport shooting range.
 - (5) Any property owner or adult occupant of any real estate within the Town using or discharging any rifle, air rifle, pistol or revolver upon the premises owned or occupied as aforesaid, or using or discharging a shotgun on such lands, provided such use is justified and for the sole purpose of protection of life, subject to Wis. Stats. § 939.48, and property, subject to Wis. Stats. § 939.49.
 - (6) Any adult owner or occupant of any land within the Town who, while on their own property and subject to all applicable State restrictions and regulations, discharge an air rifle or shotgun:
 - (A) for the sole purpose of controlling rodents that are not a protected species; or
 - (B) for the purpose of controlling skunks, opossum and/or raccoons that:
 - i. are causing damage; or

- ii. are about to cause damage; or
 - iii. may constitute a health hazard or other nuisance.
- (7) No shotgun may be discharged by any person under the exceptions specified in Section 8.12(c) while loaded with a slug or with any shot/pellet with a larger diameter than #4. The adult owner or adult occupant shall be responsible to ensure that the discharge from any air rifle or shotgun cannot end up onto any adjacent property.
- (8) Discharge of weapons where permitted shall occur in a safe manner. Target practicing shall only be towards a suitable backstop or berm and shall be limited to the hours between of 8:00 a.m. and dusk, unless proper and sufficient lighting to illuminate the targets is available.
- (d) **Penalty.**
Any person violating this Ordinance shall be subject to the penalties set forth in Section 1.03 of this Code. Each day of violation shall constitute a separate offense.

History Note: Section 8.12 created March 11, 2014 by Ord. 2014-01C.

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