

CHAPTER 7
ORDERLY CONDUCT

7.01 **OFFENSES AGAINST PUBLIC HEALTH AND SAFETY.**

(1) REGULATION AND USE OF FIREARMS AND OTHER WEAPONS.

(a) **Carrying Concealed Weapons.**

1. In this section:

- (a) "Carry" has the meaning given in s. 175.60(1)(ag), Wis. Stats.
- (b) "Dangerous weapon" has the meaning given in s. 939.22(10), Wis. Stats., except "dangerous weapon" shall not include a concealed knife unless the person is carrying a concealed knife and is prohibited under state law from possessing a firearm.(Ord No. 604)
- (c) "Destructive device" has the meaning given in 18 USC 921(a)(4).
- (d) "Firearm silencer" has the meaning given in s. 941.298(1), Wis. Stats.
- (e) "Former officer" means a person who served as a law enforcement officer with a law enforcement agency before separating from law enforcement service.
- (f) "Law enforcement agency" has the meaning given in s. 175.49(1)(f), Wis. Stats.
- (g) "Law enforcement officer" has the meaning given in s. 175.49(1)(g), Wis. Stats.
- (h) "Machine gun" has the meaning given in s. 941.27(1), Wis. Stats.
- (i) "Qualified out-of-state law enforcement officer" means a law enforcement officer to whom all of the following apply:
 - 1. The person is employed by a state or local government agency in another state.

2. The agency has authorized the person to carry a firearm.
 3. The person is not the subject of any disciplinary action by the agency that could result in the suspension or loss of the person's law enforcement authority.
 4. The person meets all standards established by the agency to qualify the person on a regular basis to use a firearm.
 5. The person is not prohibited under federal law from possessing a firearm.
2. It shall be unlawful for any person, other than one (1) of the following, to carry a concealed and dangerous weapon.
- (a) A peace officer, but notwithstanding s. 939.22, Wis. Stats., for purposes of this paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.
 - (b) A qualified out-of-state law enforcement officer. This paragraph applies only if all of the following apply:
 1. The weapon is a firearm but is not a machine gun or a destructive device.
 2. The officer is not carrying a firearm silencer.
 3. The officer is not under the influence of an intoxicant.
 - (c) A former officer. This paragraph applies only if all of the following apply:
 1. The former officer has been issued a photographic identification document described in subsection 3.(b)1. or both of the following:
 - a. A photographic identification document described in subsection 3.(b)2.(intro.)
 - b. An identification card described in subsection 3.(b)2.a., if the former officer resides in this state, or a certification described in subsection 3.(b)2.b., if the former officer resides in another state.
 2. The weapon is a firearm that is of the type described in a photographic identification document described in subsection 2.(c)1.(intro.) or a card or certification described in subsection 2.(c)1.b.

3. Within the preceding twelve (12) months, the former officer met the standards of the state in which he or she resides for training and qualification for active law enforcement officers to carry firearms.
 4. The weapon is not a machine gun or a destructive device.
 5. The former officer is not carrying a firearm silencer.
 6. The former officer is not under the influence of an intoxicant.
 7. The former officer is not prohibited under federal law from possessing a firearm.
- (d) A licensee, as defined in s. 175.60(1)(d), Wis. Stats., or an out-of-state licensee, as defined in s. 175.60(1)(g), Wis. Stats., if the dangerous weapon is a weapon, as defined under s. 175.60(1)(j), Wis. Stats. An individual formerly licensed under s. 175.60, Wis. Stats., whose license has been suspended or revoked under s. 175.60(14), Wis. Stats., may not assert his or her refusal to accept a notice of revocation or suspension mailed under s. 175.60(14)(b)1., Wis. Stats., as a defense to prosecution under this subsection, regardless of whether the person has complied with s. 175.60(11)(b)1., Wis. Stats.
- (e) An individual who carries a concealed and dangerous weapon, as defined in s. 175.60(1)(j), Wis. Stats., in his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies.
3. (a) A qualified out-of-state law enforcement officer shall, while carrying a concealed firearm, also have with him or her an identification card that contains his or her photograph and that was issued by the law enforcement agency by which he or she is employed.
 - (b) A former officer shall, while carrying a concealed firearm, also have with him or her one (1) of the following:
 1. A photographic identification document issued by the law enforcement agency from which the former officer separated that indicates that, within the twelve (12) months preceding the date on which the former officer is carrying the concealed firearm, he or she was tested or otherwise found by that law enforcement agency to meet the standards for qualification in firearms training that that law enforcement agency sets for active law

enforcement officers to carry a firearm of the same type as the firearm that the former officer is carrying.

2. A photographic identification document issued by the law enforcement agency from which the former officer separated and one (1) of the following:
 - a. A certification card issued under s. 175.49(2), Wis. Stats., if the former officer resides in this state.
 - b. A certification issued by the state in which the former officer resides, if the former officer resides in another state, that indicates that, within the twelve (12) months preceding the date on which the former officer is carrying the concealed firearm, he or she has been found by the state in which he or she resides, or by a certified firearms instructor if such an instructor is qualified to conduct a firearms qualification test for active law enforcement officers in that state, to meet the standards for qualification in firearms training for active law enforcement officers to carry a firearm of the type he or she is carrying, that are established by his or her state of residence or, if that state does not establish standards, by any law enforcement agency in his or her state of residence.
 - c. A person who violates this subsection shall be exempted from the forfeiture hereinafter prescribed if the person presents, within forty-eight (48) hours, his or her license document or out-of-state license and photographic identification to the law enforcement agency that employs the requesting law enforcement officer.
 - d. This subsection does not apply to a licensee, as defined in s. 175.60(1)(d), Wis. Stats., or an out-of-state licensee, as defined in s. 175.60(1)(g), Wis. Stats.
4. Any weapon involved in an offense under subsection 2 may be seized and shall be forwarded to the police department for disposition. If the weapon is owned by a person convicted under subsection 2, it shall be confiscated and destroyed by the police department upon order of the court. If it is owned by a person other than the person convicted under subsection 2, the court may decide whether such weapon shall be returned to its rightful owner or destroyed by the police department.(Ord. 592)

(b) **Discharging Firearms and Other Weapons.** No person except a peace officer shall discharge any pistol, revolver, rifle, shotgun, compressed air gun or other firearm within the City, except where the use of such firearm or arms are required for the protection of person or property, or where used in hunting areas designated by the Common Council, or where fired for test purposes in bona fide repair shops.

(c) **Sale to Minors.** No person shall sell, loan or give any firearm to any person under 18 years of age.

(2) SALE AND USE OF FIREWORKS. Section 167.10, Wisconsin Statutes, exclusive of penalty provisions, is adopted by reference and made a part of this Code.

(3) ABANDONED OR UNATTENDED REFRIGERATORS, ETC. No person shall leave outside any building, dwelling or at a place accessible to children, any unattended or discarded ice box, refrigerator or other container which has an airtight door which may not be opened from the inside.

(4) OBSTRUCTION OF AISLES, FIRE ESCAPES, ETC. No person shall obstruct an aisle, fire escape, entrance or exit or a public building or building used for the assemblage of more than 10 persons.

(5) CONCEALED WEAPONS.

SECTION 1. Firearms restricted in certain City buildings is hereby created to read as follows;

A. **Definitions.**

1. *Firearm* means a weapon that acts by force of gunpowder.
2. *Law Enforcement* means any person employed by the State of Wisconsin or any political subdivision of this state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.
3. *Weapon* means a handgun, an electronic weapon as defined at S.S.941.295, Stats., a knife or a billy club.

B. Applicability of Prohibition. In addition to provisions of S.S.175.60, Stats., enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer to enter the following city municipal buildings while carrying a weapon or a firearm:

1. City Hall
2. Fire Station
3. Community Center
4. Senior Citizen Center
5. Buildings Operated by the Department of Public Works
6. All City Well/Pump Stations
7. Municipal Library
8. Civic Park Pavilion
9. Civic Park Shelter
10. Civic Park Band Shelter
11. Civic Park Round Stand
12. Civic Park Brat Stand
13. Civic Park Ticket Booth
14. Civic Park Restroom
15. Aquatic Center
16. Kiwanis Park Octagon Shelter
17. Optimist Chalet
18. Wastewater Treatment Plant
19. Electric Substations
20. Buildings Operated by New Holstein Utilities(Ord No. 604)

C. Signs. Signs meeting the requirements of S.S.943.13(2)(bm)1, Stats., shall be posted in prominent places near all entrances of such buildings regarding such restrictions.

D. Trespasser Status. Any person who enters or remains in any aforementioned City building contrary to such signage shall be considered a trespasser subject to penalty as prescribed at Section 20.04 of this code.

7.02 **OFFENSES ENDANGERING PUBLIC PEACE AND GOOD ORDER.**

(1) DISORDERLY CONDUCT PROHIBITED. No person shall within the City of New Holstein:

(a) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.

(b) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) DISTURBANCE OF PUBLIC MEETING. No person shall disturb a public meeting or loiter about a place of public assemblage.

(3) ASSAULT AND BATTERY. No person shall commit an assault and battery upon another.

(4) KEEPING LIVESTOCK. No person shall keep livestock within the City except on premises actually used for farming.

(5) CRUELTY TO ANIMALS. No person shall treat cruelly any animal within the City.

(6) ANIMAL NOT TO RUN AT LARGE. No person owning, possessing or harboring any animal shall allow it to run at large within the City.

(7) HUNTING PROHIBITED.

(a) No person shall hunt, trap, shoot, or kill any wild animal or bird within the City, except as provided in paragraph (b).

(b) Exceptions

1. The chief of police may issue written permits to owners or occupants of private premises to hunt on such premises if he/she finds such privileges necessary for the protection of life or property, and subject to such safeguards as he/she may impose for the safety of the lives and property of other persons within the City.

2. Bow and crossbow hunting are permitted, but not on any municipally owned land and not within 100 yards of any permanent building or structure used for human occupancy on another person's land. This distance restriction does not

apply if the person who owns the land on which the building or structure is located allows the hunter to hunt within 100 yards of the building or structure. All bows and crossbows shall be discharged toward the ground (e.g. from a tree stand).

3. Any hunting and/or shooting program conducted by the City of New Holstein with proper supervision. (Ord#599)
- (8) **LOUD AND UNNECESSARY NOISE PROHIBITED.** No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to unreasonably annoy or disturb another in or about any public street, alley or park or any private residence.
- (9) **OBEDIENCE TO OFFICERS.** No person shall, without reasonable excuse or justification, resist or in any way interfere with any officer of the City while such officer is doing any act in his official capacity and with lawful authority.
- (10) **ASSISTING ESCAPE OF PRISONER.** No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the City.
- (11) **IMPERSONATING POLICE OFFICERS.** No person shall impersonate a policeman or peace officer within the City.
- (12) **CONSUMPTION OF ALCOHOL IN PUBLIC RIGHT-OF-WAYS.** No person shall drink liquor or fermented malt beverages or have in his possession open containers of liquor or fermented malt beverages on any public sidewalks, street, or alley within the City except as authorized by the City Council.(Recr. #150) 7-9-75
- (13) (1) **LOITERING OF MINORS (CURFEW HOURS).** It shall be unlawful for any person under the age of seventeen (17) to congregate, loiter, wander, stroll, stand, or play in or upon the public street, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or any public places in the City of New Holstein, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 11:00 P.M. and 5:00 A.M. of the following day, official city time, unless accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control.

Notwithstanding the above, a person will not be in violation of this Ordinance if that person, under the age of 17, meets one of the following exceptions:

1. Those children accompanied by their parents or guardian;

2. Those children participating in, going to or returning from lawful employment, a school sanctioned activity or a religious event;
3. Any activities protected by the First Amendment;
4. An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
5. Any activity conducted by a non-profit or governmental entity that provides recreation, education, training or other care under the supervision of one or more adults; or
6. The child is engaged in interstate or international travel from a location outside Wisconsin to another location outside Wisconsin.

(2) PROBABLE CAUSE. Before an officer may issue a citation, he/she must have probable cause to believe the child has violated the curfew ordinance and that no defense exists.

(3) RESPONSIBILITY OF PARENTS. It shall be unlawful for the parent, guardian, or other adult person having legal custody or control of any minor to suffer or permit or by inefficient control to allow such minor to violate this Section unless the minor is accompanied by his or her parent, guardian, or other adult person having legal custody or control. Parents violating this Section more than one(1) time in a calendar year shall be subject to the penalty provisions of Section 3. (CR. #477)

(4) PENALTY. Any person who violates this Section shall be penalized pursuant to Section 20.04 of the City of New Holstein Code of Ordinances.(Cr. #294)

(14) (1) TRUANCY AND HABITUAL TRUANCY PROHIBITED. For purposes of this section, the following terms shall have the following meanings:

- a. "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal, or teacher has not been notified of the legal cause of the absence carried on for the purposes of defeating the intent of the compulsory school attendance law.
- b. "Truant" means a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.
- c. "Habitual Truancy" means any absence from school without an acceptable excuse for part or all of the five (5) or more days on which school is held during a semester.
- d. "Dropout" means a child who has ceased to attend school, does not attend public or private school, technical college.

- e. "School Attendance Officer" means an employee designated by the School Board to deal with matters relating to school attendance and truancy. "School Attendance Officer" does not include a person designated to take truants into custody, unless that person has also been designated to deal with matters related to school attendance and truancy.
- f. "Acceptable Excuse" shall mean written approval of a child's parent or guardian for participation of that child in a program or curriculum modification under Section 118.15 of the Wisconsin Statutes, or in a written statement provided by a parent, a medical doctor, psychiatrist, psychologist, or registered psychiatric counselor, setting forth the specific reasons why a pupil may be or has been absent from school during a period of time for which the student was enrolled and expected by the school authorities to be attending classes. These written statements shall meet standards for and "acceptable excuse" as established by §118.15, Stats. and §118.16, Stats.
- g. "Parent" shall mean:
 - 1. Natural father or natural mother of a child born to the mother and father.
 - 2. Adoptive father or adoptive mother of a child adopted by them.
 - 3. Any individual or agency whose status as guardian of the person of the child has been established by judicial decree.

(2) TRUANCY VIOLATION. It shall be a violation of New Holstein Municipal Code for a child to be truant as defined in (1)(b) above.

- a. A child who is believed to be truant shall be issued a citation for the child's violation of the ordinance. In addition, the responsible parent or the parent having primary placement/custody of the child alleged to be truant may be required to appear at the child's initial appearance and at the trial of the action if necessary.

(3) TRUANCY PENALTY. The following penalties may be imposed, in alternative form, upon a child found to be truant after being so charged under Section 7.02(14)(2):

- a. Suspension of the child's operating privilege, as defined in §340.01(40), Stats., for not less than thirty (30) days nor more than ninety (90) days. The Court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with a notice stating the reason for and the duration of the suspension.

- b. A forfeiture in an amount not greater than \$50.00 for a first offense and not more than \$100.00 for a second, third, or fourth offense.
- c. An order for the child to participate in counseling, community service, or a supervised work program as provided under §938.34(5g) and (5m), Stats.
- d. An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his or her home if the child is accompanied by a parent or guardian.
- e. An order for the child to attend an education program under §938.34(7d), Stats.
- f. The parent may receive a monetary fine of up to \$50.00 for each day that a child is absent from school without an acceptable excuse in addition to the penalties to be imposed upon the child within this ordinance.

(4) HABITUAL TRUANCY VIOLATION. It shall be a violation of the New Holstein Municipal Code for a child to be a "habitual truant," as defined in (1)(C) above.

(5) HABITUAL TRUANCY PENALTY.

- a. Suspension of the child's operating privilege, as defined in §340.01(40), Stats., for not less than thirty (30) days nor more than ninety (90) days. The Court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with a notice stating the reason for and the duration of the suspension.
- b. A forfeiture of up to \$50.00 to be assessed against the child for each day that the child is truant from School without an acceptable excuse.
- c. An order for the child to participate in counseling, community service, or a supervised work program as provided under §938.34(5g) and (5m), Stats.
- d. An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place: of worship. The order may permit a child to leave his or her home if the child is accompanied by a parent or guardian.
- e. An order for the child to attend an education program under §938.34(7d)(5m), Stats.

- f. The parent may receive a monetary fine of up to \$50.00 for each day that a child is absent from school without an acceptable excuse in addition to the penalties to be imposed upon the child within this ordinance.

7.03 **OFFENSES ENDANGERING PUBLIC MORALS AND DECENCY.**

(1) **GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES**

PROHIBITED. All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the City. Any peace officer or policeman of the City is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the City and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.

(2) **DISORDERLY HOUSES PROHIBITED.** No person shall keep a disorderly house or house of prostitution within the City.

(3) **VAGRANCY AND LOITERING PROHIBITED.** No person shall within the City loiter or loaf about any public building, place or premises or wander about the Streets, alleys, parks or other public places either by day or night, whose actions give rise to a suspicion of wrong doing and who is unable to give a satisfactory account of himself, or who, having the physical ability to work, is without any visible means of support and does not seek employment or who derives part of his support from begging, prostitution, pandering, fortune telling, or a similar impostor.

(4) **INDECENT CONDUCT AND LANGUAGE PROHIBITED.** No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the City. It shall be a violation of this subsection for any person to sell, give away or distribute within the City any obscene show or exhibition.

(5) **OBSCENE LITERATURE.** No person shall within the City sell, offer for sale, or give away or exhibit any obscene book, pamphlet, paper, card, picture, toy or device.

(6) **INCORPORATION OF CHAPTER 944, WISCONSIN STATUTES**

The provisions of Chapter 944 of the Wisconsin Statutes addressing and prohibiting crimes against sexual morality as well as the provisions of Chapter 948 of the Wisconsin Statutes addressing and prohibiting crimes against children are incorporated herein by reference together with any subsequent additions, modifications or other changes.

7.04 **OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY.**

- (1) **DESTRUCTION OF PROPERTY PROHIBITED.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property belonging to the City or its departments, to the public, or to any private person without the consent of the owner or proper authority.(Rep. & Recr. #305)
- (2) **LITTERING PROHIBITED.** No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the City, upon any public property, or upon any private property not owned by him or upon the surface of any body of water within the City.(Rep. & Recr. #305)
- (3) **UNLAWFUL RETENTION, MUTILATION, OR THEFT OF LIBRARY MATERIALS.**
 - (a) **UNLAWFUL RETENTION OF LIBRARY MATERIALS.** No person shall fail, following demand sent by regular mail, to return or make full restitution for any overdue book, periodical pamphlet, picture, or any other article or property belonging to or in charge of the New Holstein Public Library and no person shall remove from the New Holstein Public Library any book, periodical, pamphlet, picture, or other article or property belonging to or in charge of the New Holstein Public Library without first having checked out such article pursuant to the rules and regulations of the library.
 - (b) **MUTILATION OF LIBRARY MATERIALS.** No person shall mar, deface, or in any other way damage any book, periodical, pamphlet, picture, or other article or property belonging to or in the charge of the New Holstein Public Library, or permit the same to be done without reimbursing the library for such damage following demand sent by regular mail.
 - (c) **THEFT OF LIBRARY MATERIALS.** Section 943.61 of the Wisconsin Statutes, relating to theft of library materials, is hereby adopted by reference with the exception of the penalty provisions of said section.
- (4) **TRESPASS.**
 - (a) **TRESPASS.** Sections 943.13, 943.14, and 943.15 of the Wisconsin Statutes, relating to trespass to land, criminal trespass to dwellings, and entry onto a construction site or into a locked building, dwelling, or room, is hereby adopted by reference with the exception of the penalty provisions of said Section.

(b) TRESPASS ON PUBLIC OR PRIVATE SCHOOL PROPERTY. Any student who is suspended or currently expelled from school shall remain a distance of 1,080 feet away from any real property owned or permanently used by the School District of the City of New Holstein or any private school ("School Property") while school is in session, unless officially requested by proper authorities, to be present on the School Property. This paragraph shall not apply if the student resides or works within 1,000 feet of the School Property; except that such student shall remain off School Property while suspended or expelled. No person shall be upon School Property unless:

1. authorized by the proper authorities;
2. attending a regularly scheduled or officially sanctioned program or function being held on School Property;
3. having official and legitimate business on School Property;
4. for recreational purposes provided such use does not interfere with sanctioned school activities, official school business or classroom instruction and is consistent with posted hours and is in compliance with any school rules and regulations.

(c) PENALTY. Any person who shall violate Section 7.04(4) of the Municipal Code shall be subject to a penalty as provided in Section 20.04 of this Code.

(5) REGULATION OF SMOKING. Section 101.123, Wisconsin Statutes, relating to the regulation of smoking are hereby adopted as reference as part of this Section as if fully set forth herein and the penalties adopted under Section 101.123(8), Wisconsin Statutes, are hereby specifically adopted as if incorporated herein and shall be considered a municipal ordinance violation. In all other respects, the foregoing ordinance shall be maintained and in full force and effect. (Cr. #274)

(a) NO SMOKING IN CITY HALL. No person shall smoke, or carry a lighted cigar, cigarette, pipe, or any other lighted smoking equipment in the New Holstein City Hall.

(b) UNDERAGE SMOKING. Section 254.92 of the Wisconsin Statutes describing and defining the prohibition against persons under the age of 18 buying or attempting to buy cigarettes, nicotine products or tobacco products, falsely representing age for the purpose of receiving cigarettes, nicotine products or tobacco products or possessing cigarettes, nicotine products or tobacco products, are hereby adopted and by reference

made a part of this Chapter as though fully set forth herein. Any act required to be performed or prohibited by any of the Statutes incorporated herein by reference is required or prohibited by this ordinance. This adoption by reference shall also include any subsequent additions, modifications, or other changes to the above statute. (Ordinance # 629)

(c) Section 254.92, Wisconsin Statutes, prohibiting any person under the age of 18 years of age from purchasing, attempting to purchase or possess any cigarette or tobacco product except for the sole purpose of resale in the course of employment during working hours is prohibited. Further, the sale of cigarette or tobacco product to a person under the age of 18 is prohibited and any person violating this section shall be subject to the penalty provisions set forth at Chapter 7.05 included herein. Wisconsin Statutes regarding environmental health contained at Chapter 254 of the Wisconsin Statutes are incorporated herein by reference together with any subsequent additions, modifications, or other changes. (Cr. # 42)

(d) Given the fact the New Holstein School District has prohibited the use of tobacco on premises owned by it or rented by it as permitted to be prohibited by the School Board under Section 120.12(20), Wisconsin Statutes, it shall be unlawful for any person, regardless of age, to use tobacco products on premises owned, rented, or under the control of the New Holstein Public School District. (Cr. #430)

(e) Regulation of sale, purchase or possession of vapor products and electronic cigarettes for persons under the age of 18 (Ordinance #628)

(1) DEFINITIONS. As used throughout this ordinance, the following terms have the following meanings:

(a) "Electronic cigarette" means a product that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product including, but not limited to, products such as e-cigarettes, e-cigs, electronic vaping devices, digital vapor devices, electronic cigarettes, electronic cigars and electronic pipes. Electronic cigarettes do not include items prohibited under sec. 254.92, Wis. Stats., including cigarettes, nicotine products or tobacco products as those terms are defined under the Wisconsin Statutes.

(b) "Vapor products" means noncombustible products that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor

in a solution or other form including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vaporizers, or similar products or devices. Vapor products shall include any vapor cartridge, solution, or other container, that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vaporizer, or similar products or devices. Vapor products do not include items prohibited under sec. 254.92, Wis. Stats., including cigarettes, nicotine products or tobacco products as those terms are defined under the Wisconsin Statutes.

- (2) SALE OF ELECTRONIC CIGARETTES OR VAPOR PRODUCTS TO PERSONS UNDER THE AGE OF 18 PROHIBITED. No person by himself, his servant or agent, or as servant or agent of another person shall sell, give away, or otherwise dispose of, by vending machine or otherwise any electronic cigarette or vapor product to any person under the age of 18 years.
 - (3) PURCHASE OR POSSESSION OF ELECTRONIC CIGARETTES OR VAPOR PRODUCTS BY PERSONS UNDER THE AGE OF 18 PROHIBITED.
 - (a) No person under the age of 18 years may falsely represent his or her age for purposes of receiving any electronic cigarette or vapor product.
 - (b) No person under the age of 18 years may purchase, attempt to purchase, or possess any electronic cigarette or vapor product except as follows: A person under the age of 18 years may purchase or possess electronic cigarettes or vapor products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer. The defenses provided in sec. 134.66(3)(a)-(c), Wis. Stats., shall also be defenses to any prosecution hereunder.
 - (4) Any person who shall violate any provisions of this Section 7. shall be subject to penalty as provided in Section 20.04 of this Code.
- (6) REGULATION OF CRIMES AGAINST PUBLIC PEACE, ORDER, AND OTHER INTEREST. Chapter 947, Wisconsin Statutes, relating to the regulation of crimes against public peace, order, and other interests are hereby adopted as reference as part of this Chapter as if fully set forth herein and the penalties adopted under Section 7.05, New Holstein Municipal Code, are hereby specifically adopted as if

incorporated herein and shall be considered a municipal ordinance violation. (Cr. #278)

- (7) POSSESSION OF DRUG PARAPHERNALIA. Pursuant to the authority granted all cities including the City of New Holstein pursuant to Section 66.0107(1)(bp), of the Wisconsin Statutes, the City of New Holstein does hereby adopt the provisions of § 961.573(1) and (2), Stats., regarding possession of drug paraphernalia and the provisions of § 961.874(1) and (2), Stats., and the provisions of § 961.575(1) and (2), Stats.

The adoption by reference shall also include any act required to be performed or prohibited by any of the statutes incorporated herein by reference is required or prohibited by this ordinance. This adoption by reference shall also include any subsequent additions, modifications or other changes to the above sections of the Wisconsin Statutes. However, the penalty provision for a person found to have violated and determined guilty of violating this ordinance as adopting state statute, shall be subject to penalty as provided in Section 20.04 of the Municipal Code of the City of New Holstein rather than the penalties prescribed at §961.573, §961.574 or §961.575, Stats. (Rep. & Recr. #530)

- (8) PROHIBIT AGAINST SWIMMING IN THE KIWANIS PARK POND DENOMINATED AS LANGENFELD POND. No person shall swim or wade in the pond located in Kiwanis Park, which has been named Langenfeld Pond. The penalties provided in Chapter 7.05 shall apply to any person who shall violate any provision of this ordinance.(Cr. #323)

- (9) Chapter 938 of the Wisconsin Statutes relating to juvenile delinquency and regulation of juvenile activity is hereby adopted by reference with the exception of the penalty provisions of said Section. Any person who shall violate Section 7.04(9) of the Municipal shall be subject to a penalty as provided in Section 20.04 of this Code.(Cr. #339)

- (10) INCORPORATION OF CHAPTER 941, WISCONSIN STATUTES

The provisions of Chapter 941 of the Wisconsin Statutes addressing and prohibiting crimes against public health and safety as well as the provisions of Chapter 943 of the Wisconsin Statutes addressing crimes against property and prohibiting the same are incorporated herein by reference together with any subsequent additions, modifications or other changes.

7.05 **PENALTY.**

- (1) Any person who shall violate any provision of Sections 7.01, 7.02, 7.03, and 7.04 of this Chapter, shall be subject to a penalty as provided in Section 20.04 of this Code.
- (2) In addition to any penalty imposed for violation of this Chapter, 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 or parents of any unemancipated minor child who violates Section 7.04(1) of this Chapter may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035, Wisconsin Statutes. (Ord. #191)

7.06 **MARIJUANA**

- (1) POSSESSION OF MARIJUANA. The City of New Holstein does hereby enact and enforce the following Ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in Section 961.01(14), Wisconsin Statutes, subject to the exception in § 961.41(3g), Stats., (intro.) and provide for a forfeiture for a violation of the ordinance and does identify such as an offense as a violation of this ordinance punishable as prescribed herein; except that any person who is charged with possession of more than 25 grams of marijuana or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana treated as an ordinance violation pursuant to Section 20.04 of New Holstein Code of Ordinances, in this instance prosecution shall not be had under this municipal ordinance.
 - A. Subject to the above, if a person possesses or attempts to possess tetrahydrocannabinols included under §961.14(4)(t), Stats., or a controlled substance analog of tetrahydrocannabinols of the quantity set forth above, the person shall be fined pursuant to §20.04 of the Municipal Code plus taxable forfeitures under the Uniform Bail Bond Schedule for the State of Wisconsin for a first offense. Provided, however, if the individual charged and convicted of a violation under this subsection, and that person is a juvenile, the Court shall order one of the following penalties:
 1. A forfeiture of not more than \$200.00 or the juvenile's participation in a supervised work program or other community service work under §938.34(5g), Stats., or both. (Rep. & Recr. #187) (Created Ord. #531) (Ord #610)
- (2) SYNTHETIC CANNABINOID PROHIBITED. (Created Ord No. 555)
 - A. Possession, use, and sale are illegal. It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals whether under the common

street or trade names of “Spice”, “K2”, “Genie”, “Yucatan Fire”, “fake”, or “new” marijuana, or by any other name, label or description:

1. (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10atetrahydrobenzo[c]chromen-1-01 some trade or other names:HU-210
2. 1-Pentyl-3-(1-naphthoyl)indole-some trade or other names: JWH-018
3. 1-Butyl-3-(1naphthoyl)indole-some trade or other names: JWH-073
4. 2-[1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol some trade or other names: CP 47,497 and homologues
5. Or any similar structural analogs.
6. Section 961.14(4) and Section 961.41(3g)(em), Stats., are hereby incorporated herein and all chemicals identified within that statute are determined to be prohibited under this ordinance; this prohibition shall apply to the current statutory sections and any amendments thereto.

B. MEDICAL OR DENTAL USE ALLOWED. Acts otherwise prohibited under subsection (A) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

7.07 **CONTROLLING RECREATIONAL FIRES** (Created #355)

- (1) BURNING. Burning of garbage and rubbish is prohibited. No person, other than the City or its agents, shall set fire to or burn any garbage or rubbish on any street or on any public or private premises. Rubbish shall include all yard waste such as: leaves, grass clippings, shrub trimmings, garden waste, and fallen branches and twigs. (Ord. 513)
- (2) RECREATIONAL FIRES. “Recreational fires” are defined as follows: Any fire such as a camp fire or cooking fire located at a single or two-family private residence for the purpose or recreation and personal enjoyment. All recreational fires shall comply with the following requirements:
 - (1) No recreational fire pit and unscreened portable fire pit or fireplace shall be closer than fifteen (15) feet from any building structure, shed, or garage.
 - (2) No recreational fire shall be in an area larger than three (3) feet by three (3) feet.

- (3) All recreational fire shall be in a below ground fire pit with minimum depth of ten(10) inches and shall be covered when not in use or the fire pit shall be surrounded on the outside, above the ground, by a non-combustible material such as concrete block or rock.
- (4) Portable fire pits shall be extinguished when not attended by a responsible person. It is recommended to have a cover and screen but not mandatory.
- (5) No recreational fire shall be started unless there are favorable conditions for burning with regard to wind direction and speed.
- (6) Material for recreational fires shall not include rubbish, garbage, treated wood, wet wood, trash or hazardous materials and shall not contain any flammable or combustible liquids as prohibited at Chapter 9.08 of the City of New Holstein Code of Ordinances. No person, other than the City or its agents, shall set fire to or burn any garbage or rubbish on any street or on any public or private premises.
- (7) All recreational fires shall be attended at all times by at least one (1) responsible person of age sixteen (16) years or older.
- (8) No open fire shall be allowed that causes smoke which is a PUBLIC NUISANCE or cause a traffic hazard because of diminished visibility. PUBLIC NUISANCE is defined as set forth in the New Holstein Municipal Code of Ordinances.
- (9) The entity, person, firm, association, corporation, or property owner starting a fire shall be liable for any damage caused by any open fire. The City of New Holstein Police Department will be charged with requiring any entity, person, firm association, corporation, or property owner from ceasing and desisting from the violation of the provisions of this Ordinance. In the event any such entity, person, firm,

association, corporation, or property owner fails or refuses to comply with a directive from the police department to cease and desist from any violation of this ordinance, then, in that event, the New Holstein Fire Department may be requested by a law enforcement officer to extinguishing the fire. If so required, the cost of controlling and or extinguishing the fire by the New Holstein Fire Department shall be a cost charged to the property owner, entity, person, firm, association, or corporation who has violated this ordinance and shall be payable by that violator in addition to the forfeiture required herein. The costs chargeable to the violator for the fire department's control or extinguishment of such a fire shall be at the going rate to be reviewed yearly by the City of New Holstein Fire Department.

(3) **OUTDOOR COOKING FIRE.** Open or closed outdoor cooking fire (barbecue grills) and approved grills and or containers are exempt from the open fire requirements and the closed fire requirements and the closed fire requirements as described herein above except as follows:

(1) For all dwellings, more than one story in height, the use of any propane or charcoal portable cooking device or any portable fireplace device is strictly **PROHIBITED** above the first floor occupancy.

(4) **EMERGENCY POWERS OF THE FIRE CHIEF.** When the Fire Chief determines there are environmental conditions likely to produce a serious threat of fire to life and property, it shall be the duty of the Fire Chief of the Fire Department to impose a burning ban and burning restrictions and require that no person may:

(1) Set, build, or maintain any open fire, except: charcoal and wood burning grills when in the immediate vicinity of a residential dwelling and when placed on a non-combustible surface, or gas grills or camp stoves.

(2) Throw, discard, or drop matches, ashes, or other burning material while outdoors in the immediate vicinity of combustible natural vegetation.

(3) Light or use any fireworks, as defined per Wisconsin Statutes, or caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains that emit sparks and smoke except in displays or use as authorized by the Fire Department where adequate fire prevention measures have been taken.

(4) At such time as the Fire Chief determines the emergency powers prescribed herein are required, the Fire Chief shall notify the residents of the City of New Holstein one (1) week prior to the emergency order being entered by the Fire Chief in a manner reasonably calculated to notify residents of the City of New Holstein. i.e. papers, cablevision, radio, sign at the firehouse.

(5) **VIOLATIONS.** Any entity, person, firm, association, corporation, or property owner who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 20.04 of the City of New Holstein Code of Ordinances as well as the payment of actual costs incurred by the Fire Department prescribed at Section 2(8) above.

7.08 **FALSE COMPLAINTS OF POLICE MISCONDUCT** (Created #433)

(1) The City of New Holstein does ordain that it shall be a violation of the New Holstein Municipal Code of Ordinances of the City of New Holstein for an individual to knowingly

make a false complaint regarding the conduct of a law enforcement officer and said conduct shall be determined to be a violation of the Ordinance No. 433 and shall be penalized pursuant to Section 20.04 of the Municipal Code of Ordinances for the City of New Holstein.

7.09 **INCORPORATION OF CHAPTER 946, WISCONSIN STATUTES**

The provisions of Chapter 946 of the Wisconsin Statutes addressing and prohibiting crimes against government and its administration are incorporated herein by reference together with any subsequent additions, modifications or other changes.

7.10 **SOCIAL HOSTS (Ordinance Number 626)**

- (1) **PURPOSE AND FINDINGS.** The City Council of the City of New Holstein intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The City Council finds:
- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
 - (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol related traffic collisions.
 - (c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
 - (d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity, and in some circumstances, provide the alcohol.
 - (e) A deterrent effect will be created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.
- (2) **PROHIBITED ACTS.** No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on property,

including any premises, owned and occupied by the adult or occupied by the adult and under the adult's control. This paragraph applies at a lodging establishment, as defined in Wis. Stat. §106.52(1)(d), only if the adult has furnished payment or security for lodging. This paragraph does not apply to alcohol beverages used exclusively as part of a religious service.

(3) EXCEPTIONS.

- (a) This Section 7.10 does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.
- (b) This Section 7.10 does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(4) PENALTIES. For purposes of determining previous violations under this Section 7.10, the 30 month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture. For purposes of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.

- (a) A person who commits a violation may be required to forfeit not more than \$500, plus costs, if the person has committed not more than one previous violation within 30 months of the violation.
- (b) A person who commits 2 or more previous violations within 30 months of the violation may be required to forfeit not more than \$1,000, plus costs.
- (c) Any person holding a license or permit issued under Chapter 125, Wisconsin Statutes shall have such license or permit suspended as provided in Wis. Stat. §125.07(1)(b)3.

7.11 PROHIBITION AGAINST PUBLIC INTOXICATION

(1) **INTENT AND PURPOSE.** It is the policy of the City of New Holstein to comply with Chapter 51, Wis. Stats., as well as to provide for the safety, welfare and health of the public as is permitted under section 62.11 (5), Wis. Stats., while prohibiting certain harmful conduct of intoxicated persons. Being publicly intoxicated makes a person vulnerable to injury, robbery, assault, and a number of other difficulties. This section addresses the behavior of the individual rather than

his or her blood alcohol content level, thus encouraging responsible behavior while consuming alcohol, providing a benefit to both the individual and the public. Nothing in this ordinance is intended to contradict those elements proscribed under Chapter 51, Wis. Stats.

(2) **DEFINITIONS.** The following terms shall be defined as follows in this section:

- (a) **Controlled Substance.** A substance as defined in section 961.01(4), Wis. Stats.
- (b) **Controlled Substance Analog.** A substance as defined in section 961.01(4m), Wis. Stats.
- (c) **Incapacitated Person.** A person, who as a result of the use of alcohol, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog is unconscious or whose judgement is so impaired that he or she is incapable of making a rational decision, as evidenced objectively by indicators such as extreme physical debilitation, physical harm or threats of harm to himself or herself or to any other person, or to property.
- (d) **Intoxicated Person.** A person whose mental or physical functioning is substantially impaired as a result of the use of alcohol, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog.
- (e) **Public Place.** A place to which the public has access, and includes, but is not limited to, places owned or controlled by the city, county or state, any public street, highway, sidewalk, parking lot, alley, parks, schools, places of worship and places of business. Places of business include premises open to the public where alcohol is consumed including a licensed alcohol establishment.
- (f) **Public Nuisance.** Conduct by an individual that is a disturbance of the peace, including, but not limited to, endangering himself or herself or other persons or property, engaging in behavior that is disruptive, harassing or threatening in nature to other persons, acting in an unruly or combative manner, creating loud noises to the disturbance of other persons, refusing to follow the instructions of a law enforcement or community service officer, refusing to follow the instructions to leave a place of business by the owner,

employee or other person in charge thereof or otherwise disturbing the peace in any public place.

(3) **INTOXICATION IN PUBLIC PLACES PROHIBITED.** No person shall, in a public place, conduct himself or herself in such a manner as to be an intoxicated or incapacitated person and to create a public nuisance.

(4) **PENALTIES.** Any person who shall violate Section 7.11 of the Municipal Code shall be subject to penalty as provided in Section 20.04 of this Code.(Ord#600)

7.12 SEXUAL OFFENDER RESIDENCY RESTRICTIONS

(1) FINDING AND ISSUE.

(a) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this section not to impose a criminal penalty but rather to serve the City's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

(2) **DEFINITIONS.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(a) Child means a person under the age of 18 for the purpose of this section.

(b) Designated Offender means any person who is required to register under Wis. Stat. §301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. § 301.45 for whom a bulletin to law enforcement agencies has been issued under Wis. Stat. § 301.46(2m).

(c) Loitering means whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.

- (d) Permanent Residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (e) Temporary Residence means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.
- (f) Adult Child for the purposes of this section means a person who is 18 years of age or older.

(3) SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE; PROHIBITION; PENALTIES; EXCEPTIONS.

- (a) Prohibited Location of Residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 1,000 feet of any school, licensed day care center, park, recreational trail, playground, place of worship or library.
- (b) Prohibited Loitering. It is unlawful for any designated offender to loiter within 500 feet of any school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the City as a place where children are known to congregate.
- (c) Prohibited Activity. It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph. Participation is to be defined as actively taking part in the event.
- (d) Measurement of Distance.
 - 1. For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, licensed day care center, park, recreational trail, playground, place of worship or any other place designated by the City as a place where children are known to congregate.
 - 2. The New Holstein Police Department shall prepare an official map showing prohibited locations as defined by this section. The New Holstein Police Department shall also maintain the map on file at the New Holstein Police Department and update the map at least annually to reflect any changes in the

location of prohibited zones. These shall be designated on the map as child safety zones.

(e) Exceptions. A designated offender residing within a prohibited area as described in paragraph (3) does not commit a violation of this section if any of the following apply:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45 before the effective date of this ordinance.
2. The person is a minor and is not required to register under Wis. Stat. § 301.45 or 301.46.
3. The school, licensed day care center, park, recreational trail or playground within 1,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45.
4. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse or adult children, provided that such parent, grandparent, sibling, spouse or adult child established the residence at least two years before the designated offender established residence at the location.

(f) Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators.

1. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this article, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in paragraph 3(a), and not subject to an exception set forth in paragraph 3(e) above.
2. A property owner's failure to comply with this section shall constitute a violation of this ordinance and shall subject the property owner to the penalties set forth in Section (5).

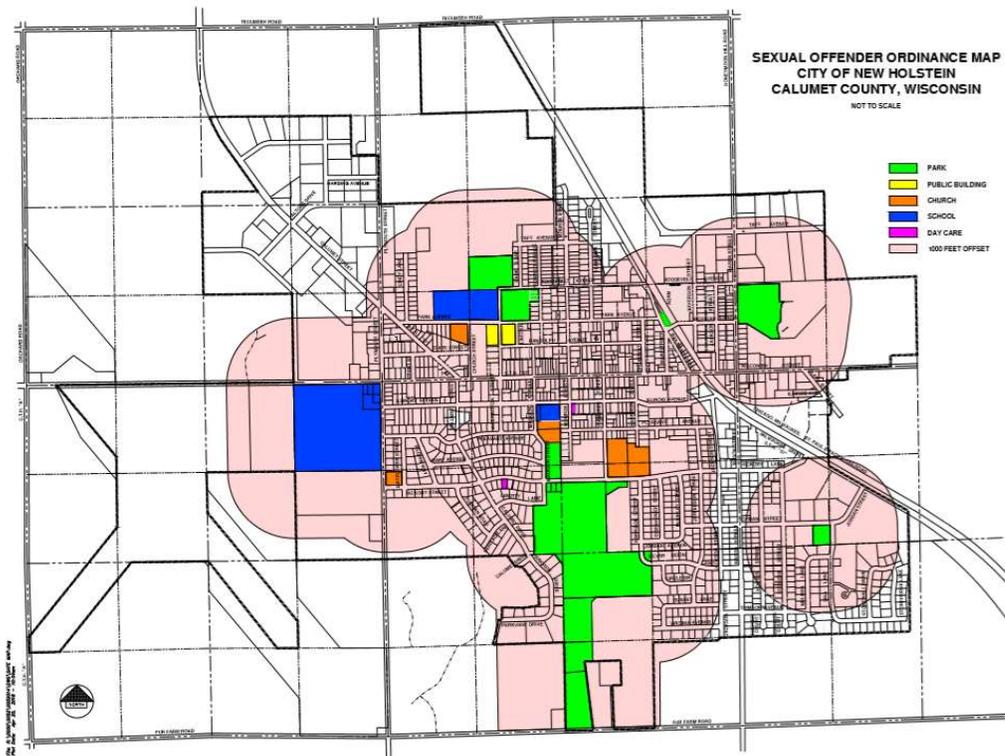
(g) Appeal.

1. Sex Offender Residence Board. The above 1,000 foot requirement may be waived upon approval of the Sex Offender Residence Board through appeal by

the affected party. Such appeal shall be made in writing to the City Clerk's Office, who shall forward the request to the Sex Offender Residence Board, which shall receive reports from the City of New Holstein Police Department on such appeal. The Sex Offender Residence Board shall convene and consider the public interest, as well as the affected party's presentation and concerns. After deliberation, the Sex Offender Residence Board shall forward its decision in writing via the minutes or otherwise to the City of New Holstein Police Department for their information and action. A written copy of the decision shall be provided to the affected party.

2. Membership. The Sex Offender Residence Board shall consist of the Public Safety Committee.

- (4) **SEVERABILITY.** The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Common Council would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this Ordinance or the application to any person or circumstance are held invalid, the remainder of this Ordinance or the application of such other provisions to other persons or circumstances shall not be affected.
- (5) **PENALTIES.** A person who violates any provision of this section shall be punished by a forfeiture set forth in Section 20.04 of this Municipal Code. Each day a person maintains a residence in violation of this section constitutes a separate violation. The City of New Holstein may also seek equitable relief.



7.13 USE OF DRONE

- (1) It shall be unlawful for anyone to use a drone, as defined in Wis. Stats. 175.55(1)(a), with the intent to photograph, record, or otherwise observe another individual in a place or location where the individual has a reasonable expectation of privacy. This section does not apply to a law enforcement officer authorized to use a drone pursuant to Wis. Stats. 175.55(2).
- (2) PENALTY. Any person who violates this Section shall be penalized pursuant to Section 20.04 of the City of New Holstein Code of Ordinances.
- (3) The provisions of Chapter 175 of the Wisconsin Statutes addressing Miscellaneous Police Provisions are incorporated herein by reference together with any subsequent additions, modifications, or other changes. (Ord 612)

7.14 SEXTING PROHIBITED (Ordinance Number 625)

- (1) **Definitions.**

(a) "Nudity" means 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 portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity", irrespective of whether or not the nipple is covered during or incidental to feeding.

(b) "Harmful to Minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

1. Predominantly appeals to a prurient, shameful, or morbid interest;
2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
3. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

(c) "Minor" means any person under the age of 18 years.

(2) A minor commits the offense of sexting if he or she knowingly:

(a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined above, and is harmful to minors, as defined above.

(b) Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, as defined above, and is harmful to minors, as defined above. A minor does not violate this paragraph if all of the following apply:

1. The minor did not solicit the photograph or video.
2. The minor took reasonable steps to report the photograph or video to a school or law enforcement official.
3. The minor did not transmit or distribute the photograph or a video to a third party other than a law enforcement official.

(c) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any text, correspondence, or message of a sexual nature when it:

1. Predominantly appeals to a prurient, shameful, or morbid interest;
2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
3. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

(d) Solicits the transmission or distribution of any text, correspondence, message, photograph or video from another minor that would itself be prohibited under this Section 7.14 of the Code.

- (3) Any person who shall violate this Section 7.14 shall be subject to penalty as provided in Section 20.04 of this Code.