

CHAPTER 8

PUBLIC NUISANCES

8.01 **PUBLIC NUISANCES PROHIBITED.** No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City of New Holstein.

8.02 **DEFINITIONS.**

- (1) **PUBLIC NUISANCE.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:
 - (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public:
 - (b) In any way render the public insecure in life or in the use of property:
 - (c) Greatly offend the public morals or decency:
 - (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.
- (2) **PUBLIC NUISANCES AFFECTING HEALTH.** The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of subsection (1) of this section:
 - (a) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
 - (b) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
 - (c) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
 - (d) All stagnant water in which mosquitoes, flies or other insects can multiply.
 - (e) Privy vaults and garbage cans which are not fly-tight.

- (f) All noxious weeds and other rank growth of vegetation.
- (g) All animals running at large.
- (h) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the City limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensitiveness or to threaten or cause substantial injury to property in the City.
- (i) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (j) Any use of property, substances or things within the City emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.
- (k) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the City.

(3) PUBLIC NUISANCES OFFENDING MORALS AND DECENCY. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of subsection (1) of this section:

- (a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (b) All gambling devices and slot machines.
- (c) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the City.
- (d) Any place or premises within the City where City ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(e) Any place or premises within the City where there is drinking of intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the City.

(4) PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (1) of this section:

(a) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(b) All buildings erected, repaired or altered in violation of the provisions of the ordinances of the City, relating to materials and manner of construction of buildings and structures within said district.

(c) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.

(d) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(e) All limbs of trees which project over and less than 14 feet above the surface of a public sidewalk or street or other public place.

(f) All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the City.

(g) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(h) All wires over streets, alleys or public grounds which are strung less than 18 feet above the surface thereof.

(i) All loud, discordant and unnecessary noises or vibrations of any kind.

(j) All obstructions of streets, alley, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City or which, although made in accordance with such ordinances, are kept or maintained for an

unreasonable or illegal length of time after the purpose thereof has been accomplished.

(k) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(l) All abandoned refrigerators, ice boxes or other containers which have airtight doors from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(m) Any unauthorized or unlawful use of property abutting on a public street, alley sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(n) Repeated or continuous violations of the ordinances of the City or laws of the State of Wisconsin relating to the storage of flammable liquids.

(o) CITIZENS BAND RADIOS.

(1) Purpose and Findings. The Common Council of the City of New Holstein finds that some citizens band radio operators in the City of New Holstein have operated their citizens band stations in violation of the rules and regulations published by the Federal Communications Commission in 47 CFR, Part 95, Subpart D. The Common Council also finds that the Federal Communications Commission has failed to enforce its rules and regulations relating to the operation of citizens band stations. Therefore, it is necessary for the City of New Holstein to enforce the rules and regulations of the Federal Communications Commission in order to protect the health and safety of the citizens of New Holstein. More specifically, the Common Council finds that it is necessary to protect its citizens from unsolicited and unwanted invasions of their homes and interference with their home electronic devices caused by irresponsible citizens band station operators.

(2) Definitions and Abbreviations.

(a) "Antenna" means the radiating system (for transmitting, receiving, or both) and the structure holding it up (tower, pole, or mast) and everything else attached to the radiating system and the structure.

(b) "CB" means citizens band.

(c) "Citizens band radio service" or "CB radio service" means private, two-way short distance voice communications service for personal or business activities or for voice paging.

(d) "Citizens band station" or "CB station" means a radio station transmitting in the CB radio service.

(e) "Citizens band transmitter" or "CB transmitter" means:

1. An apparatus that converts electrical energy received from a source into radio frequency energy capable of being radiated; and

2. An apparatus authorized by the FCC, pursuant to an application filed after September 9, 1976, for use in the operation of a CB station.

(f) "CFR" means Code of Federal Regulations.

(g) "FCC" means Federal Communications Commission.

(h) "Radio frequency interference" means radio frequency energy which:

1. Is radiated from a CB station; and

2. Interferes with the operation of electronic devices located off the premises of the CB station.

(3) Channels and Frequencies. No person may operate a CB radio station on any channel or at any frequency other than the channels and frequencies authorized by 47 CFR 95.407 which is adopted herein by reference.

(4) Antennas.

(a) Antennas In Fixed Locations. Antennas installed at fixed locations (whether receiving, transmitting, or both) must comply with either of the following:

1. The highest point must not be more than 20 feet higher than the highest point of the building or tree on which it is mounted; or

2. The highest point must not be more than 60 feet above the ground.

(b) Portable Antennas. Antennas mounted on hand-held portable units need not comply with the limitations imposed upon antennas installed at fixed locations.

(5) FCC Approved Transmitters. No person may use a CB transmitter unless that transmitter has a FCC type-accept transmitter with a type-acceptance label placed on it by the manufacturer. No person may make internal modifications to a type-accepted CB transmitter. No person shall use a CB transmitter

type-accepted pursuant to an application filed with the Federal Communications Commission prior to September 10, 1976. No person may sell a CB transmitter type-accepted pursuant to such application.

(6) Transmitter Power Output. No person shall use a CB station transmitter with a power output exceeding either of the following values:

- (a) AM (A3) -- 4 watts (carrier power)
- (b) SSB -- 12 watts (peak envelope power)

(7) Amplifiers Prohibited. No person may attach the following power amplifiers to a type-accepted CB transmitter:

- (a) An external radio frequency power amplifier (sometimes called linears or linear amplifiers); or
- (b) Any other device which, when used with a radio transmitter as a signal source, is capable of amplifying the signal. It shall be presumed that a CB operator used a linear or other external radio frequency power amplifier if: 1. A linear or other external radio frequency power amplifier is found in the operator's possession or on the premises from which the CB radio station transmits. 2. There is evidence that the CB station was operated with more power than permitted by subsection (6) of this section.

(8) Responsibility for Communications. The occupants of the premises upon which a CB station is located shall be responsible for all CB communications made from the CB station and for all CB equipment kept on the premises.

(9) Prohibited Communications. CB station operators shall transmit two-way plain language communications without codes or coded messages. Operating signals such as "ten codes" are not considered codes or coded messages. A CB station operator may transmit two-way plain language communications only to other CB stations, to units of the operator's CB station or to authorized government stations on CB frequencies about:

- (a) Personal or business activities of the operator or members of the operator's immediate family living in the operator's household.
- (b) Emergencies.
- (c) Traveler assistance.

(d) Civil defense activities in connection with official tasks or drills conducted by, or actual emergencies announce by, the civil defense agency with authority over the area in which the CB station is located.

(e) No person shall transmit one-way communications except for:

1. Emergency communications
2. Traveler assistance
3. Brief tests (radio checks)
4. Voice paging.

(f) No person may use a CB station:

- (1) For any activity which is against federal, state, or local law
- (2) To transmit obscene, indecent or profane words, language, or meanings
- (3) To intentionally interfere with the communications of another CB station
- (4) To advertise or solicit the sale of any goods or services
- (5) To transmit music, whistling, sound effects or any material to amuse or to entertain.
- (6) To transmit any sound effect solely to attract attention
- (7) To transmit the word "MAYDAY" or any other international distress signal, except when the CB station is located in a vehicle, the occupants of which are threatened by grave and imminent danger and in need of immediate assistance.
- (8) To communicate with, or to attempt to communicate with, any CB station more than 155.3 miles away (250 kilometers).
- (9) To advertise a political candidate or political candidate or political campaign
- (10) To transmit a false or deceptive communication
- (11) Transmit communications for live or delayed rebroadcast on a radio or television broadcast station

(10) Length of Communications. No person may operate a CB station which communicates with another CB station for more than five continuous minutes. No person may at the end of a conversation, transmit again for a least one minute.

(11) Emergency Communications. Every CB station operator shall, at all times and on all channels, give priority to emergency communications.

(12) Remote Control Prohibited. No person may operate a CB station transmitter by radio remote control. In this section, "remote control" means the operation of a CB transmitter from any place other than the premises on which the CB transmitter is located.

(13) Connection To Telephone Prohibited. No person shall connect to the CB station transmitter to a telephone, except as permitted by 47 CFR Part 95.420.

(14) Causing Interference Prohibited. No person shall operate a CB station which causes radio frequency interference with the operation of any electronic device located in the City of New Holstein and off the premises of the CB station. If a City of New Holstein police officer determines that a CB station is causing interference with the electronic equipment kept on premises adjacent to the CB station, the police officer may do any of the following:

(a) Order the operator of the CB station and/or the occupant of the premises on which the CB station is located to cease operation of the CB station during specified hours or times.

(b) Have the CB station equipment inspected by a person certified as technically qualified to perform transmitter maintenance and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services.

(15) Inspection of CB Station Equipment and CB Station Records. A police officer may inspect CB radio station equipment and CB station records whenever the officer has probable cause to believe that a CB station operator, or person in possession of CB radio equipment, has interfered with the operation of electronic equipment of another by means of radio frequency interference. In the event that the operator or person in possession of CB radio equipment refuses to permit inspection of the CB radio equipment or CB station records, the officer may apply to the municipal court for an inspection warrant pursuant to Sections 66.122 and 66.123, Wis. Stats.

(16) Penalties. Any person who violates any of the provisions of this section shall be subject, upon conviction, to a forfeiture of not less than \$500.00 nor more than \$10,000.00 for each violation.(Cr. #356)

8.03 **ABATEMENT OF PUBLIC NUISANCES.**

(1) **ENFORCEMENT.** It shall be the duty of the Chief of Police, Fire Chief, Building Inspector and Health Officer to enforce those provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.

(2) **SUMMARY ABATEMENT.**

(a) **Notice to Owner.** If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the Chief of Police to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such a nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(b) **Abatement by City.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

(3) **ABATEMENT BY COURT ACTION.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Mayor who, upon direction of the Common Council, shall cause an action to abate such nuisance to be commenced in the name of the City in the Circuit Court of Calumet County in accordance with the provisions of Chapter 280, WI Stats.

(4) **OTHER METHODS NOT EXCLUDED.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State of Wisconsin

8.04 **COST OF ABATEMENT.** In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt

from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner such cost shall be assessed against the real estate as a special charge.

8.05 STORING OF DISMANTLED OR INOPERABLE MOTOR VEHICLES.

(Cr. #102)

(1) No dismantled, inoperable, unlicensed, junked or wrecked motor vehicles shall be stored or allowed to remain in the open upon public or private property within the City for longer than 15 days unless in connection with an automotive sale or repair business located in a properly zoned area.

(2) Whenever the Building Inspector shall find any such vehicle placed or stored within the City, he shall cause such vehicle to be removed to the Police parking lot and stored therein for 30 days, at the end of which time the City may dispose of such vehicle unless previously claimed by the owner.

(3) Whenever the Building Inspector shall find any such vehicle placed or stored in the open upon private property within the City, he shall notify the owner of the property upon which such vehicle is placed or stored of the intent of the City to remove such vehicle. If such vehicle is not removed within 15 days after notice, the Building Inspector shall cause such vehicle to be disposed of. The cost involved of administration of this subsection shall be entered as a special charge against the property on the tax roll.

(4) This section shall not apply to an automotive salvage yard or junk yard located in the City.

8.06 PENALTY. Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in section 20.04 of this Code.