

CHAPTER 10

LICENSES AND PERMITS

10.01 **INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.**

(1) **INCORPORATION OF CHAPTER 125, WISCONSIN STATUTES.** The provisions of Chapter 125 of the Wisconsin Statutes, defining and regulating the sale, procurement, dispensing and transfer of beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are incorporated herein by reference together with any subsequent additions, modifications or other changes. A violation of any such provisions shall constitute a violation of this section. (Rec. Ord #575)

(2) **LICENSES, PERMITS, AUTHORIZATION REQUIRED.**

(a) **When Required.** No person except as provided by Section 125.06, WI Stats., shall within the City of New Holstein, serve, sell, manufacture, rectify, brew or engage in any other activity for which this chapter or Ch. 125, WI Stats., requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this chapter.

(b) **Separate License Required for Each Place of Sale.** Except for licensed public warehouses, a license shall be required for each location or premises which is in direct connection or communication to each other where intoxicating liquor or fermented malt beverages are stored, sold or offered for sale.

(3) **CLASSES OF LICENSES.** The following classes of licenses may be issued by the City Clerk under the authority of the City Council, after payment of the license fee and publication costs, which when so issued shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 125, WI Stats. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year. License fees shall be set by resolution of the Common Council.

(a) Class "A" Fermented Malt Beverage Retailer's License.

(b) Class "B" Fermented Malt Beverage Retailer's License.

1. Six Month. A six-month license may not be renewed in the same calendar year.

(c) Temporary Class “B” and “Class B” license (picnic license), issued to organizations enumerated in Section 125.26(6), WI Stats., to sell or serve fermented malt beverages and wine containing not more than 6% alcohol by volume at a picnic, meeting, or gathering.

(d) Wholesaler’s Fermented Malt Beverage License.

(e) Retail “Class A” Intoxicating Liquor License.

(f) Retail "Class B" Intoxicating Liquor License.

1. A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.

2. Licenses valid for 6 months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

(g) “Class C” wine license.

(h) Reserve “Class B” Liquor License.

(i) Operators' License.

1. Operators' licenses may be granted to individuals by the City Council for the purposes of complying with Section 125, WI Stats.

2. The Common Council may issue an operator’s license, which license shall be granted only upon application in writing on forms to be obtained from the City Clerk.

3. Operators' licenses shall be valid for (1 or 2) years and shall expire on June 30 of each year (or on June 30 of the second year after issuance.)

(j) Temporary Operator's License. Temporary operator's licenses may be granted to individuals for the purposes of complying with Ch. 125 of the WI. Stats.

(k) Provisional Operator's License. (Cr. #285)

1. A provisional operator's license may be granted by the City Clerk to any applicant, who has not been previously denied a license under this Chapter, and who has made proper application for an operator's license and if the applicant

has successfully completed a Responsible Beverage Server training course that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course, which may include computer-based training and testing.

2. A provisional operator's license shall be valid for a sixty (60) day period, such time commencing with the date of issuance of the provisional license; this license shall also expire upon the issuance of a regular operator's license as provided in this Chapter or any other ordinance, resolution or motion adopted by the Common Council of the City of New Holstein.
3. A provisional operator's license may be revoked by the City Clerk or Common Council upon discovery of false statements by applicant on his or her application.
4. The form for such license shall be the same as the regular operator's license.
5. A provisional operator's license may not be renewed.

(l) Provisional Retail Licenses.

1. A provisional retail license may be granted by the City Clerk only to a person who has applied for a Class "A" beer, Class "B" beer, "Class A" liquor, "Class B" liquor or "Class C" wine license and authorizes only the activities that the type of retail license applied for authorizes.
2. A provisional retail license expires sixty (60) days after its issuance or when the Class "A", Class "B", "Class A", "Class B" or "Class C" license is issued to the holder, whichever is sooner.
3. A provisional retail license may be revoked by the City Clerk upon discovery of false statements by applicant on their application.
4. No person may hold more than one provisional retail license for each type of license applied for by the holder per year.

(4) LICENSE APPLICATION.

(a) **Form.** Application for a license to sell or deal in alcohol beverages shall be made in writing on the form prescribed by Section 125.04(3) WI Stats. and shall be filed, together with the cost of publication as provided by Section 125.04(3)(g)6 WI Stats. Application for a license to sell or deal in intoxicating liquor or fermented malt

beverages shall be made in writing on forms prescribed by the State Department of Revenue, or governing body, for operators' licenses and filed with the City Clerk. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connecting entrances or not separated by a solid wall. (Rep. and Recr. #635)

(b) **Application to be Notarized.** Applications shall be signed and sworn to by the applicant as provided by Section 887.01, WI Stats.

(c) **Duplicate.** Upon approval, a duplicate copy of each application shall be forwarded by the City Clerk to the State Department of Revenue.

(5) LICENSE RESTRICTIONS.

(a) **Statutory Requirements.** Licenses shall be issued only to persons eligible therefore under Section 125.04 and 125.33(3)(b), WI Stats.

(b) **Location.**

1. No retail "Class A" or "Class B" license shall be issued for premises the main entrance of which is less than 300' from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to the premises covered by the license.
2. This paragraph shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300' thereof by any school building, hospital building or church building.

(c) **Violators of Liquor or Beer Laws or Ordinances.** No retail Class A or B license shall be issued to any person who has been convicted of a violation of any federal or State liquor or fermented malt beverage law or the provisions of this section during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.

(d) **Health and Sanitation Requirements.** No retail Class "B" or "Class B" license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Industry, Labor and Human Relations

pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants and to all such ordinances and regulations adopted by the City.

(e) **License Quota.** The number of persons and places that may be granted a retail "Class B" liquor license under this section is limited as provided in Section 125.51(4), WI Stats.

(f) **Corporations.** No license shall be granted to any corporation when more than 50% of the voting stock interest, legal interest or beneficial interest is held by any person or persons not eligible for a license under this section.

(g) **Age Requirement.** No license hereunder shall be granted to any person under 18 years of age.

(h) **Effect of Revocation of License.** Whenever any license has been revoked, at least 6 months from the time of such revocation shall elapse before another license shall be granted for the same premises and 12 months shall elapse before another license shall be granted to the person whose license was revoked.

(i) **Delinquent Taxes, Assessments, Etc.**

(1) **Premises.** No initial or renewal alcohol beverage license shall be granted for any premises for which taxes, assessments, or other claims for the City of New Holstein are delinquent and unpaid.

(2) **Persons.** No initial or renewal alcohol license shall be granted to any person:

(a) Delinquent in payment of any taxes, assessments, or other claims owed to the City of New Holstein.

(b) Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the City of New Holstein.

(c) Delinquent in payment to the State of Wisconsin of any state taxes owed.

(j) **Issuance for Sales in Dwellings Prohibited.** No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.

(6) **FORM AND EXPIRATION OF LICENSES.** All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided. The City Clerk shall affix his or her affidavit as required by Section 1204, WI Stats.

(7) **TRANSFER OF LICENSES.**

(a) **As to Person.** No license shall be transferable as to licensee except as provided by Section 125.04(2), WI Stats.

(b) **As to Place.** Licenses issued pursuant to this section may be transferred as provided in Section 125.04(12), WI Stats. Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application.

(8) **POSTING AND CARE OF LICENSES.** Every license or permit required under this section shall be framed and posted and at all times displayed as provided in Section 125.04(10), WI Stats. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license.

(9) **REGULATION OF LICENSED PREMISES AND LICENSEES.**

(a) **Gambling and Disorderly Conduct Prohibited.** Each licensed and permitted premises shall at all times be conducted in an orderly manner; and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any such premises.

(b) **Employment of Minors.** No licensee shall employ any person under 18 years of age to serve, sell, dispense or give away any alcohol beverage.

(c) **Sales by Clubs.** No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(d) **Safety and Sanitation Requirements.** Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

(e) **Outdoor Service / Beer Gardens**

(1) **Introduction and Definition.** No holder of a “Class B”, “Class B” and/or “Class C” License may operate under said license in any outdoor area, whether or not said outdoor area was included in a description of the Premises, without first

having obtained the permission of the Common Council subject to the conditions of this section. Approval under this subsection by the Common Council shall result in the outdoor area becoming a part of the description of the Premises, with said outdoor area also being subject to all State and City laws, rule, regulations, and lawful orders governing “Class B”, “Class B” and/or “Class C” Premises. As used in this subsection:

(a) “Outdoor Area” shall mean an area, whether or not enclosed by a roof, which is open to the elements, and which is not constructed for year round use.

(b) “Outdoor Area” shall mean a licensed premise located in an outdoor area.

(2) Application. Application for an outdoor extension of a “Class B”, “Class B” and/or “Class c” License, shall be made to the City Clerk on forms furnished by the City Clerk. The application shall include a map describing the outdoor area sought to be included within the description of the licensed premises. In the event that such map is omitted and the “Class B”, Class B” and/or “Class C” License is granted and issued, said license shall not be deemed to include an outdoor area within the description of the premises.

(3) Requirements. Outdoor premises approved under this section are subject to the following requirements.

(a) Outdoor Premises may be permitted only on properties located in areas zoned Commercial.

(b) Outdoor Premises shall not be located in any actual or required yard area that directly abuts an adjoining property used for residential purposes, unless the following conditions are met:

(i) Provide at least a three foot buffer between the Outdoor Premises and the adjoining lot containing the residential use with a privacy fence per the regulations of Chapter 12 of the Zoning Code.

(c) Lighting of the area must be shielded and not be of intensity or brilliance to create glare which is distracting go adjoining property owners or can become a hazard or danger to vehicular traffic.

(d) Noise from any source that is emitted from the outdoor area and measured at any border of the real property on which the licensed premises is located shall not exceed 85db from 7:00am to 10:00pm and 75 db from 10:00pm until closing.

(e) Three or more noise complaints filed against the owner of Outdoor Premise during a licensed period (July 1st to June 30th), and verified by the City of New Holstein Police Department shall constitute sufficient grounds to revoke the Outdoor Premises Permit granted under this section.

(10) CLOSING HOURS. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:

- (a) If a wholesale license, between 5 p.m. and 6 a.m., except on Saturday when the closing hour shall be 9 p.m.
- (b) If a retail Class "A" fermented malt beverage license, between 12 midnight and 6 a.m.
- (c) If a retail "Class A" intoxicating liquor license, between 9 p.m. and 6 a.m.
- (d) If a retail Class "B" license, between 2 a.m. and 6 a.m., except on Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6:00 a.m. On January 1, premises operating under a Class "B" License or permit, are not required to close. No package, container or bottle sales may be made after 12 midnight.(Rep. & Recr. #331)
- (e) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, and bowling alleys and golf courses, may remain open for the conduct of their regular business but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

(11) REVOCATION AND SUSPENSION OF LICENSES.

(a) **Procedure.** Whenever the holder of any license under this section violates any portion of this section, proceedings for the revocation or suspension of such license may be instituted in the manner under the procedure established by Section 125.12, WI Stats., and the provisions therein relating to granting a new license shall likewise be applicable.

(b) **Quitting Business.** If any licensee shall suspend or cease doing business for a period of ninety (90) consecutive days or more, his Class "A" Retail Liquor License, Class "A" Retail Fermented Malt Beverage License, Class "B" Intoxicating Liquor License or Class "B" Fermented Malt Beverage License shall be subject to revocation.

(c) **Automatic Revocation.** Any license issued under the provisions of this section shall stand revoked without further proceedings upon the conviction of a licensee or

employee, agent or representative thereof for a second offense under this section or for a violation of Chs. 125 or 139, WI Stats., or any other State of Federal liquor or fermented malt beverage laws.

(d) **Effect of Revocation.** Whenever any license has been revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises and twelve (12) months shall elapse before another license shall be granted to the person whose license was revoked.

(12) NONRENEWAL OF LICENSES. Before renewal of any license issued under this section is refused, the licensee shall be given written notice of any charges or violations or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the City Council.

(13) VIOLATIONS BY AGENTS AND EMPLOYEES. A violation of this section by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(14) TIME SYSTEM FOR BARTENDERS LICENSES (Cr. #401)

(1) The City of New Holstein does use and rely upon the State of Wisconsin TIME System for determination of past records of applicants for bartender licenses and Class "A" and Class "B" issuance of licenses.

(2) The City of New Holstein does ordain that the City of New Holstein and City Police Department be permitted to use the facilities available through the State of Wisconsin and specifically its TIME System or any system it may incorporate in the future for the provision of record checks for alcohol related offenses or criminal records of individuals who may be applicants for Class "A" or Class "B" licenses and/or bartending licenses within the corporate limits of the City of New Holstein and does authorize the New Police Department to use the systems available with the State of Wisconsin for obtaining such information regarding applicants.

(15) HEARINGS FOR SUSPENSION, REVOCATION AND NONRENEWAL OF LICENSES. (Cr. #526)

1. INTENT. No license granted hereunder shall be suspended or revoked by the Common Council without first affording the license holder an opportunity for a public evidentiary hearing.
2. HEARING FORM. The City Council for the City of New Holstein shall conduct any hearing or pre-hearing as described in this subsection.

3. GROUND. Licenses may be the subject of hearing as described in this provision for any violation of Chapter 125, Wisconsin Statutes, or of the City of New Holstein Code of Ordinances, including but not limited to, the following:
- (a) The running of a disorderly house as prescribed by SS. 125.12, Stats.
 - (b) Licensee or operator directly interfering with police officers or otherwise violating the law in a manner substantially related to the operation of the licensed facility.
 - (c) Any violation of any health code provision of this Municipal Code dealing with public health, welfare and safety.
 - (d) Any building, electrical, or plumbing code violation of this Municipal Code dealing with public health, welfare and safety.
 - (e) Any liquor-related violation involving juveniles as prescribed by Ch. 125, Stats., (specifically §125.07, Stats.)
 - (f) Any violation of general statutory restrictions pertaining to licensed premises and operations as prescribed by Ch. 125, Stats.
 - (g) Any failure to maintain the qualifications required of all license holders as detailed by SS. 25.04, Stats., and as modified by the conditions of this Code or as a condition of granting or renewing a license.
 - (h) Any violation of any restriction, stipulation, or agreement entered into with the City of New Holstein or signed in consideration of a license issued by the City under this chapter or Ch. 125, Stats.
 - (i) Whether the licensee and/or the licensee's agents, employees and assigns have accumulated 12 or more demerit points within a 12 month period between July 1 and June 30 of the following year consisting of a 12 month period pursuant to the schedule attached:

POINT SCHEDULE

Ordinance and/or Statute Number	Type of Violation	Points
7.03(2)	Disorderly house and requiring police closure	13
Ch. 961, Stats.	Controlled substance	13
SS. 139.08(4), Stats.	Refusing police entry	13
7.03(2)	Disorderly house	6
10.01(10)	Open after hours	4
10.015	Underage person on licensed premises	4
10.01	Serving an underage person	6
10.01	Serving an intoxicated person	4
10.01	No licensed bartender	6
	Other nonenumerated violations of Ch. 10, NHCO, or Ch. 125, Stats.	3

- (j) Upon any hearing for suspension, revocation and/or non-renewal of a license under this Chapter, the City Council, as the governing body and body before which a public evidentiary hearing is conducted, after hearing all testimony and determining that either a suspension, revocation or non-renewal of a license may be justified, shall have the option to provide a warning to the license holder, suspend, non-renew or revoke the license but stay the suspension, revocation or non-renewal for a period of up to six months with the provision that there shall be no violations of this code and no demerit points issued pursuant to this code during the period during which the council's action is stayed. In the event there are no violations nor any demerit points assessed during this period, the suspension, revocation and/or non-renewal shall be voided.

10.015 NON-ALCOHOLIC EVENTS: UNDERAGED PERSONS ON LICENSED PREMISES. An underaged person who is not accompanied by a parent, legal guardian, or spouse who has attained the legal drinking age may enter and remain on a Class "B", Fermented Malt Beverage, of Class "B", Combination Intoxicating Liquor and Fermented Malt Beverage, licensed premises if:

- (a) No alcohol beverages including non-alcoholic beer, wine coolers, and other similar imitation type beverages, are consumed, sold, furnished, given away on, or carried into the licensed premises during the hours specified in a prior written notification to the Chief of Police or designee;
- (b) During the period of any non-alcohol event, all alcohol beverages, not stored in a locked portion of the licensed premises, shall be stored in a secure place out of the sight

and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or agent or the licensed operator in the employ of the licensee or agent. All beer taps and automatic dispensers of alcohol beverages shall be disconnected, disassembled, or made inoperable.

(c) The licensee or agent has notified the Chief of Police or designee at least seven (7) calendar days in advance of any date on which underage persons will be present on the licensed premises. A separate notice shall be made for each date a non-alcohol event will be held. The notice shall be on a form prescribed by the Chief of Police and shall include the date and time during which the event is to occur. All notices shall be filed with the Chief or designee during normal City business hours (weekdays, except holidays, between 8:00 A.M. and 4:30 P.M.). After notice of the event has been given, the licensee shall notify the Chief of Police or designee in writing if the event is to be canceled.

(d) During the period of any non-alcohol event, a notice card issued by the Chief of Police or designee shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold, furnished, or given away on, or carried into the licensed premises during the event.

(e) Following the period of any non-alcohol event, the licensed premises may not reopen until an inspection by a police officer has been made to make sure no under age persons remain on the premises.

(f) Closing hours established by appropriate State Statutes for such licensed premises shall be observed.

This Section shall not apply to those portions of licensed premises which contain bowling alleys where the possession, sale, and consumption of alcohol beverages is restricted to the bowling alley area, where separate ingress/egress and restroom facilities are provided within the bowling alley area for the exclusive use of those patrons and where all alcohol beverages normally available for sale not located within the bowling alley area are under the direct and immediate supervision of the licensee or agent or a licensed operator in the employ of the license holder. (Cr. # 282)

10.02 **(Ord. #635)**

10.03 **DIRECT SELLERS.**

(1) **Registration Required.** It shall be unlawful for any direct seller to engage in direct sales within the City of New Holstein without being registered for that purpose as provided herein.

(2) **Definitions.**

(a) "Direct Seller" means any individual who, for him/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(b)"Permanent merchant" means a direct seller who, for at least one year prior to the consideration of the application of this ordinance to said merchant, (a) has continuously operated an established place of business in this city, or (b) has continuously resided in this city and now does business from his/her residence.

(c) "Goods" shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

(d) "Charitable organization" shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(e) "Clerk" shall mean the City Clerk.

(3) **Exemptions.** The following shall be exempt from all provisions of this section.

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

(b) Any person selling goods at wholesale to dealers in such goods;

(c) Any person selling agricultural products which such person has grown;

(d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;

(e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by said person;

(f) Any person who has had, or one who represents a company which has had a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;

(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;

(h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;

(i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Clerk proof that such charitable organization is registered under Sec. 440.41, WI Stats. Any charitable organization not registered under Sec. 440.41, WI Stats., or which is exempt from that statute's registration requirements, shall be required to register under this ordinance;

(j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk that such person is a transient merchant; provided that there is submitted to the Clerk, proof that such person has leased for at least one year, or purchased the premises from which he/she is conducting business, or proof that such person had conducted such business in this City for at least one year prior to the date complaint was made.

(4) **Registration.**

(a) Applicants for registration must complete and return to the Clerk a registration form furnished by the Clerk which shall require the following information:

(1) Name, permanent address and telephone number, and temporary address, if any;

(2) Age, height, weight, color of hair and eyes;

(3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;

(4) Temporary address and telephone number from which business will be conducted, if any;

(5) Nature of business to be conducted and a brief description of the goods offered, and any services offered;

(6) Proposed method of delivery of goods, if applicable;

(7) Make, model and license number of any vehicle to be used by applicant in the conduct of her/his business;

(8) Place where applicant can be contacted for at least seven days after leaving this city;

(9) Last cities, villages, towns, not to exceed three, where applicant conducted similar business;

(10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years; the nature of the offense and the place of conviction.

(b) Applicants shall present to the Clerk for examination:

(1) A driver's license or some other proof of identity as may be reasonably required;

(2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;

(3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

(c) At the time the registration is returned, a fee as set by resolution of the Common Council shall be paid to the Clerk to cover the cost of processing the said registration. (Rep. and Recr. #635)

The applicant shall sign a statement appointing the Clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

Upon payment of said fee and signing of said statement, the Clerk shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in Section 5 (b) below.

(5) **Investigation.**

(a) Upon receipt of each application, the Clerk may refer it immediately to the Chief of Police who may make and complete an investigation of the statements made in such registration.

(b) The Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages, and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 4 (b) above.

(6) **Appeal.** Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Common Council or, if none has been adopted, under the provisions of Section 68.07 through 68.16, WI Stats.

(7) **Regulation of Direct Sellers.**

(a) **Prohibited Practices.**

(1) A direct seller shall be prohibited from: Calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m., except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant, or other person having authority over such premises.

(2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of the goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

(3) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(4) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred foot radius of the source.

(5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) **Disclosure Requirements.**

(1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.

(2) If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedure as set forth in Sec. 423.203, WI Stats.; the seller shall give the buyer two copies of a typed or printed notice of the fact. Such notice shall conform to the requirements of Secs. 423.203 (1)(a)(b) and (c), (2) and (3), WI Stats.

(3) If the direct seller takes a sales order for the later delivery of goods, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery of performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

(8) **Records.** The Chief of Police shall report to the Clerk all convictions for violation of its ordinance and the Clerk shall note any such violation on the record of the registrant convicted.

(9) **Revocation of Registration.**

(a) Registration may be revoked by the Common Council after notice and hearing, if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(b) Written notice of the hearing shall be served personally on the registrant at least 72

hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

- (10) **Penalty.** Any person convicted of violating any provisions of this ordinance shall forfeit not less than \$10.00 nor more than \$100.00 for each violation, plus costs of prosecution. Each violation shall constitute a separate offense.

10.04 **MOBILE HOMES AND MOBILE HOME PARKS.** (Rep. & Recr. #108)

(1) DEFINITIONS. As used in this section:

(a) "Licensee" means any person licensed to operate and maintain a mobile home park under this section.

(b) "License" means a written license issued by the licensing authority allowing a person to operate and maintain a mobile home park under the provisions of this section and any regulations issued hereunder.

(c) "Licensing Authority" means the City of New Holstein.

(d) "City" means City of New Holstein.

(e) "Mobile Home" is that which is not less than 35 feet in length and was originally constructed, designed to be transported by any motor vehicle upon public highway and designed, equipped and used primarily for a single-family dwelling unit suitable for year-round occupancy and which is equipped with complete bath and toilet facilities, all furniture, cooking and heating appliances.

(f) "Mobile Home Lot" means a parcel of land within a mobile home park for the placement of a single mobile home unit and the exclusive use of its occupants.

(g) "Mobile Home Park" means a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use.

(h) "Mobile Home Stand" means that part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

(i) "Person" means any individual, firm, trust, partnership, public or private association or corporation.

(2) PERMIT.

(a) **Required.** No person shall construct, alter or extend any mobile home park within the City unless he holds a valid permit issued by the licensing authority in the name of such person for the specific construction, alteration or extension proposed.

(b) **Applications.** All applications for permits shall be made to the City Clerk and shall contain the following:

1. The name and address of applicant.
2. Ownership interest of the applicant in the mobile home park.
3. Location and legal description of the mobile home park.
4. Complete engineering plans and specifications of the proposed mobile home park, all to be in accordance with the provisions of Chapter 236, WI Stats., governing the platting of lands. All ordinances of the City governing the regulations of the subdivision of lands shall apply in the same manner to mobile home parks.

(c) **Permit Fee.** All applications shall be accompanied by the deposit as set by resolution of the Common Council. (Rep. and Recr. #635)

(3) LICENSE.

(a) **Required.** No person shall operate any mobile home park within the City unless he holds a valid license issued annually by the City in the name of such person for the specific mobile home park.

(b) **Application.** All applications for licenses shall be made to the City Clerk, who shall issue a license upon compliance by the applicant with provisions of this section and regulations issued hereunder and of other applicable legal requirements. An annual license fee, as set by resolution of the Common Council, shall be paid by the licensee for each 50 spaces or fraction thereof within each mobile home park. Any license granted under the provisions of this section shall not be transferable without the prior written consent and approval of the licensing authority. (Rep. and Recr. #635)

(c) **Renewal.** Applications for renewals of licenses shall be made in writing by the holders of the licenses, shall be accompanied by the deposit of the annual license fee and shall contain any change in the information submitted since the original license was issued or the latest renewal granted.

(d) **Revocation.** The Council may revoke or suspend any license or permit issued under this section, in accordance with sec. 66.058(2), WI Stats.

(5) MONTHLY PARKING FEE.

(a) **Determination.** The monthly parking fee for each qualified mobile home shall be determined in accordance with sec. 66.058, WI Stats.

(b) **Collection.** The licensee of each mobile home park shall be responsible for the collection and remittance to the licensing authority of all monthly parking fees due hereunder.

(c) **Addition.** If mobile homes are added to the park after the original application for license hereunder, the licensee shall notify the licensing authority within 5 days after the arrival of said additional mobile homes within the licensed premises.

(d) **Liability.** The licensee of a park shall be liable for the monthly parking permit fee for any mobile home occupying space therein as well as the owner or occupant thereof.

(6) ENVIRONMENTAL AREA, OPEN SPACE AND ACCESS REQUIREMENTS.

(a) **General Requirements.** Each mobile home park shall consist of not less than 50 mobile home lots.

(b) **Area and Width.** Each mobile home lot shall be clearly defined and shall consist of a minimum area of 5,000 square feet and a width of not less than 50 feet.

(c) **Residential Use.** No part of any mobile home park shall be used for non-residential purposes.

(d) **Separation.** Mobile homes shall be separated from each other by at least 15 feet; provided that mobile homes placed end-to-end may have a clearance of 10 feet where opposing rear walls are staggered.

(e) **Garages.** The licensee shall provide each mobile home lot with a garage type building, said building to have a minimum size of 12 feet in width and 24 feet in length and to be used as a garage for a motor vehicle and for other tenant storage. Double garage buildings to service abutting mobile home lots and for the serving of adjacent mobile home lots may be constructed for the purposes as herein provided for, said double garage building to have a minimum size of 24 feet in width and 24 feet in length. All garage type buildings shall be set back from any abutting street a distance of not less than 25 feet and shall be separated from mobile home units by at least 8 feet.

(f) **Other Buildings Prohibited.** All buildings or structures, other than the garage type building provided for in paragraph (e) and other general service or recreational type buildings constructed for use by the mobile home park occupants, which buildings may only be located in areas other than on a mobile home lot, shall be prohibited.

(g) **Parking and Storage of Boats and Vehicles.** The parking or storage of boats, campers, travel trailers and other like equipment or vehicles in any area of a mobile home park, other than in those areas provided for and specifically designated as such storage areas by the licensee, is prohibited.

(h) **Required Recreation Areas.**

1. In all mobile home parks accommodating or designed to accommodate 50 or more mobile homes, there shall be one or more recreation areas which shall be easily accessible to all park residents.
2. The size of such recreation areas shall be based upon a minimum of 70 square feet for each lot. No outdoor recreation area shall contain less than 3,500 square feet.
3. Recreation areas shall be so located as to be free of traffic hazards.

(i) **Required Setbacks and Buffer Strips.**

1. All mobile homes shall be located at least 25 feet from any mobile home park property boundary line abutting upon a public street or highway and at least 15 feet from other mobile home park property boundary lines.
2. There shall be a minimum distance of 15 feet between an individual mobile home and adjoining pavement of a mobile home park street, or common parking area or other common areas.

(j) **Park Street System.** The owner of every mobile home park shall provide areas for adequate City streets which area shall provide safe and convenient vehicular access from abutting public streets to each mobile home lot. Access streets to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. Areas used as public streets shall have a minimum width of 30 feet of traveled surface, said streets or roads to have a minimum of 6 inches of compacted base and a minimum of 2 inches of bituminous concrete paving compacted.

(k) **Driveways.** Driveways designed to service each single mobile home lot and connect the garage building with the adjoining street shall be a minimum of 8 feet in width and if used as walkway shall have a minimum width of 10 feet. All driveways

shall have a minimum of 6 inches of compacted base and a minimum of 2 inches of bituminous concrete paving compacted the same as required for streets.

(1) **Mobile Home Stands.** The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home thereby securing the superstructure against uplift, sliding, rotation and overturning.

1. The mobile home stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure. The mobile home stand shall consist of not less than 2 concrete runners being a minimum of 24 inches in width and 60 feet in length and 4 inches in depth, all situated on an appropriate base.

2. The mobile home stand shall be provided with anchors and tie-downs such as cast-in-place concrete, "dead men", eyelets embedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home.

3. Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and each shall be able to sustain a minimum tensile strength of 2,800 pounds.

4. The licensee of each mobile home park shall require that the base area of each mobile home shall be covered by a skirting material of uniform type and construction.

(7) UTILITIES.

(a) **Underground Installations; Outside Antennas.** All utilities, including electrical, telephone, fuel, TV antenna cables, and sewer and water mains, supplying services to mobile home lots shall be installed underground and shall be installed and maintained so as to provide convenient and safe connections to mobile homes all in accordance with applicable codes and regulations governing such systems. All outside antennas of every kind and description on an individual mobile home shall be prohibited. In the interest of maintaining the appearance of mobile home parks in a manner free from fuel containers located outside of mobile homes and in the interests of safety, fuel tanks of every kind and description, located either above ground level or below ground surface level, on a mobile home lot shall be prohibited.

(b) **Installation of Required.** The owner of every mobile home park shall install and maintain at his cost all utilities, including electrical, telephone, fuel, TV antenna cables and sewer and water mains, all in accordance with applicable codes and regulations governing such systems, provided, however, that a minimum electrical service shall be 100 amps.

(c) **Fire Protection.** The owner of every mobile home park shall install and maintain at his cost water lines and hydrants for fire protection; said fire hydrants shall be located within 300 feet of any mobile home unit.

(8) ILLUMINATION.

All mobile home parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at right:

(a) All parts of the park street system: 0.6 foot-candle, with a minimum of 0.1 footcandle.

(b) Potentially hazardous locations, such as major street intersections and steps or stepped ramps: individually illuminated, with a minimum of 0.3 footcandle.

(9) REFUSE HANDLING.

(a) The storage of refuse in a mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution. All refuse shall be stored in fly tight, rodent proof containers. All refuse containers for whatever purpose used shall be stored and kept at all times in the garage type building as provided for under paragraph (6) (e) hereof.

(b) The City shall provide mobile home parks with the service of the collection and disposal of refuse at the cost of the City, which refuse shall be collected under the same regulations as provided for by the City in non-mobile home park areas.

(10) MISCELLANEOUS REQUIREMENTS.

(a) **Snowplowing.** The City shall provide a mobile home park with the service of the snow plowing of streets at the cost of the City, which streets shall be plowed under the same regulations as provided for by the City in non-mobile home park areas.

(b) **Fire Prevention.** The mobile home park shall be subject to the rules and regulations of the City fire prevention authority. Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

(c) **Outdoor Cooking.** No cooking shelters, barbecue pits, fireplaces, wood burning stoves and incinerators shall be located in a mobile home park, provided, however, that portable outdoor cooking units may be used in a way as to minimize fire hazards.

(d) **Control of Weeds.** The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

(e) **Selling Lots.** The owner or licensee of a mobile home park may not sell or dispose of individual mobile home lots within a mobile home park.

(f) **Connections Required.** A mobile home shall not be occupied for dwelling purposes unless it is properly placed on a mobile home stand and connected to a source of fuel supply, water, sewerage and electrical utilities.

10.04.01 **RECREATIONAL VEHICLE/CAMPERS.**

(1) No person shall inhabit a recreational vehicle or camper within the City for a period in excess of fifteen (15) days.

(2) **PENALTY.** Any person convicted of violating any provision of this ordinance shall pay a maximum penalty of twenty-five (\$25.00) per day plus costs of prosecution. Each violation shall constitute a separate offense.(Cr. #350)

10.05 **DOGS AND DOG LICENSES.**

(1) **License Required.** Every person residing in the City who owns a dog which is more than 5 months of age on January 1 of any year, 5 months of age within the license year, shall annually, or on or before the date the dog becomes 5 months of age, pay the dog license fee and obtain a license.(amend Ord. 562)

(2) **Definitions.** "Owner" means every person who owns, harbors or keeps a dog.

(3) **Fees.** Such owner shall pay the City Treasurer annually the fee as set by resolution of the Common Council for each neutered male dog or spayed female dog upon presentation of evidence that the dog is neutered or spayed, and for an unneutered male dog or unsplayed female dog, or one-half of the fee if the dog became 5 months of age after July 1 of the license year. The collecting official shall assist and collect a late fee as set by resolution of the Common Council from every owner of a dog 5 months of age or over, if the owner failed to obtain a license prior to April 1 of each year, or within 30 days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. All late fees received or collected shall be paid into

the local treasury as revenue.(Rep. and Recr. # 314), (Rep. and Recr. #548), (Rep. and Recr. #635)

(4) Issuance of License. Upon payment to the City Treasurer of the above named sum, the Treasurer shall issue to such person a license to keep such dog, which license shall not be issued for a lesser period than one year and such person shall upon presenting or procuring the license aforesaid, place upon the dog a collar with a tag, such tag to be furnished to him by the City Treasurer.

a. Licenses. Upon payment of the required dog license fee and, except as provided in SS 95.21 (9) (d), upon presentation of evidence that the dog is currently immunized against rabies, the collecting official shall complete and issue to the owner a license and tag for the dog bearing a serial number.

b. Tags to be attached. The owner shall securely attach the tag to a collar and a collar with the tag attached shall be kept on the dog for which the license is issued at all times but this requirement does not apply to a dog during competition or training, to a dog securely confined indoors, to a dog while hunting, to a dog securely confined to a fenced area.

(5) Untagged Dogs. A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

(6) Dogs Running at Large. No unlicensed dog shall run at large, and any person may seize or impound any such unlicensed dog found at large, and the fact that a dog is without a proper license tag attached to its collar shall be presumptive evidence that it is unlicensed. The words untagged mean a dog not licensed pursuant to the provisions of Chapter 174, WI Stats. It shall be unlawful to own, harbor, or keep any dog which:

(a) Habitually pursues any vehicle upon any public street, alley, or highway in said City.

(b) Assaults or attacks any person.

(c) Runs at large within the limits of the City. A dog shall be deemed to be running at large when it is on any of the public streets, alleys, parks, or other public grounds of said City, or any other premises in said City other than the premises of its owner, unless within the immediate presence and control of the owner, his servant, agent, or a member of his family of suitable age and discretion.

(d) Habitually barks or howls to the annoyance of any two or more other persons.

- (e) No person shall permit any cat or dog owned by him/her to defecate upon any property not owned by such person without the consent of such other property owner or upon any public property, without immediately removing the feces left by the cat or dog.

(7) Dogs Not Allowed in City Parks Except as Provided in Wisconsin Statutes 174.056. It shall be unlawful for any owner to walk, run, or otherwise allow any dog in the City Parks in the City of New Holstein, unless the dog is leashed and on walk paths, parking lots or entrance roads, specifically these parks: (Created #220)(Rep. & Rec. #391)

- (a) Civic Park
- (b) Funke Memorial Athletic Field
- (c) Kiwanis Community Park
- (d) Lions Community Park
- (e) Milwaukee Drive & Illinois Avenue Park
- (f) Optimist Park (Ord. #391)
- (g) Tower Park

(8) Maximum Number of Dogs and Cats. (Repealed & Created #459) The Maximum number of dogs and cats shall be as follows:

(a) Single Family Residential Use. No person shall, either individually, or in combination with one or more other persons, keep, possess, harbor or routinely allow the presence of more than 3 dogs over 5 months of age, or 3 cats over 5 months of age, or any combination of such dogs and cats exceeding 4, within the residential unit in which the person resides or upon the lot or portion of a lot upon which such residential unit is located.

(b) Multi-Family Residential Use and All Other Uses. No person shall, either individually, or in combination with one or more other persons, keep, possess, harbor or routinely allow the presence of more than 2 dogs over 5 months of age, or 2 cats over 5 months of age, or any combination of such dogs and cats exceeding 3, upon the parcel in which the person resides or upon the lot or portion of a lot upon which such use is located.

(c) In determining the limitations on the numbers of dogs and cats provided for in paragraphs (a) and (b) above any specific dog or cat which was owned and/or licensed on or before the effective date of this ordinance, will be grand-fathered in as follows: Any owner having more than 3 but less than 6 dogs or cats on or before effective date of this ordinance will comply with this ordinance as the excess dog or cat dies, is given away or sold. Any owner having 6 or more dogs or cats shall have 6 months to comply with said ordinance.

(9) Kennel. (Repealed & Created #459) Kennel shall mean any individual or in combination with one or more other persons, that keep, possess, harbor or routinely allow the presence of 4 or more dogs over 5 months of age, or 4 or more cats over 5 months of age, or 6 or more, of any combination of such dogs and cats. Kennels shall not be permitted in areas zoned residential or on parcels with residential use. A Conditional Use Permit shall be required for all other areas. Those in violation at the time of adoption of this ordinance shall have 6 months to comply with said ordinance.

(10) Penalties. (Repealed & Created #459) If the owner of a dog negligently or otherwise permits the dog to run at large or be untagged, the owner shall forfeit not less than \$25.00 or more than \$100.00 for the first offense and not less than \$50.00 nor more than \$200.00 for subsequent offences.

(11) State Regulations. (Repealed & Created #459) The provisions of Chapter 174, WI Stats., pertaining to dogs are made a part of this section by reference thereto.

10.06 **BED AND BREAKFAST ESTABLISHMENTS.**

(1) No person shall operate or carry on a Bed and Breakfast Establishment, as defined in Section 12.05, without obtaining a permit from the City Council.

(2) All bed and breakfast establishments and licensees shall be subject to and comply with Wisconsin Administrative Code HSS 197, Sections HSS 197.01 through HSS 197.11, excepting HSS 197.03(3), which are hereby adopted by reference and incorporated herein. Each bed and breakfast establishment shall provide a register and require all guests to register their true names and addresses before being assigned sleeping quarters. The register shall be kept intact and available for inspection by the building Inspector for at least one year.(Cr. #371)

10.07 **CIGARETTES.** The annual fee for a license to sell or dispose of cigarettes as provided in Section 134.65, WI Stats., shall be set by resolution of the Common Council. (Rep. and Recr. #635)

10.08 **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.