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## CHAPTER XXI.

### ORDERLY CONDUCT

SECTION 21.00. Obstructing Streets and Sidewalks Prohibited. No person shall stand, sit, loaf, or loiter or engage in any sport or exercise on any public street, sidewalk, bridge, or public ground within the Town in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall, or meeting place.

SECTION 21.10. Unlawful Assembly Prohibited. No person shall participate in an unlawful assembly. An "unlawful assembly" is an assembly which consists of three or more persons and which causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed.

SECTION 21.20. Disorderly Conduct Prohibited. No person shall within the Town:

- (a) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or other 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.
- (c) On any public or private road, street, or highway, operate a motor vehicle in such a manner as to cause or provoke a disturbance to the public order or cause an undue disturbance or annoyance to any person or persons.

SECTION 21.30. Loitering Prohibited.

21.31. Loitering Prohibited. No person shall loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a constable or peace officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a constable or peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this

subsection if the constable or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the constable or peace officer at the time, would have dispelled the alarm.

21.32. Obstruction of Highway by Loitering. No person shall obstruct any street, bridge, sidewalk, or crossing by lounging or loitering in or upon the same after being requested to move on by any peace officer.

21.33. Obstruction of Traffic by Loitering. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings, or bridges or in any other public places within the Town in such manner as to prevent, interfere with or obstruct the ordinary free use of said public streets, sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.

21.34. Loitering after being Requested to Move. No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks, or adjacent doorways or entrances, street crossings, or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any constable, peace officer, or by any person in authority at such places.

21.35. Loitering in Public Places. No person shall loiter, lounge, or loaf in or about any hall, restaurant, store, public sidewalk, public parking lot, or other place of assembly or public use after being requested to move by any constable or peace officer. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.

21.36. Curfew.

(1) No minor person under the age of 18 years shall loiter, idle, wander, play, or otherwise be upon the streets, alleys, highways, roads, sidewalks, parks, playgrounds, public grounds, or vacant lots either on foot or in or on a vehicle within the Town between 10:30 p.m. and 5:00 a.m., Sunday through Thursday, and between 12:00 midnight and 5:00 a.m. on Friday and Saturday and the day preceding legal holidays, unless such minor is accompanied by either of his or her parents or his or her guardian, or other person having the legal custody of such minor. This prohibition does not apply to minors who are returning home from functions authorized by schools or churches or other civic organizations, provided they take the shortest and most direct route, and as fast as reasonably possible under the circumstances. This section does not apply to minors whose employment makes it necessary to be upon such public streets, alleys, highways, roads, sidewalks, parks, playgrounds, or other public places in the time restricted, but in such event, such minors must carry a pass issued by the Town Constable and they must use the shortest and most direct route going to the place of employment from the minor's home and returning home from said place of employment.

(2) No parent, guardian, or other person having legal custody of any minor person under the age of 18 years shall knowingly permit such minor to loiter, idle, wander, play, or otherwise be either on foot or in or on a vehicle of any nature upon the streets, alleys,

highways, roads, sidewalks, parks, playgrounds, public grounds, or vacant lots between the hours and dates specified in subparagraph (1) unless accompanied by a parent, guardian, or other adult person having the legal custody of such minor, unless such minor is returning home from functions authorized by schools, churches, or otherwise recognized civic organizations or going to or returning home from work as specified in subparagraph (1). Any parent, guardian, or other person having legal custody of any such minor child who shall violate the provisions of this section shall be subject to a penalty as provided in Section 21.70 of this Ordinance.

(3) Any minor under the age of 18 years who shall violate any of the provisions of this section shall forfeit not less than \$50.00 nor more than \$500.00.

SECTION 21.40. Destruction of Property Prohibited. No person shall willfully injure or intentionally deface, destroy, or unlawfully remove, take, or meddle with any property of any kind or nature belonging to the Town or its departments, or to any private person without the consent of the owner or proper authority.

SECTION 21.50. False Alarms Prohibited. No person shall give or send or cause to be given or sent in any manner any alarm of fire or other emergency which he knows to be false.

SECTION 21.60. Obedience to Town Officers, Officials and Employees. No person shall, within the Town:

(a) Resist or in any way interfere with any constable of the Town while such constable is doing any act in his official capacity and with lawful authority, or shall refuse to assist the constable in carrying out his duties when so requested by the constable.

(b) Resist, obstruct, or in any way interfere with any duly elected or appointed official of the Town or any employee of the Town while such official or employee is doing any act in his official capacity or in his capacity as an employee and with lawful authority.

SECTION 21.70. Discharging Firearms Restricted. No person, except a constable or police officer, shall fire or discharge any firearm or air gun of any description within platted subdivisions or other residentially zoned areas or within 100 feet of the residence of another person.

SECTION 21.80. Shooting of Arrows, and Throwing of Stones and Other Missiles Prohibited. No person shall shoot or throw any object, arrow, stone, or other missile or projectile by bow, by hand, or by any other means within platted subdivisions or other residentially zoned areas, or within 100 feet of the residence of another person.

SECTION 21.90. Possession of Tobacco and Vapor Products by Minors.

21.91 Statement of Purpose.

- (A) The purpose of this ordinance is to protect the public health, safety and welfare of the property and persons in the Town by prohibiting persons under eighteen (18) years of age from possessing tobacco products and vapor products, and prohibiting the sale of tobacco products and vapor products to persons under eighteen (18) years of age.
- (B) Persons under age eighteen (18) are prohibited by law from purchasing or possessing cigarettes and other tobacco products, and retailers are prohibited from selling them to minors. There are new tobacco-less products, however, commonly referred to as “electronic cigarettes,” “e-cigarettes,” “e-cigars,” “e-cigarillos,” “e-pipes,” “e-hookahs,” or “electronic nicotine delivery systems,” which allow the user to simulate cigarette smoking. These products may be purchased by minors and are being marketed without age restrictions or health warnings and come in different flavors that appeal to young people.
- (C) E-cigarettes, and similar devices, are a relatively new nicotine delivery system. While devices vary in their appearance and specific method of operation, they have a few basic elements in common. A solution of water, dissolved nicotine, and other ingredients (usually flavoring) is heated with a heating element (usually battery-powered). This vaporizes the nicotine solution, which passes into a mouthpiece and is inhaled in a manner similar to cigarette smoking. Often, glycerol or propylene glycol is added to the solution to give the appearance of smoke when the solution is vaporized. The concentration of nicotine contained in the solution can be customized by the retailer to the buyer’s specifications, and many manufacturers make nicotine-free solutions.
- (D) The production and distribution of e-cigarettes is not currently regulated by federal or state authorities, and the U.S. Food and Drug Administration has not completed testing of these products. But, initial studies by the FDA have determined that e-cigarette can increase nicotine addiction among young people and contain chemical ingredients known to be harmful, which may expose users and the public to potential health risks.
- (E) The use of e-cigarettes and similar devices has increased significantly in recent years.

- (F) Existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of dangerous substances including:
- (1) Chemicals known to cause cancer such as formaldehyde, acetaldehyde, lead, nickel and chromium;
  - (2) PM<sub>2.5</sub>, acrolein, tin, toluene, and aluminum, which are associated with a range of negative health effects such as skin, eye, and respiratory irritation, neurological effects, damage to reproductive systems, and even premature death from heart attacks and stroke.
- (G) Some cartridges used by electronic smoking devices can be refilled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine.
- (H) Clinical studies about the safety and efficacy of these products have not been submitted to the FDA for the over four hundred (400) brands of electronic smoking devices that are on the market and for this reason, consumers have no way of knowing whether electronic smoking devices are safe, what types of potentially harmful chemicals the products contain, and what dose of nicotine the products deliver.
- (I) Electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products.
- (J) The use of electronic smoking devices in smoke-free locations threatens to undermine compliance with smoking regulations and reverses the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment.
- (K) It is the intent of the Town Board, in enacting the ordinance codified in this section, to provide for the public health, safety and welfare by facilitating uniform and consistent enforcement of smoke-free air laws; by reducing the potential for re-normalizing smoking in public places and places of employment; by reducing the potential for children to associate the use of electronic smoking devices with a normative or healthy lifestyle; and by prohibiting the sale or distribution of electronic smoking devices to minors.
- (L) Therefore, the Town Board of the Town of Wheatland determines that prohibiting the sale, giving, or furnishing of e-cigarettes to minors and prohibiting the purchase, possession, or use of e-cigarettes by minors is in the Town's best interest and will promote public health, safety, and welfare.

21.91 Definitions. For the purpose of construction and application of this section, the following definitions shall apply:

- (A) Minor means an individual who is less than eighteen (18) years of age.
- (B) Person who sells tobacco products at retail means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to the state sales tax.
- (C) Person who sells vapor products at retail means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products.
- (D) Possession of a tobacco product shall mean either actual physical control of the tobacco product without necessarily owning that product, or the right to control the tobacco product even though it is in a different room or place than where the person is physically located.
- (E) Public place means a public street, sidewalk, or park or any area open to the general public in a publically owned or operated building or premises, or in a public place of business or school.
- (F) Tobacco product means a product that contains tobacco and is intended for human consumption, including but not limited to, cigarettes, non-cigarette smoking tobacco, or smokeless tobacco, as those terms are defined in Section 2 of the Tobacco Products Tax Act, and cigars. Tobacco product does not include a vapor product or a product regulated as a drug or device by the United States Food and Drug Administration.
- (G) Use a tobacco product or vapor product means to smoke, chew, suck, inhale, or otherwise consume a tobacco product or vapor product.
- (H) Vapor product means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose.

21.93 Prohibited Conduct.

- (A) Consistent with §254.92, Wis. Stats., a minor shall not do any of the following:
  - (1) Purchase or attempt to purchase a tobacco product or vapor product.
  - (2) Possess or attempt to possess a tobacco product or vapor product.
  - (3) Use a tobacco product or vapor product in a public place.
  - (4) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product or vapor product.
- (B) No individual, regardless of age, who is enrolled in secondary school may possess or attempt to possess a tobacco product or vapor product while on school property.
- (C) An individual who violates subsection (A) shall be subject to the penalties listed in the juvenile bond schedule.
- (D) An individual who violates subsection (B) shall be subject to the following penalties:
  - (1) For the first violation, the person is responsible for a civil infraction punishable by a civil fine of Fifty (\$50.00) Dollars.
  - (2) For a second and subsequent violation, the person is responsible for a civil infraction punishable by a civil fine of Seventy-five (\$75.00) Dollars.
- (E) Subsection (A) does not apply to a minor participating in any of the following:
  - (1) An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

- (2) An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.
- (3) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted with the prior approval of the state police or a local police agency.
- (F) Subsection (A) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.
- (G) This section does not prohibit an individual from being charged with, convicted of or found responsible for, or sentenced for any other violation of law that arises out of the violation of subsection (A).

21.94 Furnishing to minors. Consistent with §134.66, Wis. Stats.:

- (A) A person shall not sell, give or furnish any vapor product to a minor, including, but not limited to, through a vending machine. A person who violates this ordinance is subject to a fine of not more than One Hundred (\$100.00) Dollars for each violation.
- (B) Subsection (A) of this section does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of the minor's employment.
- (C) Before selling, offering for sale, giving, or furnishing a vapor product to an individual, a person shall verify that the individual is at least eighteen (18) years of age by doing one (1) of the following:
  - (1) Examining a government-issued photographic identification that establishes that the individual is at least eighteen (18) years of age.



- (2) For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is eighteen (18) years of age or older.

SECTION 21.100. Penalty. Any person violating any of the provisions of this Chapter shall be deemed guilty of an offense and upon conviction thereof shall forfeit not less than \$25.00 nor more than \$500.00 and the cost of prosecution and in default of payment, may be imprisoned in the County Jail for not more than ninety days or have his driver's license suspended for a period not to exceed five (5) years.