

Adopted by the Common Council November 25, 2008

CITY OF STOUGHTON PRIVACY IN LOCKER ROOMS		
Issue Date: October 2008	Revision(s):	Pages: 3
Policy Source: Cities and Villages Mutual Insurance Company		
Special Instructions: Wisconsin Statutes 175.22, 942.08 and 942.09 (as renumbered and amended under Wisconsin Act 118)		

I. PURPOSE

The purpose of this policy is to communicate Wisconsin law relating to individual's right to privacy while in an area operated as a locker room facility. The further purpose of this policy is to fulfill the statutory requirement that any person that owns or operates a locker room in the State of Wisconsin adopt and implement a written policy that conforms with the provisions of § 175.22, Wis. Stats.

II. DEFINITIONS

The following definitions shall apply to this policy:

- a. "Person" includes the state.
- b. "Recording device" means a camera, a video recorder, a cellular phone, or any other device that may be used to record or transfer images.
- c. "Nude or partially nude person" means any human being who has less than fully and opaquely covered genitals, pubic area or buttocks, any female human being who has less than a fully opaque covering over any portion of a breast below the top of the nipple, or any male human being with covered genitals in a discernibly turgid state.
- d. "Private place" means a place, including a locker room, where a person may reasonably expect to be safe from being observed without his or her knowledge and consent.
- e. "Surveillance device" means any device, instrument, apparatus, implement, mechanism or contrivance used, designed to be used or primarily intended to be used to observe the activities of person. "Surveillance device" includes a peephole.
- f. "Representation" means a photograph, exposed film, motion picture, videotape,

other visual representation, or data that represents a visual image.

- g. “Captures a representation” means takes a photograph, makes a motion picture, videotape, or other visual representation, or records or stores in any medium data that represents a visual image.

III. POLICY

- a. All persons who utilize this locker room may reasonably expect a high level of privacy, which includes being safe from being observed or having their image captured by a recording or surveillance device without his or her knowledge and consent. The following is expressly prohibited in this locker room:
 - 1. Use of a recording or surveillance device, which includes a cellular phone, to capture, record, or transfer an image of a nude or partially nude person in this locker room.
 - 2. Capturing a representation of a person depicting that person nude or partially nude without that person’s knowledge and consent.
 - 3. Capture, record, transfer, display, reproduce or distribute, a representation of a nude or partially nude person depicted without that person’s knowledge and consent.

The following is not prohibited in this locker room:

- 4. If the person depicted nude in a representation or reproduction is a child and the capture, possession, exhibition, or distribution of the representation, or making, possession, exhibition, or distribution of the reproduction, does not violate §§ 948.05 or 948.12, Wis. Stats., a parent, guardian or legal custodian of the child may distribute or exhibit a representation captured or possessed or distribute or exhibit a reproduction made or possessed if the distribution or exhibition **is not for commercial purposes**.
 - 5. This section does not prohibit a person who received an image of a child from receiving a representation or reproduction depicting a child from a parent, guardian or legal custodian from possessing, exhibiting, or distributing that depiction, if that depiction or distribution is not for commercial purposes.
- b. The following restrictions apply to persons not authorized to use this locker room facility:
 - 1. Entering locker rooms for interviewing purposes:
 - i. No individuals or agencies may enter and remain in this locker

Adopted by the Common Council November 25, 2008

room without the permission of the City of Stoughton and the consent of the person to be interviewed.

c. Recording devices that may be used in locker rooms:

- i. No recording devices may be used in this locker room for recording or transferring images only with the permission of the City of Stoughton and the consent of the person whose image is to be recorded or transferred.

d. Penalties:

1. Class A Misdemeanor

Whoever intentionally does any of the following is guilty of a Class A misdemeanor, **unless** the person captured in the representation is reasonably believed by the actor to be 18 years of age or over when the person gave his or her consent, or unless, the person's parent, guardian or legal custodian consents to the exhibition, distribution, transmission or broadcast of the captured representation.

- i. Captures a representation of a nude or partially nude person while the actor is present in, and the person is nude or partially nude in, the locker room and exhibits or distributes the representation to another.
- ii. Transmits or broadcasts an image of a nude or partially nude person from a locker room while the person is nude or partially nude in the locker room.

2. Class B Misdemeanor

Whoever, while present in a locker room, intentionally captures a representation of a nude or partially nude person while the person is nude or partially nude in the locker room is guilty of a Class B misdemeanor, unless the person consents to the capture of the representation, the person is, or the actor reasonably believes that the person is, 18 years of age or over, when the person gives his or her consent or if the person's parent, guardian, or legal custodian consents to the capture of the representation.

IV. PROCEDURES

Anyone who is aware of the use of a recording or surveillance device, which may be in violation of this policy, should immediately report the use to:

Parks & Recreation Director – 873-6677 ext. 106

Police Chief – 873-6677 ext. 121

City Clerk/Personnel Director – 873-6677 ext. 103