

CHAPTER 5

Offenses Involving Alcoholic Beverages

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SEC. 9-5-1 OUTSIDE CONSUMPTION.

- (a) ALCOHOLIC BEVERAGES IN PUBLIC AREAS.
- (1) Regulations. It shall be unlawful for any person to sell or serve, or offer to sell or serve, or to consume, or to carry or expose to view any open container of any alcoholic beverage upon any street, sidewalk, alley, public parking lot, highway, cemetery, or other public area within the Village or on private property without the owner's consent. Village owned parks or recreation areas are exempt from this prohibition, except that glass containers are prohibited.
- (2) Exceptions.
- a. The provisions of this Section may be waived by the Village Board for duly authorized events.
- b. Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of Ordinances.
- (b) DEFINITIONS.
- (1) As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled, or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar, which contain one-half of one percent or more of alcohol by volume and which are fit for use for beverage purposes.
- (2) As used in this Section, the term "public area" shall be construed to mean any location within the Village which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.

SEC. 9-5-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.

- (a) SALES OF ALCOHOL BEVERAGES TO UNDERAGE PERSONS.
- (1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian

- or spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any intoxicating liquor to any underage person.
- (2) No licensee or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.
 - (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This section does not apply to alcohol beverages used exclusively as part of a religious service.
 - (4) No adult may intentionally encourage or contribute to a violation of (4)(a) or (b).
- (b) **PENALTIES.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of:
- (1) Not more than Five Hundred (\$500) Dollars if the person has not committed a previous violation within thirty (30) months of the violation; or
 - (2) Not more than Five Hundred (\$500) Dollars if the person has committed a previous violation within thirty (30) months of the violation.
 - (3) In addition to the forfeitures provided in subparagraphs (1) and (2) above, a court shall suspend any license issued under Title 7 of this Code to a person violating this Section pursuant to Section 125.07(1)(b)3, Wis. Stats.
- (c) **SALE OF ALCOHOL BEVERAGES TO INTOXICATED PERSONS.**
- (1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
 - (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.
- (d) **PENALTIES.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than one hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars or imprisoned for not more than sixty (60) days or both.

State Law Reference: Section 125.07, Wis. Stats.

SEC. 9-5-3 UNDERAGE PERSONS PRESENCE IN PLACES OF SALE; PENALTY.

- (a) **RESTRICTIONS.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:
- (1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
 - (2) An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.

- (3) Hotels, drug stores, grocery stores, bowling alleys, service stations, vessels, cars operated by any railroad, regularly established athletic fields, stadiums, or public facilities as defined in Sec. 125.51(5)(b)1.d, Wis. Stats., which are owned by a county or municipality or centers for the visual or performing arts.
 - (4) Ski chalets, golf courses and clubhouses, private soccer clubs and private tennis clubs.
 - (5) Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
 - (6) Premises operating under both a Class "C" license and a restaurant permit.
 - (7) An underage person who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or if the person does not enter or remain in a room where alcohol beverages are sold or furnished.
 - (8) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this subdivision. [An underage person may enter and remain on Class "B" or "Class B" premises under this subdivision only if the municipality which issued the Class "B" or "Class B" license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this subdivision and the law enforcement agency responsible for enforcing the ordinance issues to the Class "B" or "Class B" licensee a written authorization permitting underage persons to be present under this subdivision on the date specified in the authorization.] Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.
 - (9) A person who is at least 18 years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.
 - (10) An underage person who enters or remains on Class "B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or limited liability company or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the Sauk Prairie Police Department, in advance, of the times underage persons will be allowed on the premises under this subsection.
- (b) PENALTIES. A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than Five Hundred (\$500.00) Dollars.

- (a) Any underage person who does any of the following is guilty of a violation:
 - (1) Procures or attempts to procure alcohol beverages from a licensee or permittee.
 - (2) Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses or consumes intoxicating liquor on licensed premises..
 - (3) Enters, knowingly attempts to enter or is on licensed premises in violation of Section 9-5-3(a).
 - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes alcohol beverages is guilty of a violation.
- (c) an underage person may possess alcohol beverages in the course of employment during his or her working hours if employed by any of the following:
 - (1) A brewer.
 - (2) A fermented malt beverages wholesaler.
 - (3) A permittee other than a Class “B” permittee.
 - (4) A facility for the production of alcohol fuel.
 - (5) A retail licensee or permittee under the conditions specified in Sec. 125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer
- (d) Any person violating Subsections (a) or (b) is subject to the following penalties:
 - (1) For a first violation, a forfeiture of not less than Two hundred Fifty (\$250) nor more than Five hundred (\$500) Dollars, suspension of the person's operating privilege as provided under Sec. 343.30(6)(b) 1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not less than Three hundred (\$300) nor more than Five hundred (\$500) dollars, suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not less than Five hundred (\$500) Dollars nor more than Seven hundred fifty (\$750) Dollars , revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (4) For a violation committed within twelve (12) months of three (3) or more previous violations, either a forfeiture of not less than Seven hundred fifty (\$750) Dollars nor more than One thousand (\$1000), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties

History: Code of Ordinances, 1986. Sec. 9-5-4(d) amended. Ordinance No. 4, Series of 2001.

SEC. 9-5-5 DEFENSE OF SELLERS.

- (a) DEFENSES. Proof of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this section:

- (1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she had attained the legal drinking age.
 - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchase had attained the legal drinking age.
 - (3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age
- (b) **BOOK KEPT BY LICENSEES AND PERMITTEES.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purpose of this subsection. The licensee or permittee or his or her employee shall require any person who has shown documentary proof that he or she has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

State Law Reference: Section 125.07(6) and (7), Wis. Stats.

SEC. 9-5-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE-
FALSE OR ALTERED IDENTIFICATION CARDS./PROOF OF AGE.

- a. No person may make, alter or duplicate an official identification card, provide an official identification card to an underage person or knowingly provide other documentation to an underage person purporting to show that the underage person has attained the legal drinking age. No person may possess an official identification card or other documentation used for proof of age with the intent of providing it to an underage person.
- b. Except as provided in (c) below, any person who violates the provisions in (a) above may be fined not less than One hundred (\$100) Dollars and not more than Five hundred (\$500) Dollars or imprisoned for not less than 10 days nor more than 30 days or both.
- c. Any person who violates (a) above for money or other consideration may be fined not more than Ten thousand (\$10,000) Dollars or imprisoned for not more than 2 years or both.
- d. **UNDERAGE PERSONS.** Any underage person who does any of the following is guilty of a violation:
 - (1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information.
 - (2) Makes, alters or duplicates an official identification card purporting to show that he or she has attained the legal drinking age.
 - (3) Presents false information to an issuing officer in applying for an official identification card.
 - (4) Intentionally carries an official identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.
- e. **PENALTIES.** Any underage person who violates (d) above is subject to a forfeiture of not less than \$100 nor more than \$500, suspension of the person's

operating privilege under Sec. 343.30(6)(bm). Wis. Stats., participation in a supervised work program or any combination of these penalties.

- f. A law enforcement officer investigating an alleged violation of (d) above shall confiscate any official identification card or other documentation that constitutes evidence of the violation.

State Law Reference: Section 125.08(3), Wis. Stats.

SEC. 9-5-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS
PROHIBITED.

- (a) IN THIS SUBSECTION:
 - (1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.
 - (2) "School" means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
 - (3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school
 - (4) "School premises" means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:
 - (1) On school premises;
 - (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
 - (3) While participating in a school-sponsored activity.
- (c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.
- (d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred (\$200.00) Dollars, except that Sec. 48.344, Wis. Stats., and Section 9-5-4(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

History: Code of Ordinances, 1986. Sec. 9-5 was repealed and recreated. Ordinance No. 16, Series of 1995.