

Chapter 9.40
Alcohol

Sections:

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9.40.010 Alcoholic beverages and underage persons.

A. Definitions

1. Alcohol Beverages has the meaning found in Wis. Stats. §125.02(1).
2. Fermented malt beverage has the meaning found in Wis. Stats. §125.02(6).
3. Intoxicating liquor has the meaning found in Wis. Stats. §125.02(8).
4. Underage person has the meaning found in Wis. Stats. §125.02(20m).

B. Restrictions:

1. Possession and consumption of alcohol beverages by underage person. It shall be unlawful for any underage person to consume or possess any alcoholic beverage or be under the influence of any alcoholic beverage within the corporate limits of the village.
2. Possession on School Grounds Prohibited. No person may possess or consume any fermented malt beverage or intoxicating liquor on any school premises while participating in a school sponsored activity, or in a motor vehicle, if a pupil attending school is in the motor vehicle. The definitions set forth in §125.09(2), Wis. Stats., shall apply.

3. No person may procure for, sell, dispense, or give away any alcoholic beverages to any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.

4. No licensee or permittee may sell, vend, deal, or traffic in alcoholic beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

5. No person may knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the person or under the person's control. This section does not apply to alcoholic beverages used exclusively as part of a religious service.

6. No person may intentionally encourage or contribute to a violation of Section 9.40.040 and 9.40.080.

B. Penalties:

1. Any person alleged to have violated or any underage person convicted of a violation of any provision shall be penalized as provided by chapter 125, WI Stats or violation under the provisions of §778.25, Wis. Stats.

2. A person who commits a violation is subject to a forfeiture of:

a. Not less than two hundred dollars (\$200) and not more than five hundred dollars (\$500) if the person has not committed a previous violation within twelve months of the current violation; or

b. Not more than five hundred dollars (\$500) if the person has committed a previous violation within twelve months of the current violation.

3. A court shall suspend any license or permit issued to a person found in violation of this chapter for:

a. Not more than three days for the first violation, or if the court finds that there has been no previous violation within the preceding twelve months.

b. Not less than three days and not more than ten days if the court finds that there has been a previous violation within the preceding twelve months.

c. Not less than fifteen days and not more than thirty days if the court finds that there has been two or more previous violation within the preceding twelve months.

4. The court shall promptly mail a notice of suspension to the village clerk.

9.40.020 Sales of alcoholic beverages to intoxicated persons.

A. Restrictions:

1. No person may procure for, sell, dispense, or give away alcohol beverages to a person who is intoxicated.

2. No license or permit holder may sell, vend, deal, or traffic in alcoholic beverages to a person who is intoxicated.

9.40.030 Underage persons in places of sale.

A. An underage person, not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age, may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, with the following exceptions. An underage person who:

1. transacts legitimate business with the proprietor for another employer or is an employee of the proprietor;

2. is a family member or lodger who resides on the premises;

3. enters for the sole purpose of purchasing edibles or nonalcoholic beverages and leaves the premises immediately after the purchase;

4. is at least eighteen years of age and is contracted to provide entertainment for customers on the premises.

B. Exempted from this section are restaurants, hotels, drug stores, grocery stores, bowling alleys, and facilities owned by the village.

C. Penalty for violation of this section is found at Section 1.20.010.

9.40.040 Prohibitions and exceptions for underage persons.

A. An underage person, not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age, may not procure, or attempt to procure alcoholic beverages.

B. No underage person shall intentionally carry an official identification card or other documentation showing that the person has attained the legal drinking age with the knowledge that the card or documentation is false.

C. An exception is granted to an underage person, during working hours, if employed by a legitimate business involved in the sale or distribution of unopened containers of alcoholic beverages and products.

D. Penalty for violation of this section is found at Section 1.20.010 and Wisconsin Statutes.

9.40.050 Defense of sellers.

Proof by the seller of alcoholic beverages to an underage person that the purchaser falsely represented in writing or documentation that he or she had attained the legal drinking age, that the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age, and that the sale was made in good faith and in reliance on written or documentary proof and the appearance that the purchaser had attained the legal drinking age, constitutes a defense to the prosecution of a violation of this chapter.

9.40.060 Book kept by license and permit holders.

Each retail alcohol beverage license and permit holder shall keep a book listing the purchase date of alcoholic beverages, the type

of identification used in making the purchase, the address of the purchaser, and the purchaser's signature, whenever the purchaser's age is in question.

9.40.070 School grounds.

A. No person shall possess or consume alcoholic beverages on public school grounds.

B. Exceptions may be granted, in writing, by the school administrator in accordance with applicable laws, ordinances, and school board policies.

C. The penalty for violation of this section is found at Section 1.20.010 and Wisconsin Statutes.

9.40.080 Social hosting.

The village elects to adopt Wis. Stats. §125.07(1)(a)(4) and Wis. Stats. §125.07(1)(a)(3) as they relate to procuring and/or furnishing alcohol beverages to underage persons, or allowing the illegal consumption of alcohol beverages by underage persons.

A. Findings. The Village of Oakfield Public Safety Board makes the following findings:

1. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

2. Prohibiting underage consumption acts to protect underage person, as well as the general public, from injuries related to alcohol overdose or alcohol-related traffic collisions.

3. Alcohol is an addictive drug, which, if used irresponsibly, could have drastic effects on those who use it, as well as on those who are affected by the actions of an irresponsible user.

4. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are

present and condone the activity, and in some circumstances, provided the alcohol.

5. A deterrent effect will be created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.

B. Definitions

1. "Alcohol" means ethyl alcohol, hydrated oxide or spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer and which contains one-half of 1 percent or more of alcohol by volume and which is fit or beverage purposes either alone or when diluted, mixed or combine with other substances.

2. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

3. "Event" or "gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

4. "Host" or "allow" means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.

5. "Parent" means:

a. A biological or adoptive parent or step-parent of an underage person;

b. A legal guardian of an underage person; or

c. A person to whom legal custody of an underage person has been given by order of the court.

6. "Residence," "premises" or "public or private property" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on temporary or permanent basis, whether occupied as dwelling or specifically for a

party or other social function, and whether owned, leased rented or used with or without permission or compensation.

7. "Underage person" is any individual under the age of 21 years of age.

8. "Present" means being at hand or in attendance.

9. "In control" is the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

C. Name of ordinance. This ordinance shall be known as Social Host ordinance.

D. Prohibited Acts. It is unlawful for any person(s) to host or allow and event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does consume any alcohol or alcoholic beverage or will or does possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

1. A person is responsible for violating this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

2. A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

E. Exceptions.

1. This chapter does not apply to conduct solely between and underage person and his or her parent or spouse who has attained the legal drinking age while the parent or spouse is present and in control of the underage person.

2. This chapter does not apply to legally protected religious observances.

3. This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

4. No person shall be liable solely because they are the legal owner or renter of the premises.

F. Penalties. A person who violates any provision of this ordinance is subject to a forfeiture of not less than \$1,000 nor more than \$5,000 together with the costs of prosecution.

G. Enforcement. This ordinance may be enforced by any law enforcement officer having jurisdiction in the location where the violation occurs.

H. Effective Date. This ordinance shall take effect the day after its publication as required by law (March 14, 2018).