

CHAPTER 31

ALCOHOLIC BEVERAGE CONTROL ORDINANCE

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31.01 Authorization and Purpose. This ordinance is created pursuant to the authority granted under Wisconsin Statutes § 125.10(2), which provides for a County ordinance to regulate conduct associated with the consumption of alcoholic beverages by underage persons. The purpose of this Ordinance is to regulate and prohibit consumption and possession of alcoholic beverages by underage persons, or the sale of alcoholic beverages to such persons, for the general health, safety and welfare of the public as a whole. This ordinance shall not apply within any municipality that has enacted or enacts an ordinance under the authority of Wis. Stat. § 125.10(2).

31.02 Definitions. As used in this Chapter:

(1) ALCOHOLIC BEVERAGE means fermented malt beverages and intoxicating liquor.

(2) CAMPUS has the meaning given under Wis. Stat. § 36.05(3).

(3) FERMENTED MALT BEVERAGE has the meaning given under Wis. Stat. § 125.02(6).

(4) INTOXICATING LIQUOR has the meaning given under Wis. Stat. § 125.02(8).

(5) LEGAL DRINKING AGE means twenty-one (21) years of age.

(6) LICENSEE means any person holding a written authorization to sell alcoholic beverages issued by a municipal government under Ch. 125 of the Wisconsin Statutes.

(7) PERMITTEE means any person holding a permit issued by the Department of Revenue under Ch. 125 of the Wisconsin Statutes.

(8) PERSON means a natural person, sole proprietorship, partnership, limited liability entity, corporation or association.

(9) PREMISES means the area described in a license or permit.

(10) SELL, SALE, SOLD or SELLING means any transfer of alcoholic beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcoholic beverages, or any shift, device, scheme or transaction for obtaining alcoholic beverages, including the solicitation of orders for, or the sale for future delivery of, alcoholic beverages.

(11) UNDERAGE PERSON means a person who has not attained the legal drinking age.

(12) WHOLESALER means a person, other than a brewer, manufacturer or rectifier, who sells alcoholic beverages to a licensed retailer or to another person who holds a permit or license to sell alcoholic beverages at wholesale.

31.03 Prohibited Conduct. (1) It shall be unlawful and a violation of this ordinance for any person to procure for, sell, dispense or give away any alcoholic beverage to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

(2) It shall be unlawful and a violation of this ordinance for any licensee or permittee to 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.

(3) It shall be unlawful and a violation of this ordinance for any adult person to knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcoholic beverages used exclusively as part of a religious ceremony.

(4) It shall be unlawful and a violation of this ordinance for any adult to intentionally encourage or contribute to a violation of s. 31.04, s. 31.05 or s. 31.06.

31.04 Underage Persons; Prohibitions.

It shall be unlawful and a violation of this ordinance for any underage person to do any of the following:

(1) Procures or attempts to procure alcoholic beverages from a licensee or permittee.

(2) Possess or consumes alcoholic beverages on licensed premises, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(3) Enter, knowingly attempt to enter or to be on any licensed premises in violation of Wis. Stat. § 125.07(3)(a).

(4) Falsely represent his or her age for the purpose of receiving alcoholic beverages from a licensee or permittee.

31.05 Underage Persons; Exceptions.

(1) Except as provided in (2) below, 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 alcoholic beverages is guilty of a violation.

(2) An underage person may possess alcoholic beverages in the course of employment during his or her working hours if employed by any of the following:

(a) A brewer;

(b) A fermented malt beverages wholesaler;

(c) A permittee other than a Class "B" or "Class B" permittee, as defined under Wis. Stat. Ch. 125.;

(d) A facility for the production of alcohol fuel;

(e) A retail licensee or permittee under the conditions specified in Wis. Stat. § 125.32(2) or Wis. Stat. § 125.68(2) or for delivery of unopened containers to the home or vehicle of a customer.

(f) A campus, if the underage person is at least 18 years of age and is under the immediate supervision of a person who has attained the legal drinking age.

31.06 Underage Person; Proof of Age. It shall be unlawful and a violation of this ordinance for any underage person to do any of the following:

(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.

31.07 Possession of Alcoholic Beverages on School Grounds Prohibited. (1) In this subsection:

(a) MOTOR VEHICLE means a motor vehicle owned, rented or consigned to a school.

(b) 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.

(c) SCHOOL ADMINISTRATOR means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

(d) SCHOOL PREMISES means premises owned, rented or under the control of a school.

(2) Except as provided by par. (3) no person may possess or consume alcoholic beverages:

(a) On school premises;

(b) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or,

(c) While participating in a school-sponsored activity.

(3) Alcoholic 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, ordinances and school board policies.

31.08 Prosecution of Ordinance Violations. The Sauk County District Attorney shall prosecute all actions concerning violation of this ordinance.

31.09 Penalties.

(1) Penalty for violation of s. 31.03. (a)

In this subsection, “violation” means a violation of section 31.03 that results in an imposition of a forfeiture or a conviction. For purposes of determining previous violations under sub. (b), the 30-month period shall be measured from the dates of violations that resulted in the imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.

(b) A person who commits a violation may be:

(1) Required to forfeit not more than \$500 if the person has not committed a previous violation within 30 months of the violation.

(2) Required to forfeit not more than \$500 if the person has committed one previous violation within 30 months of the current violation.

(3) Required to forfeit not more than \$1,000 if the person has committed 2 previous violations within 30 months of the violation.

(4) Required to forfeit not more than \$10,000 if the person has committed 3 or more previous violations within 30 months of the violation.

(c) A person who holds a Class “A” license, a Class “B” license or permit, a “Class A” license or a “Class B” license or permit is not subject to sub. (b).

(d) Only one penalty may be imposed under this paragraph for each underage person who is provided alcoholic beverages contrary to this ordinance.

(2) Penalty for violation of s. 31.04. Any person violating s. 31.04 is subject to the following penalties:

(a) For a first violation, a forfeiture of not less than \$250 nor more than \$500.

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$300 nor more than \$500.

(c) For a violation committed within 12 months of 2 previous violations, a forfeiture of not less than \$500 nor more than \$750.

(d) For a violation committed within 12 months of 3 or more previous violations, a forfeiture of not less than \$750 nor more than \$1,000.

(e) A juvenile under 17 years of age committing a violation of this subsection shall be subject to the forfeiture amount as set forth in Wis. Stat. § 938.344.

(3) Penalty for violation of s. 31.05. Any person violating s. 31.05 is subject to the following penalties:

(a) For a first violation, a forfeiture of not less than \$100 nor more than \$200.

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$200 nor more than \$300.

(c) For a violation committed within 12 months of 2 previous violations, a forfeiture of not less than \$300 nor more than \$500.

(d) For a violation committed within 12 months of 3 or more previous violations, a forfeiture of not less than \$500 nor more than \$1,000.

(e) A juvenile under 17 years of age committing a violation of this subsection shall be subject to the forfeiture amount as set forth in Wis. Stat. § 938.344.

(4) Penalty for violation of s. 31.06. Any underage person violating s. 31.06 is subject to a forfeiture of not less than \$300 nor more than \$1,250.

(5) Penalty for violation of s. 31.07. (a) Any person who has reached the legal drinking age who violates s. 31.07 is subject to a forfeiture of not more than \$200.

(b) Any underage person violating s. 31.07 is subject to the following:

(1) For a first violation, a forfeiture of not less than \$100 nor more than \$200.

(2) For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$200 nor more than \$300.

(3) For a violation committed within 12 months of 2 previous violations, a forfeiture of not less than \$300 nor more than \$500.

(4) For a violation committed within 12 months of 3 or more previous violations, a forfeiture of not less than \$500 nor more than \$1,000.

(5) A juvenile under 17 years of age committing a violation of this subsection shall be subject to the forfeiture amount as set forth in Wis. Stat. § 938.344.

31.10 Statutory Penalties and Sentencing Alternatives Not Affected. The penalties set forth in this chapter are not intended to and shall not be construed as in any manner restricting, modifying or abridging a court's discretion in utilizing the penalties, sentencing alternatives and supplements set forth in Chapters 125 and 778 and § 938.344 of the Wisconsin Statutes.

As adopted by the Sauk County Board of Supervisors on April 18, 2000 - Ordinance 83-00.