

**Chapter 77**  
**ALCOHOLIC BEVERAGES**

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[HISTORY: Adopted by the Village Board of the Village of Iola 2-12-1996 as Title 9, Ch. 4, and Sec. 9-1-2, of the 1996 Code. Amendments noted where applicable.]

**GENERAL REFERENCES**

Fermented malt beverages and intoxicating liquor — See Ch. 134.  
Parks and navigable waters — See Ch. 197.  
Minors — See Ch. 171.

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**§ 77-1. Outside consumption.**

**A. Alcoholic beverages in public areas.**

- (1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the village or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his or her possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the village except as licensed premises.
- (2) Parks. Intoxicating liquor and fermented malt beverages may be possessed at Ingwal Olson Memorial Park and Taylor Field, except that it shall be unlawful for any person to drink or have in their possession any alcohol beverage in any village park between the hours of 10:30 p.m. and 6:00 a.m., except at licensed premises.
- (3) Private property held out for public use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the village unless the property is specifically named as being part of a licensed premises.

- (4) Leaving licensed premises with open container.
- (a) It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.
  - (b) It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.
  - (c) It shall be unlawful for any patron to remove an original unopened package, container or bottle containing any alcohol beverage from the licensed premises between the hours of 9:00 p.m. and 8:00 a.m.
- (5) 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, provided that the provisions of this chapter and Chapter 134 are fully complied with.

B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

**ALCOHOLIC BEVERAGE** — Includes 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 or degerminated grains or sugar, which contain  $\frac{1}{2}$  of 1% or more of alcohol by volume and which are fit for use for beverage purposes.

**PUBLIC AREA** — 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.

**UNDERAGE PERSON** — Any person under the legal drinking age as defined by the Wisconsin Statutes.

**§ 77-2. 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.

- B.<sup>1</sup> Penalties. A person who commits a violation of Subsection A above is subject to a forfeiture of:
- (1) Not more than \$500 if the person has not committed a previous violation within 30 months of the violation; or
  - (2) Not more than \$500 or imprisoned for not more than 30 days, or both, if the person has committed a previous violation within 30 months of the violation.
  - (3) Not more than \$1,000 or imprisoned for not more than 90 days, or both, if the person has committed two previous violations within 30 months of the violation.
  - (4) Not more than \$10,000 or imprisoned for not more than nine months, or both, if the person has committed three or more previous violations within 30 months of the violation.
  - (5) In addition to the forfeitures provided in Subsection B(1) through (4) 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 \$100 nor more than \$500 or imprisoned for not more than 60 days, or both.

**§ 77-3. 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) Any underage person who enters or is on a Class "A" or "Class A" premises for the purpose of purchasing items other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.<sup>2</sup>

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>2</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) Hotels, drug stores, grocery stores, bowling centers, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums, 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.<sup>3</sup>
- (4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
- (5) Ski chalets, golf courses and golf clubhouses, racetracks licensed under Ch. 562, Wis. Stats., curling clubs, private soccer clubs and private tennis clubs.<sup>4</sup>
- (6) 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.
- (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 market, if the person does not enter or remain in a room where alcohol beverages are sold or furnished.<sup>5</sup>
- (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 subsection. An underage person may enter and remain on Class "B" or "Class B" premises under this subsection 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 subsection 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 subsection 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.<sup>6</sup>

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<sup>3</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>4</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>5</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>6</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (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.<sup>7</sup>
- (10) An underage person who enters or remains on Class "B" or "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 local law enforcement agency, in advance, of the time underage persons will be allowed on the premises under this subsection.<sup>8</sup>
- (11) An underage person who enters or remains in a dance hall attached to Class "B" or "Class B" licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.<sup>9</sup>
- (12) An underage person who enters and remains on premises for which a temporary Class "B" license is issued under Sec. 125.26(6), Wis. Stats., if the licensee is authorized by the official or body of the municipality that issued the license to permit underage persons to be on the premises under Sec. 125.26(6), Wis. Stats., and if the licensee permits underage persons to be on the premises.<sup>10</sup>
- 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 \$500.

**§ 77-4. Underage persons; prohibitions; penalties.**

- A. Any underage person who does any of the following is guilty of a violation:
- (1) Procures or attempts to procure alcohol beverages.
  - (2) Knowingly possesses or consumes intoxicating liquor.
  - (3) Enters or is on licensed premises in violation of § 77-3A.
  - (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 fermented malt beverage is guilty of a violation.

<sup>7</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

<sup>8</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

<sup>9</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

<sup>10</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

- C. Any person violating Subsections A or B is subject to the following penalties:
- (1) For a first violation, a forfeiture of not more than \$50, 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 12 months of a previous violation, either a forfeiture of not more than \$100, 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 12 months of two or more previous violations, either a forfeiture of not more than \$150, 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.
- D. Supervised work program.
- (1) If the court orders a person to participate in a supervised work program under this subsection, the court shall set standards for the program within the budgetary limits established by the Village Board. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.
  - (2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.
- E. When a court revokes or suspends a person's operating privilege under Subsection C, the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.
- F. A person who is under 18 years of age on the date of disposition is subject to Sec. 938.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 938.344(3), Wis. Stats.<sup>11</sup>
- G. Subsections A and B do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.

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<sup>11</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- H. Subsections A and B do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

**§ 77-5. 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 purchaser 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.
  - (4) That the underage person supported the representation under Subsection A(1) with documentation that he or she had attained the legal drinking age.<sup>12</sup>
- 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.

**§ 77-6. Persons who have attained legal drinking age; false or altered identification cards.**

- A. Prohibited actions by persons who have attained legal drinking age.
- (1) Any person who has attained the legal drinking age, other than one authorized by Section 125.085, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than \$50 nor more than \$500 or imprisoned not less than 10 days nor more than 30 days, or both.<sup>13</sup>
  - (2) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than \$50 nor more than \$100 or imprisoned not more than 10 days, or both.
- B. Any underage person who does any of the following is subject to the penalties specified under § 77-4C or D:

<sup>12</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>13</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (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. A law enforcement officer shall confiscate any card that violates this subsection.
- (2) Makes, alters or duplicates an official identification card.
- (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 obtained the legal drinking age, with knowledge that the official identification card or documentation is false.<sup>14</sup>

**§ 77-7. Possession of alcohol beverages on school grounds prohibited.**

- A. In this section, the following terms shall have the meanings indicated:

**MOTOR VEHICLE** — A motor vehicle owned, rented or consigned to a school.

**SCHOOL** — 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.

**SCHOOL ADMINISTRATOR** — The person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

**SCHOOL PREMISES** — 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 \$200, except that Sec. 938.344, Wis. Stats., and § 77-4C and D of this Code of Ordinances provide the penalties applicable to underage persons.<sup>15</sup>

<sup>14</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>15</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



**§ 77-8. Adult permitting or encouraging underage violation.**

- A. 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 person or under the person's control. This subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- B. No adult may intentionally encourage or contribute to a violation of § 77-4A or B.
- C. A person who violates this section is subject to a forfeiture of not more than \$500.<sup>16</sup>

**§ 77-9. Solicitation of drinks prohibited.**

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the village who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Section 125.02(1) of the Wisconsin Statutes, or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this section.

**§ 77-10. Violations and penalties; attempt; parties to acts.**

- A. Penalty. In addition to the general penalty provisions of this Code in Chapter 1, General Provisions, § 1-17, or any other penalty imposed for violation of any section of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates § 201-11 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this chapter to the District Attorney's office in the interest of justice.
- B. Attempt.
  - (1) Whoever attempts to commit an act prohibited by this chapter of the Code of Ordinances of the Village of Iola may be required to forfeit amounts not to exceed 1/2 the maximum penalty for the completed act.
  - (2) An attempt to commit an act prohibited by the ordinances in this Code requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he or she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he or she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- C. Parties to acts prohibited in this chapter.
  - (1) Whoever is concerned in the commission of an act prohibited by this chapter of this Code of Ordinances is a principal and may be charged with and convicted of the

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<sup>16</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

commission of said act although he or she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.

- (2) A person is concerned in the commission of an act prohibited by these ordinances if he:
  - (a) Directly commits the act; or
  - (b) Intentionally aids and abets the commission of it; or
  - (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.