

**Chapter 9.32
Curfew**

Sections:

- 9.32.010 Curfew hours.**
- 9.32.020 Penalty for violation.**

9.32.010 Curfew hours.

No child sixteen (16) years of age or under shall loiter, idle or remain, and no parent or guardian shall knowingly permit his child or ward of such age to loiter, idle or remain in or upon any of the streets, alleys or public places in the village between the hours of ten p.m. and six a.m. unless such child is accompanied by a parent, guardian or some person of lawful age having legal custody of such child. This section shall not be construed to prohibit such child from performing any First Amendment activity, an errand or duty if directed by his parent or guardian, or of urgent necessity, or from pursuing the duties of his employment in an expeditious and orderly manner, or from going to or from places of business or amusement or private homes.

Citation or arrest shall be limited to those circumstances where the officer has reason to believe that no defense or exception to this chapter applies. (Ord. 2004-1)

9.32.020 Penalty for violation.

The penalty for first and second violations shall be a forfeiture of not more than fifty dollars (\$50.00) for each offense. Any person sixteen (16) years of age or under who shall be found violating the provisions of this chapter shall be taken and delivered to the custody of the person having legal custody over him. For subsequent offenses, he shall be dealt with according to the provisions of Chapter 48 of the Wisconsin Statutes. (Prior code § 9.05[1]) (Ord. 2007-7)

**Ordinance 9.36
Cigarettes, Electronic Vaping Devices,
Nicotine and Tobacco**

Sections:

- 9.36.010 Definitions**
- 9.36.020 Sale of cigarettes, electronic vaping devices, and/or tobacco products to underaged persons prohibited.**
- 9.36.030 Purchase or possession of tobacco products**
- 9.36.040 Purchase by anyone under 21 years of age prohibited.**
- 9.36.041 Possession by person under 21 years of age prohibited.**
- 9.36.050 Licensed retailer signs required**
- 9.36.051 Underage distribution**
- 9.36.060 Smoking by under 21 years of age near school grounds.**
- 9.36.061 Possession of vapor products by persons under the age of 21.**
- 9.36.070 Prohibited conduct.**
- 9.36.071 Exceptions.**
- 9.36.072 Furnishing to minors.**
- 9.36.073 Statutory provisions.**
- 9.36.080 Regulation of smoking in places of employment and public places.**
- 9.36.081 Careless smoking prohibited.**
- 9.36.082 Smoking at certain outdoor locations.**
- 9.36.083 Enclosed indoor area.**
- 9.36.090 Penalties.**

9.36.010 Definitions.

- A. The definitions provided in Sections 134.65 and 134.66, Wis.

Stats., as from time to time amended, revised, or renumbered, pertaining to licensing, restrictions, and prohibitions on the distribution, purchase, possession, and use of cigarettes, tobacco, tobacco related, and vaping, materials, and products of all kinds, are hereby adopted by reference and incorporated herein as if fully set forth. This includes disposable vaping equipment and items.

- B. This chapter shall apply to Cigarettes, Electronic Vaping Devices, and Nicotine products and incorporates by reference as if fully set forth herein all federal laws and codes concerning tobacco, nicotine, electronic vaping, sales, distribution, possession, and use of such items, products, and materials, including, but not limited to, disposable vaping equipment and items, with the minimum lawful age of 21
- C. Statutes adopted. The provisions of §§ 254.92, 134.66 and 778.25(1)(a), Wis. Stats., are adopted by reference and incorporated herein.

9.36.020 Sale of cigarettes, electronic vaping devices, and/or tobacco products to underaged persons prohibited.

No person, firm, partnership, corporation, organization, cooperative, association or other entity shall himself or herself, or cause another to, in any manner, upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away or attempt to sell, exchange, barter, dispose of or give away any cigarette, electronic vaping device, or tobacco product to any underage person as established by Wisconsin Laws.

9.36.030 Purchase or possession of tobacco products.

A. Definition of Tobacco Products

“Cigarette” has the meaning given in Wis. Stat. § 139.30(1).

“Electronic smoking device” means any product containing or delivering nicotine, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. The term electronic smoking device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, vape pens, mods, tank systems, or under any other product name or descriptor, and includes any component part of a product, whether or not marketed or sold separately.

“Law enforcement officer” has the meaning given in Wis. Stat. § 30.50(4)(s).

“Nicotine product” has the meaning given in Wis. Stat. § 134.66(1)(f).

“Tobacco product” has the meaning given in Wis. Stat. § 139.75(12). For the purposes of this section, "tobacco products" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, electronic cigarettes, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

9.36.040 Purchase by anyone underage of 21 years of age prohibited.

It shall be unlawful for any person under the age of 21 years to purchase tobacco products or to misrepresent his/her identity or age or to use any false or altered identification for the purpose of purchasing tobacco products. No adult shall provide a tobacco product to a person under the age of 21.

9.36.041 Possession by person underage of 21 prohibited.

It shall be unlawful for any person under the age of 21 years to possess any tobacco products, provided that the possession by a

person under the age of 21 years under the direct supervision of the parent or legal guardian of such person in the privacy of the parent's or legal guardian's home shall not be prohibited.

9.36.050 Licensed retailer signs required.

All licensed retailers shall post and at all times maintain a conspicuous sign clearly visible to the public in areas within his, her or its premises where cigarettes, electronic vaping devices, or tobacco products are displayed and/or sold to consumers stating that the sale of any cigarette, electronic vaping device, or tobacco product to an underage person as established by Wisconsin Laws is unlawful under Wisconsin Laws and village ordinance.

9.36.051 Underage distribution

No manufacturer, distributor, jobber, sub-jobber, licensed or unlicensed retailer, other person, or their employees or agents may provide or cause to be provided any cigarette, electronic vaping device, or tobacco product for nominal or no consideration to any underage person as established by Wisconsin Laws

9.36.060 Smoking by underage 21 near school grounds.

No person under the age of 21 years shall carry or possess a lighted cigar, cigarette, electronic cigarette, pipe, electric vaping devices, nicotine/THC cartridges, parts of any electronic vaping products, or any other lighted smoking equipment or tobacco/Nicotine/THC product restricted by state law on public property within 500 feet of a school grounds real property or rented by School District (public, private or parochial schools) within the Village of Oakfield.

9.36.061 Possession of vapor products by persons under the age of 21.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

“Underage” means an individual who is less than 21 years of age.

“Non-tobacco smoking product” means any product not containing tobacco which is designed to be ignited and the combustion products inhaled, including, but not limited to, industrial hemp cigarettes and loose industrial hemp packaged and marketed for smoking.

“Person who sells vapor products at retail” means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products.

“Public place” means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or premises, or in a public place of business or school.

“Use of vapor product or non-tobacco smoking product” means to suck, inhale, ignite, or otherwise consume a vapor product or non-tobacco smoking product

“Vapor product” means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose.

9.36.070 Prohibited conduct.

A. Consistent with Wis. Stats. §§ 254.92, a minor shall not do any of the following:

1. Purchase or attempt to purchase a vapor product or non-tobacco smoking product.
2. Possess or attempt to possess a vapor product or non-tobacco smoking product.
3. Use a vapor product or non-tobacco smoking product in a public place.
4. Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor product or non-tobacco smoking product.

B. No individual, regardless of age, who is enrolled in a secondary school may possess or attempt to possess a tobacco product, non-tobacco smoking product, or vapor product while on school property.

C. An individual who violates Chapter 9.36.070(A)(3) and 9.36.070 (B) shall be subject to the following penalties:

1. For the first violation, the person is responsible for a civil infraction punishable by a forfeiture as defined in Chapter 1.20.
2. For a second, and subsequent violation, the person is responsible for a civil infraction punishable by a forfeiture as defined in Chapter 1.20 within an eighteen-month period.

9.36.071 Exceptions.

A. An undercover operation in which the minor purchases or receives a vapor product or non-tobacco smoking product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

B. An undercover operation in which the minor purchases or receives a vapor product or non-tobacco smoking product under the direction of the state police or local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the vapor product or non-tobacco smoking product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.

C. Does not apply to the handling or transportation of a vapor product or non-tobacco smoking product by a minor under the terms of that minor's employment.

9.36.072 Furnishing to minors.

Consistent with Wis. Stats. §§ 134.66:

A. A person shall not sell, give or furnish any vapor product or non-tobacco smoking product to a minor, including, but not limited to, through a vending machine. A person who violates this subsection is subject to a fine as defined in Chapter 1.20 for each subsequent violation in any eighteen-month period.

B. Does not apply to the handling or transportation of a tobacco product, non-tobacco smoking product, or vapor product by a minor under the terms of the minor's employment.

C. Before selling, offering for sale, giving, or furnishing a vapor product or non-tobacco smoking product to an individual, a person shall verify that the individual is at least 21 years of age by doing one of the following:

1. Examining a government-issued photographic identification that establishes that the individual is at least 21 years of age; or
2. For sales made by the Internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or

aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 21 years of age or older.

9.36.073 Statutory provisions.

The provisions of §§ 254.92, 134.66 and 778.25(1)(a), Wis. Stats., are adopted by reference and incorporated in this chapter.

9.36.080 Regulation of smoking in places of employment and public places.

- A. State statutes adopted. The provisions of § 101.123, Wis. Stats., as amended by 2009 Wisconsin Act 12, relating to the prohibition of smoking in various enclosed places, are hereby adopted and made part of this Code by reference, in order to protect the health and comfort of the public. Penalties for violation shall be as provided in Chapter 1.20.010 or Wisconsin Statutes.
- B. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

9.36.081 Careless Smoking Prohibited.

Any person who, by smoking or attempting to light or to smoke cigarettes, cigars, pipes, tobacco or any other product in any manner, shall through carelessness, recklessness or negligence set fire to any building or the contents thereof so as to endanger life or property in any way or to any extent shall be guilty of a violation of this section.

9.36.082 Smoking at Certain Outdoor Locations.

No person may smoke or use smokeless tobacco or electronic cigarettes at or within 50 feet of the Village Park, or at or within 50 feet of any playground or play structure, bleachers, dugouts, bathrooms located on Village property.

9.36.083 Enclosed Indoor Area

A. Definitions

- 1. "Enclosed indoor area" means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50% of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011-gauge screen with an 18-by-16 mesh count is not a wall.
- 2. "Place of Employment" means any indoor place that employees enter carrying out their work duties, such as office, work area, employee lounge, restroom, conference room, meeting room, classroom, elevator, stairway, lobby, common area, vehicle, cafeteria or hallway.
- 3. "Public place" means any places open to the public or where the public may be invited.
- 4. "Smoking" means a cigar, cigarette, pipe or other lighted smoking equipment. Note: E-cigarettes are not included.

B. Person-in-charge provisions.

A person in charge can't provide matches or ashtrays, must post adequate signage, ask any person violating the law to stop smoking, ask any person violating the law to leave, refuse service to any person violating the law in the case of restaurants,

bars, and private clubs and notify law enforcement if the person refuses to comply.

C. Confiscation by law enforcement officer.

A law enforcement officer shall seize any cigarette, nicotine products, or tobacco product, vaping device, or other smoking or electronic delivery device involved in any violation of this ordinance for evidence to be inventoried or to be disposed of.

9.36.090 Penalties.

Forfeiture for a violation of the provisions of this chapter according to §1.20.010 of this Code. As prescribed by Wisconsin state statutes, a warning notice shall be issued to the person in charge for the first violation.

(2024-9)