

# VILLAGE OF NEWBURG

## ORDINANCE NO. 11-2017

### AN ORDINANCE REGULATING THE CONDUCT OF AN OPERATOR LICENSE HOLDER PER SECTION 112.11 OF THE MUNICIPAL CODE OF NEWBURG

#### SECTION I. PURPOSE

WHEREAS, Wisconsin State Statute 125.17 authorizes a municipal government body to issue an Operator License to qualified applicants; and

WHEREAS, the Wisconsin State Statutes allows a municipality to further regulate the conduct of an Operator License holder; and

WHEREAS, on occasion the Village Board does a review of its ordinances to adjust to the needs in the community;

NOW THEREFORE, the Village Board of the Village of Newburg, Wisconsin, does hereby create Section 112.11(K) of the Municipal Code to read:

#### SECTION II. CREATE

##### **112.11(K) Prohibition on Intoxication by Licensee.**

(1) Prohibition. It shall be unlawful for a licensee or an agent or employee of the licensee to serve or supervise the service of alcohol beverages in a licensed premises while under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog. Controlled substance and controlled substance analog shall have the meaning as these terms are defined in Chapter 961 of the Wisconsin Statutes. Under the influence means not only all the well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging to any degree in alcohol beverages, controlled substances or controlled substance analogs and which tends to deprive a person of the clearness of intellect and control of himself or herself which he or she would otherwise possess.

(2) Presumption. A test of the person's breath, blood, or urine, including a preliminary breath test, that shows the person has an alcohol concentration of 0.04 or more is prima facie evidence that he or she is under the influence. Law enforcement officials shall be allowed to ask for a preliminary breath test upon reasonable suspicion. Refusal to submit to a requested test may be considered by the Village Board as grounds for revocation, non-issuance, or non-renewal of the server's operator's license.

(3) Effect of Violation on Premises. If the principal business of the licensed premises is the sale of alcohol beverages, law enforcement officials will order it closed until such time as another licensed server or the

licensee who is not in violation of this section shall take charge of such premises. It shall be a violation of this subsection for any licensed premises to be open contrary to such order of law enforcement officials. Any violation of this section (K) may be considered as grounds for a suspension or revocation of either the operator's license or the establishment's license pursuant to Section 112.17 of the municipal code.

### SECTION III. MISCELLANEOUS

SEVERABILITY. The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provision, sections or portions thereof of the Ordinance. The remainder of the Ordinance shall remain in full force and effect. Any other Ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

### SECTION IV. EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Passed and adopted by the Village Board of the Village of Newburg, Washington and Ozaukee Counties, Wisconsin, this 14<sup>th</sup> day of December, 2017.

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Mike Heili, Village President

ATTEST:

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Rick J Goeckner, MMC  
Village Administrator/Clerk