

## CHAPTER 47

### OFFENSES INVOLVING ALCOHOLIC BEVERAGES

47.01	Outside Consumption
47.02	Beer and Liquor in Village Parks
47.03	Sale to Underage or Intoxicated Persons Restricted
47.04	Underage Persons Presence in Places of Sale; Penalty
47.05	Underage Persons; Prohibitions; Penalties
47.06	Defense of Sellers
47.07	False or Altered Identification Cards
47.08	Possession of Alcoholic beverages on School Grounds
47.09	Adult Permitting or Encouraging Underage Violation
47.10	Penalties

---

#### 47.01 OUTSIDE CONSUMPTION

- (a) **DEFINITIONS.** The following definitions shall apply to this Chapter:
- (1) **"Alcoholic Beverage"** shall mean 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 and degerminated grains or sugar, which contain one-half of one percent or more of alcohol by volume and which are fit for use for beverage purposes.
  - (2) **"Public Area"** shall 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.
- (b) **ALCOHOLIC BEVERAGES IN PUBLIC AREAS.** It shall be unlawful for any person to sell or serve, or offer to sell or serve, or to consume, or to carry or expose to view any open container of any alcoholic beverage upon any street, sidewalk, alley, public parking lot, highway, public playground, public park or other public area within the Village.
- (c) **EXCEPTION.** This Section shall be suspended during the officially proclaimed Pulaski Polish Sausage Day during time prescribed by the Village Board insofar as it pertains to alcoholic and fermented malt beverages in paper cups only and shall also be similarly suspended upon the proclamation of the Village Board for a celebration or special event.

#### **47.02 BEER AND LIQUOR IN VILLAGE PARKS**

- (a) **PRIVATE CONSUMPTION.** Beer and liquor may be brought to and consumed in Memorial Park only, subject to the following restrictions:
- (1) Such use without a permit shall be restricted to a period from the Saturday before Memorial Day to the last day of October from 10:00 a.m. to 9:00 p.m. Such use shall be permitted for family picnics, family reunions, churches and various other civic community or club organizations or individuals, provided the number in such group does not exceed 100. If such number exceeds 100, then the legal representative of such group shall apply to the Village Clerk for a license to use the Park.
  - (2) If the anticipated number of attendees and invitees to an event in Memorial Park, where alcoholic beverages are to be provided, is to exceed 100, the sponsor shall apply to the Village for a permit. The Village, under the provisions of sub(a)(2), may impose such conditions as it sees fit to accommodate the size of the group and the event in regard to a bond, necessity of hiring private police and cleanup after the event and the type of license to be secured.
- (b) **SALES.** No alcoholic beverages may be sold in Memorial Park without a permit. Such sales shall be subject to the following:
- (1) A permit to sell beer only may be obtained by any group upon application for a license from the Village Clerk.
  - (2) The application for license shall be made by the group to the Village Board and the Village Board may impose such conditions as it sees fit to accommodate the size of the group and the event in regard to a bond, responsibility of requiring identification cards, necessity of hiring private police and cleanup after the event and the type of license to be secured.

#### **47.03 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED**

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. 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.

#### **47.04 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 alcoholic 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.
- (b) **EXCEPTIONS.** This Section 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 of.
  - (2) An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than alcoholic beverages. An underage person so entering the premises may not remain on the premises after the purchase.
  - (3) Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums, or public facilities as defined in §125.51(5)(b)1.d, Wis. Stats., which are owned by a county or municipality.
  - (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 clubhouses and private tennis clubs.
  - (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 alcoholic 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, as defined in §125.34(4)(b)1, Wis. Stats., if the person does not enter or remain in a room where alcoholic beverages are sold or furnished.
  - (8) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcoholic beverages are sold or served, for the purpose of engaging in marching or drilling with a group of other persons if no alcoholic

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 subdivision. An underage person may enter and remain on Class "B" or "Class B" premises under this subdivision 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 subdivision 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 subdivision 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.

#### **47.05 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES**

- (a) **PROHIBITIONS.** No underage person shall engage in any of the following activities:
- (1) Procure or attempt to procure alcoholic beverages.
  - (2) Knowingly possess or consume intoxicating liquor.
  - (3) Enter or is on licensed premises in violation of Sec. 47.04(a).
  - (4) Falsely represent his or her age for the purpose of receiving alcoholic beverages from a licensee or permittee.
- (b) **PENALTY.** Except as otherwise provided herein, any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, who knowingly procures, possesses or consumes fermented malt beverages shall be subject to the penalty provisions of Sec. 1.06. In addition, a court may suspend or revoke the violator's motor vehicle operator's license. If a court revokes or suspends a person's operating privilege under this Section, 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. A person who is under eighteen (18) years of age on the date of disposition is subject to §48.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal jurisdiction after dismissal of the citation under §48.344(3),

Wis. Stats.

- (c) **EXCEPTIONS.** 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. 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 alcoholic beverages during regular working hours and in the course of employment.

#### **47.06 DEFENSE OF SELLERS**

- (a) **DEFENSES.** Proof of the following facts by a seller of alcoholic 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.
- (b) **BOOK KEPT BY LICENSEES AND PERMITTEES.** Every retail alcoholic 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 employer 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 alcoholic beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

State Law Reference: §125.07(6) and (7), Wis. Stats.

#### **47.07 FALSE OR ALTERED IDENTIFICATION CARDS**

- (a) **PROHIBITIONS.** No person shall do any of the following:
- (1) Intentionally carry 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) Make, alter or duplicate an official identification card.

(3) Present false information to an issuing officer in applying for an official identification card.

- (b) **SPECIFIC PENALTIES.** Any person who makes, alters or duplicates an official identification card shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, not including court costs.

State Law Reference: §125.09(3), Wis. Stats.

#### **47.08 POSSESSION OF ALCOHOLIC BEVERAGES ON SCHOOL GROUNDS PROHIBITED**

- (a) **DEFINITIONS.** The following definitions shall apply to this Section:

(1) **"Motor Vehicle"** shall mean a motor vehicle owned, rented or consigned to a school.

(2) **"School"** shall mean 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.

(3) **"School Administrator"** shall mean the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

(4) **"School Premises"** shall mean the premises owned, rented or under the control of a school.

- (b) **PROHIBITIONS.** Except as provided by sub(c), no person may possess or consume alcoholic 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) **EXCEPTION.** 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 and ordinances.

#### **47.09 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION**

No adult may knowingly permit or encourage 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, or to in any other way violate or attempt to violate any provision of this Chapter. This subsection does not apply to alcoholic beverages used exclusively as part of a religious service.

State Law Reference: §125.07(1)(a)3 and 4, Wis. Stats.

#### **47.10 PENALTY**

Except as otherwise specifically provided herein, the penalty for violation of any provision of this Chapter shall be the general penalty set forth at Sec. 1.06.