

## **11.27 Possession of Open Alcoholic Beverages on Public Property.**

- (1) General Rule.** No person shall possess, have on their person, or have in a motor vehicle operated by them, any intoxicating liquor, wine, or fermented malt beverage, as those terms are defined in Wis. Stat. §125.02, except in the original package with the seal unbroken or closed with a tamper-evident seal as defined in Wis. Stat. §125.02(20g), in any of the following places, except as otherwise specifically provided herein:

  - (a)** Any public right-of-way, street, sidewalk, parking lot, pedestrian path, recreational path, bike path, bridle path, grounds of a City building, or other public way or property within the City of Waukesha. For parks, see subsection (2).
  - (b)** Any privately-owned parking lot or driveway used by the public with the express or implied permission of the owner, unless expressly authorized by the owner of such parking lot or driveway.
  - (c)** Any grounds under the control of the Waukesha School District, the grounds of any privately-owned and -operated school; church; hospital; or other institution frequented by the public; unless expressly authorized by the owner thereof.
- (2) Special Rules for Parks.**

  - (a)** No person shall possess, have on their person, or have in a motor vehicle operated by them, any intoxicating liquor, wine, or fermented malt beverage, as those terms are defined in Wis. Stat. §125.02, in any City park, regardless of whether it is in a sealed container or not, except if either of the following apply:

    - (i)** A picnic/special gathering permit has been issued by the Department of Parks, Recreation, and Forestry, and the wine or fermented malt beverages are for personal consumption by the permit holder and invitees and not for sale or distribution to others. Possession and consumption is permitted only within the boundaries described in the picnic/special gathering permit, and all restrictions in the picnic/special gathering permit shall be observed.
    - (ii)** A temporary Class B license has been issued by the City, or a Full Service Retail permit has been issued by the state, and possession and consumption of wine and fermented malt beverages takes place only within the premises described in the license or permit. Refer to Municipal Code §9.09(2).
  - (b)** Intoxicating liquors other than wine are prohibited in parks at all times.
  - (c)** All rules and regulations of the Department of Parks, Recreation, and Forestry apply.
- (3) Duty to Prevent Violation.** The holder of any Class A or Class B retail alcohol beverage license shall make every reasonable effort to discourage patrons from taking Alcohol Beverages from their licensed premises unless the Alcohol Beverages are in their original sealed containers or are closed with a tamper-evident seal.

(4) **Exception for Block Parties.** Subsection (1) shall not apply at a Block Party for which a permit has been issued by the City pursuant to Municipal Code §6.185, provided the Council member from the district in which the Block Party takes place has expressly consented on the Block Party permit application.

(5) **Exception for Special Events within a DORA.**

(a) **Definitions.** For purposes of this subsection, the following definitions apply:

- (i) Alcohol Beverage means any intoxicating liquor, wine, or fermented malt beverage as those terms are defined in Wis. Stat. §125.02.
- (ii) DORA means Designated Outdoor Refreshment Area. The Downtown DORA is the area bounded by the Fox River on the North, Barstow Street on the east, and Wisconsin Avenue on the south. The Williams Street DORA is the Williams Street right-of-way between Grand Avenue and Maple Avenue. See the accompanying map.
- (iii) DORA Participant means a Class B retail license holder whose licensed premises are within a DORA and who has been designated a DORA Participant by the holder of a Special Event permit within the DORA.

(b) **DORA Regulations.** Subsection (1) shall not apply within a Special Event for which a permit has been issued by the City under Municipal Code §6.18, subject to all of the following:

- (i) The public rights-of-way closed under Municipal Code §6.17 for the Special Event must be entirely within a DORA.
- (ii) Open Alcohol Beverages are allowed only between noon and 8:30 p.m. on Mondays through Thursdays, noon and 10 p.m. on Fridays and Saturdays, and between noon and 6 p.m. on Sundays.
- (iii) The open Alcohol Beverages must have been obtained only from DORA Participants. Carry-ins are prohibited.
- (iv) The open Alcohol Beverages must be only in the original plastic or aluminum packaging or transparent or translucent plastic cups, bearing a sticker clearly indicating that the Alcohol Beverage was obtained from a DORA Participant. Glass containers are prohibited.
- (v) DORA Participants shall verify that customers have reached age 21 and shall place a wristband indicating verification on all customers who will leave their licensed premises with an Alcohol Beverage. All persons having open Alcohol Beverages must have such an age-verification wristband.

- (vi) The Special Event permit holder shall determine which establishments may be DORA Participants, and shall be responsible for administering the restrictions of this section and enforcing their requirements on DORA Participants.
  - (vii) No open containers of Alcohol Beverages may be taken out of the boundary of the Special Event. A Special Event within a DORA does not open the entire DORA for open Alcohol Beverages. Signs must be posted at the boundary of the Special Event by the Special Event permit holder clearly stating that open Alcohol Beverages may not be taken beyond the boundary.
  - (viii) The Special Event permit holder shall be responsible for collection and disposal of all Alcohol Beverage containers within the Special Event, at the permit holder's sole expense. City garbage cans, dumpsters, or other collection containers may not be used for disposal. Any costs of disposal incurred by the City due to the permit holder's failure to comply shall be reimbursed by the Special Event permit holder.
  - (ix) All other City ordinances and state laws pertaining to Alcohol Beverages remain in effect, including the requirement that Alcohol Beverages carried out of a licensed premises must be closed in an original sealed container or bear a tamper-evident seal, and the prohibition of carrying open Alcohol Beverages into a licensed premises other than the one at which it was purchased.
- (6) Penalty.** Violations of this section may result in a forfeiture as provided in Municipal Code §25.05, and denial of subsequent Special Event permits.

(Cr. #23-80)

Subs. (3) (Am. #31-80) (Am. #5-05)

Subs. (5) (Cr. #11-99) (Am. #18-01) (Am. #2021-1)