

11.27 ~~Drinking On Possession of Open Alcoholic Beverages on~~ Public Streets- Prohibited Property.

- (1) **General Rule.** No person shall ~~drink, consume, transport, carry or 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 ~~and with the seal unbroken, either in or out of the vehicle 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 City owned or controlled parking lot.

~~(b)~~(a) ~~(Am. #31-93) (Am. #31-99)~~ Any public right-of-way, street, public walkway, highway, alley, sidewalk, plaza area as defined and designated in sec. 11.07 parking lot, pedestrian path, recreational path, bike path, bridle path, grounds of a City building, or other similar place or public way or property within the City. ~~Notwithstanding the specific limitations set forth in (4) below, the prohibitions of this paragraph shall apply to Veterans Park and Youmann Park, of Waukesha. For parks, see subsection (2).~~

~~(c)~~(b) Any privately ~~owned~~ parking lot, or driveway or lot used for vehicular traffic by the public with the express or implied permission of the owner ~~for public use thereof,~~ unless expressly authorized ~~in writing~~ by the owner of such parking lot, or driveway or lot.

~~(d)~~(c) Any grounds under the control of the Waukesha School District; ~~and,~~ 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.

(2)(3) **Duty to Prevent Violation.** The holder of ~~any~~ Class A or Class B ~~fermented malt~~ retail alcohol beverage ~~or intoxicating liquor~~ license shall make every reasonable effort to discourage patrons from taking ~~fermented malt beverages or intoxicating liquors or wine~~ Alcohol Beverages from ~~the~~ their licensed premises ~~when such beverages are served for consumption on the 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 ~~(Am. #31-80) (Am. #5-05)~~ The Common Council may permit the consumption or possession of fermented malt beverages, wine or intoxicating liquors in specifically authorized public places or at any event for which a temporary "picnic" license permit has been issued by the City pursuant to Chapter 9 of this Municipal Code. ~~The alderperson of an aldermanic~~ §6.185, provided the Council member from the district may in which the Block Party takes place has expressly consented on the Block Party permit ~~the consumption or possession of fermented malt beverages, wine or intoxicating liquors at "block parties"~~ application.

(3)(5) **Exception for Special Events** ~~within his/her district. All block parties must end at 11:30 p.m.~~ DORA.

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

(4) ~~Alcohol Beverage means (Cr. #11-99) (Am. #18-01) (Am. #2021-1)~~

(a)(i) ~~No person shall drink, consume, transport, carry or possess, whether in an open or unopened sealed container, any intoxicating liquor, wine, or fermented malt beverages~~ beverage as those terms are defined in see Wis. Stat. §125.02, Wis. Stats., in any public park, except in specified locations identified in a picnic/special gathering permit issued by the Parks, Recreation and Forestry Department pursuant to this subsection.

(b) ~~A picnic/special gathering permit may be issued for the consumption and possession of fermented malt beverages and wine for specified locations in public parks. A picnic/special gathering permit may also be issued for the Schuetze, Rotary, and Shurts buildings respectively for the consumption of fermented malt beverages, wine and intoxicating liquor. Such permits may be issued only for the following hours: Monday through Friday from 4 p.m. to 10 p.m. and Saturday and Sunday from 10 a.m. to 10 p.m., Memorial Day, the Fourth of July, and Labor Day shall be treated as a weekend day if that holiday is legally observed on a weekday.~~

(c) ~~Picnic/special gathering permits may be obtained from the Parks, Recreation and Forestry Department on a first come, first served, basis during regular business hours on a form provided by the Parks, Recreation and Forestry Department.~~

(d) ~~The Parks, Recreation and Forestry Department may deny the issuance of a permit if:~~

- ~~(i) The applicant has a documented history of past violations of this subsection;~~
- ~~(ii) The applicant has a documented history of arrests and convictions of subsections 1-3 above.~~
- ~~(iii) A permit has already been issued for the date, time and location requested by the applicant, or the permit would conflict with other events scheduled for the park.~~
- ~~(e) A permit shall not be required for designated ball diamond areas at Buchner and Saratoga Parks during a City sanctioned league ball game.~~
- (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)