

Offenses Involving Alcoholic Beverages

CHAPTER 4

Offenses Involving Alcoholic Beverages

- 10-4-1 Outside Consumption
- 10-4-2 Sale of Underage or Intoxicated Persons Restricted
- 10-4-3 Underage Persons' Presence in Places of Sale; Penalty
- 10-4-4 Underage Persons; Prohibitions; Penalties
- 10-4-5 Defense of Sellers
- 10-4-6 Persons Who Have Attained the Legal Drinking Age;
False or Altered Identification Cards
- 10-4-7 Possession of Alcohol Beverages on School Grounds
- 10-4-8 Adult Permitting or Encouraging Underage Violation
- 10-4-9 Solicitation of Drinks Prohibited
- 10-4-10 Nude Dancing in Licensed Establishments

SEC. 10-4-1 OUTSIDE CONSUMPTION.

(a) Alcoholic Beverages in Public Areas.

- (1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the City or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the City except on a licensed premises.
- (2) Private Property Held Out for Public Use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.
- (3) Leaving Licensed Premises With Open Container.
 - a. It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.
 - b. It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.

Offenses Involving Alcoholic Beverages

(b) **Definitions.**

- (1) As used in this Section, the term "**alcoholic beverage**" shall include 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 or degerminated grains or sugar, which contain one-half (½) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.
- (2) As used in this Section, the term "**public area**" shall be construed to mean any location within the City 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.
- (3) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Title 6, Chapter 2.

**SEC. 10-4-2 SALE TO UNDERAGE OR INTOXICATED PERSONS
RESTRICTED**

(a) **Sales of Alcohol Beverages to Underage Persons.**

- (1) 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.
- (2) 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.

(b) **Penalties.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of:

- (1) Not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within twelve (12) months of the violation; or

Offenses Involving Alcoholic Beverages

- (2) Not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within twelve (12) months of the violation.
 - (3) In addition to the forfeitures provided in Subsections (1) and (2) above, the Common Council may revoke, refuse to renew or suspend any license issued under Title 6 of this Code to any person convicted of violating this Section.
- (c) **Sale of Alcohol Beverages to Intoxicated Persons.**
- (1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
 - (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.
- (d) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned for not more than sixty (60) days or both.

State Law Reference: Section 125.07, Wis. Stats.

SEC. 10-4-3 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 alcohol 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. The paragraph 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.
 - (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 alcohol beverages. An underage person so entering the

Offenses Involving Alcoholic Beverages

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 Section 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 Chapters 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" fermented malt beverage or "Class B" alcohol beverage 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 alcohol 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 Section 125.32(4)(b)1, Wis. Stats., if the person does not enter or remain in a room where alcohol beverages are sold or furnished.
 - (8) An underage person who enters and remains on a Class "B" or "Class B" premises when the operator of the premises complies with the following:
 - a. Has established certain time period(s) and date(s) during which no fermented malt or alcoholic beverages will be served on the premises or sold for off-premises consumption.
 - b. Does not serve fermented malt or alcoholic beverages on the premises or sell the same for off-premises consumption during the period(s) so established.
 - c. Provides the Police Department with five (5) days' notice of the date(s) and period(s) so established.
- (b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

Offenses Involving Alcoholic Beverages

SEC. 10-4-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES

- (a) Any underage person who does any of the following is guilty of a violation:
- (1) Procures or attempts to procure alcohol beverages.
 - (2) Knowingly possesses or consumes intoxicating liquor.
 - (3) Enters or is on licensed premises in violation of Section 10-4-3(a).
 - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
 - (5) Intentionally carries 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.
 - (6) Makes, alters or duplicates an official identification card.
 - (7) Presents false information to an issuing officer in applying for an official identification.
 - (8) Intentionally carries an identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the documentation is false.
 - (9) Provides to another underage person an official identification card or other documentation purporting to show that the other underage person has attained the legal drinking age, with knowledge that the documentation is false.
- (b) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.
- (c) Any person violating Subsections (a) or (b) is subject to the following penalties:
- (1) For a first violation, a forfeiture of not more than Fifty Dollars (\$50.00), suspension of the person's operating privilege as provided under Section 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than One Hundred Dollars (\$100.00), suspension of the person's operating privilege as provided under Section

Offenses Involving Alcoholic Beverages

- 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
- (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not more than One Hundred Fifty Dollars (\$150.00), revocation of the person's operating privilege under Section 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
- (d) (1) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the Common Council. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.
- (2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.
- (e) When a court revokes or suspends a person's operating privilege under Subsection (c), 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.
- (f) A person who is under eighteen (18) years of age on the date of disposition is subject to Section 48.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Section 48.344(3), Wis. Stats.
- (g) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, winery or a facility for the

Offenses Involving Alcoholic Beverages

rectifying or manufacture of intoxicating liquor or the reproduction of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

- (h) 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 alcohol beverages during regular working hours and in the course of employment.

SEC. 10-4-5 DEFENSE OF SELLERS

- (a) **Defenses.** Proof of the following facts by a seller of alcohol 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 alcohol 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 employee 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 alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

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

SEC. 10-4-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE; FALSE OR ALTERED IDENTIFICATION CARDS

- (a) (1) Any person who attained the legal drinking age, other than one authorized by Section 125.08 or 343.50, Wis. Stats., who makes, alters or duplicates an

Offenses Involving Alcoholic Beverages

official identification card, who provides and official identification card to an underage person or who knowingly provides other documentation to any underage person purporting to show that the underage person has attained the legal drinking age may be subject to a forfeiture of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) upon conviction.

- (2) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) or imprisoned not more than ten (10) days or both.
- (b) Any underage person who does any of the following is subject to the penalties specified under Section 10-4-4(c) or (d):
- (1) Intentionally carries 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) Makes, alters or duplicates an official identification card.
 - (3) Presents false information to an issuing officer in applying for an official identification card.

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

SEC. 10-4-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED

- (a) In this Subsection:
- (1) **Motor vehicle** means a motor vehicle owned, rented or consigned to a school.
 - (2) **School** means a public, parochial or private school which provides an educational program for one (1) 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** means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

Offenses Involving Alcoholic Beverages

- (4) **School premises** means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c) no person may possess or consume alcohol 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) Alcohol beverages may be possessed or consumed on school premises, in motor vehicle or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.
- (d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00), except that Section 48.344, Wis. Stats., and Section 10-4-4(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

Cross Reference: Section 10-4-5.

SEC. 10-4-8 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION

- (a) No person may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (b) No adult may intentionally encourage or contribute to a violation of Section 10-4-4(a) or (b).
- (c) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00).

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

SEC. 10-4-9 SOLICITATION OF DRINKS PROHIBITED

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the City who permits an entertainer or an employee to solicit a drink or any alcohol beverage defined in Section 125.02(1) of the Wisconsin Statutes, or any other drink from a customer on the premises, or any entertainer or employee who solicits such

Offenses Involving Alcoholic Beverages

drinks from any customer is deemed in violation of this Section, and is subject to the penalties set out in Section 1-1-7.

SEC. 10-4-10 NUDE DANCING IN LICENSED ESTABLISHMENTS

(a) Nude Dancing In Licensed Establishments Prohibited.

It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

- 1) Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering;
- 2) Shows any portion of the female breast below a point immediately above the top of the areola; or
- 3) Shows the covered male genitals in a discernibly turgid state.

(b) Exemptions. The provisions of this ordinance do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(c) Definitions. For purposes of this ordinance, the term "licensed establishment" means any establishment licensed by the common council of the City of Thorp to sell alcohol beverages pursuant to ch. 125, Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" license granted by the common council of the City of Thorp pursuant to Ch. 125, Stats.

(d) Penalties. Any person, partnership, or corporation who violates any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$500.00 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance

Offenses Involving Alcoholic Beverages

constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under sec. 125.12, Stats.

- (e) **Severability.** If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.