

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED
REFERRED

November 19, 2013
ALRC _____

Creating Section 38.04(2) and renumbering current Secs. 38.04(2) through (5) to Secs. 38.04(3) through (6) and amending Sec. 1.08(3)(a) of the Madison General Ordinances to establish the offenses and penalties relating to procuring for and selling alcohol beverages to underage persons.

Drafted by: Jennifer Zilavy

Date: November 11, 2013

SPONSOR: Alder Verveer

DRAFTER'S ANALYSIS: Offenses and penalties relating to procuring for and selling to underage persons were not specifically included in Chapter 38; they were included by reference via the City's adoption of Wis. Stat. ch. 125. The offenses are referenced in the demerit point schedule and the bail schedule and will now be fully set forth in Chapter 38 and properly referenced in the demerit point schedule and the bail schedule.

The Common Council of the City of Madison do hereby ordain as follows:

1. New Subsection (2) entitled "Sale of Alcohol Beverages To Underage Persons" of Section 38.04 entitled "Underage and Intoxicated Persons, Presence on Licensed Premises; Possession; Misuse of Identification; Penalties" of the Madison General Ordinances is created to read as follows:

"(2) Sale of Alcohol Beverages to Underage Persons.

- (a) No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- (b) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- (c) No adult 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 adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.
- (d) No adult may intentionally encourage or contribute to a violation of sub. (4) (a) or (b).
- (e) Penalties.

- 1. In this paragraph, "violation" means a violation of this subsection or of a local ordinance that strictly conforms to par. (a) if the violation results in an imposition of a forfeiture or a conviction. For purposes of determining previous violations under sub. 2., the thirty-(30) month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.
- 2. A person who commits a violation may be:

Approved as to form:

- a. Required to forfeit not more than five hundred dollars (\$500) if the person has not committed a previous violation within thirty (30) months of the violation.
 - b. Fined not more than five hundred dollars (\$500) or imprisoned for not more than thirty (30) days or both if the person has committed a previous violation within thirty (30) months of the violation.
 - c. Fined not more than one thousand dollars (\$1,000) or imprisoned for not more than ninety (90) days or both if the person has committed two (2) previous violations within thirty (30) months of the violation.
 - d. Fined not more than ten thousand dollars (\$10,000) or imprisoned for not more than 9 months or both if the person has committed three (3) or more previous violations within thirty (30) months of the violation.
3. A court shall suspend any license or permit issued under this chapter to a person for:
- a. Not more than three (3) days, if the court finds that the person committed a violation within twelve (12) months after committing one previous violation;
 - b. Not less than three (3) days nor more than ten (10) days, if the court finds that the person committed a violation within twelve (12) months after committing two (2) other violations; or
 - c. Not less than fifteen (15) days nor more than thirty (30) days, if the court finds that the person committed the violation within twelve (12) months after committing three (3) other violations.
4. The court shall promptly mail notice of a suspension under this paragraph to the department and to the clerk of each municipality which has issued a license or permit to the person.
5. A person who holds a Class “A” license, a Class “B” license or permit, a “Class A” license or a “Class B” license or permit who commits a violation is subject to sub. 3. but is not subject to sub. 2. or Wis. Stat. § 125.11.
6. Only one penalty may be imposed under this paragraph for each underage person who is provided alcohol beverages contrary to this section or a local ordinance in conformity with this section.”

2. Current Subsections (2) through (5) of Section 38.04 entitled “Underage and Intoxicated Persons, Presence on Licensed Premises; Possession; Misuse of Identification; Penalties” of the Madison General Ordinance are renumbered to Subsections (3) through (6), respectively.

3. The title of newly renumbered Subsection (3) entitled “Presence in Places of Sale; Penalty” of Section 38.04 entitled “Underage and Intoxicated Persons, Presence on Licensed Premises; Possession; Misuse of Identification; Penalties” of the Madison General Ordinances is amended to read as follows:

“(3) Presence of Underage on Licensed Premises.”

4. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by amending therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Adult knowingly permits underage consumption.	38.04(1)(a)3-(2)(c)	\$250, 1st \$300, 2nd \$500, 3rd \$750, 4th & subsequent

		in 12 months
Adult intentionally encourages underage consumption.	38.04(1)(a) <u>4.(2)(d)</u>	\$250, 1st \$300, 2nd \$500, 3rd \$750, 4th & subsequent in 12 months
Permit underage person on premises where activity requires alcohol beverage license.	38.04(2)(3)(b) <u>2.</u>	\$200, 1st \$300, 2nd/subsequent"