

CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

45.01 PERSONS UNDER LEGAL AGE. As used in this section, “legal age” means twenty-one (21) years of age or more.

1. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person’s employment by a liquor control licensee, or wine or beer permittee under State laws.

(Code of Iowa, Sec. 123.47[2])

2. A person under legal age shall not misrepresent the person’s age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine or beer from any licensee or permittee.

(Code of Iowa, Sec. 123.49[3])

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:

A. “Alcoholic beverage” means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine and beer.

B. “Arrest” means the same as defined in Section 804.5 of the Code of Iowa and includes taking into custody pursuant to Section 232.19 of the Code of Iowa.

C. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.

D. “Peace Officer” means the same as defined in Section 801.4 of the Code of Iowa.

E. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.

(Ord. 06-09 – Jun. 07 Supp.)

2. It is unlawful for any person to use or consume any alcoholic beverage upon the public streets or highways of the City of Arnolds Park, or consume any alcoholic beverage on any public sidewalk, bike trail, public beach, or in any public place, except:

A. Premises covered by a valid liquor control license; or

B. If the public place is one of the following City-owned properties: Abbie Gardner Park, Downtown City Campground, Minnewashta Campground and Sawmill Park; or one of the following State-owned properties: Lower Gar State Park, Henderson Woods Wildlife Area, and Pillsbury Point State Park. In these areas, wine and beer may be consumed if it is dispensed from bottles or single-serving cans, but not kegs or cartons. Only the City Administrator can authorized keg beer or Police Chief, in the case of City-owned properties; and only by a permit issued by the proper administrative authority, in the case of State-owned properties.

3. A person shall not possess or consume any alcoholic beverages on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person’s blood, breath, or urine established by the results of a chemical test performed within two hours after the person’s arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Ord. 06-09 – Jun. 07 Supp.)

(Code of Iowa, Sec. 123.46)

5. Upon the expiration of two years following conviction for a violation of this section, a person may petition the court to exonerate the person of the conviction, and if the person has had no other criminal convictions, other than simple misdemeanor violations of Chapter 321 of the Code of Iowa, including violations of Chapter 321 incorporated as violations of this code or another city code or based upon the referenced misdemeanor violations of Chapter 321, during the two year period, the person shall be deemed exonerated of the offense as a matter of law. The court shall enter an order exonerating the person of the conviction, and ordering that the record of the conviction be expunged by the clerk of the district court. *(Ord. 07-06 – Mar. 08 Supp.)*

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. (See Section 62.07 of this Code of Ordinances.)

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