

CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Regulation of Minors

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. “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.

B. “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.

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

D. “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.

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer 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.

3. 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.

(Code of Iowa, Sec. 123.46)

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

45.04 REGULATION OF MINORS.

1. No person shall sell, give or otherwise supply alcoholic liquor or beer to any person knowing or having reasonable cause to believe him or her to be under legal age, and no person or persons under legal age shall individually or jointly have alcoholic liquor or beer in his, her or their possession or control or attempt to purchase or obtain any alcoholic liquor or beer, except in the case of liquor or beer given or dispensed to a person under legal age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to him or her by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages and beer during the regular course of his or her employment by a liquor control licensee or beer permittee.

2. No person or club holding a class "A," "B" or "C" liquor license or a class "B" beer permit, or his or her agents or employees, shall employ any person under 18 years of age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.

3. Except as may be allowed in subsection 4 below, if the business of selling alcoholic liquor and/or beer constitutes more than 50% of the gross business transacted therein, it is unlawful for any person under legal age to enter into, remain upon, or frequent the place of business of any class "A," "B," or "C" liquor license holder or any class "B" beer permit holder after 7:00 p.m. on any day of the week, unless the person under legal age is engaged in a trade, occupation or business which is not otherwise prohibited by the Code of Iowa or this Code of Ordinances, and which requires his or her presence within or upon said premises. If the business of selling alcoholic liquor and/or beer constitutes more than 50% of the gross business transacted therein, it is unlawful for a parent or guardian of any person under legal age, any class "A," "B," or "C" liquor license holder or any class "B" beer permit holder to permit a person under legal age to enter into, remain upon, or frequent the place of business of any class "A," "B," or "C" liquor license holder after 7:00 p.m. on any day of the week, unless the person under legal age is engaged in a trade, occupation or business which is not otherwise prohibited by the Code of Iowa or this Code of Ordinances, and which requires his or her presence within or upon said premises.

4. The Council may authorize by resolution that the place of business of any class "A," "B," or "C" liquor license holder or class "B" beer permit holder in which the business of selling alcoholic liquor and/or beer constitutes more than 50% of the gross business transacted therein, may allow persons under legal age to enter into, remain upon or frequent a place of business after 7:00 p.m. on any day of the week upon such terms and conditions as may be established by Council resolution. To obtain such authorization, hereinafter referred to as "special permit," the licensee or permittee shall submit a written application to the City Clerk, upon a form provided by the Clerk. A special permit as may be granted hereunder, however, shall be limited to the dates and time expressly referenced in any such Council resolution. The resolution granting a special permit shall also contain such age limitations, hours of operation, and other rules and regulations, including the prohibition of the use, sale or consumption of alcoholic liquor, wine or beer during the dates and times for which such special permit is granted, that the Council shall deem necessary. The licensee or permittee must accept the rules and regulations established by the City Council in writing before the special permit may be granted. The applicant bears the burden of meeting the requirements of this section and providing such information as may be required by the City Council, including (but not limited to) tax returns, inventory and sales receipts and records, and such other records as required by the City Council.

5. For purposes of this section, the term “legal age” means twenty-one years of age or more; the term “gross business” means the total proceeds from the sale of alcoholic liquor, wine, beer and foodstuffs, with the exception of any ingredients or beverages added with/to alcoholic beverages. Proceeds from the sale of goods other than alcoholic beverages or foodstuffs and services, including (but not limited to) cover charges, admissions, games and amusements shall not be used when determining gross business.

6. Any special permit authorized by this section may, after notice in writing to the special permit holder and reasonable opportunity for hearing, be suspended for a period not to exceed one year or revoked, upon violation of any of the provisions of this section.

(Ord. 06-06 – Oct. 07 Supp.)