

Chapter 170, ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Open Containers in Public Places [Adopted by L.L. No. 2-1978 (Sub-Part XLIII of the 1970 Code)]

§ 170-1. Legislative intent. [Amended 12-4-2006 by L.L. No. 2-2006]

It is the intent of the City of Binghamton as an exercise of its police power to promote the general health, safety and welfare of the residents of the City by enacting this article since it is the finding of the City Council that the possession of open containers of alcoholic beverages by persons on certain public lands, except under controlled conditions, is detrimental to the health, safety and welfare of the residents of the City in that such possession contributes to the development of unsanitary conditions and the creation of a nuisance.

§ 170-2. Definitions.

For the purposes of this article, the following shall have the meanings ascribed to them. All other words shall have the meaning normally ascribed to them in regular usage.

ALCOHOLIC BEVERAGE -- Includes alcohol, spirits, liquor, wine, beer, cider, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being.

CITY -- The incorporated City of Binghamton.

CONTAINER -- Any bottle, can, glass or other receptacle suitable for or used to hold any liquid.

PUBLIC LANDS -- Any public highway, street, sidewalk, park, playground or parking area.

§ 170-3. Prohibition.

No person shall have in his possession any open container containing any alcoholic beverage on any public land within the City.

§ 170-4. Exceptions. [Amended 12-4-2006 by L.L. No. 2-2006]

The foregoing prohibition shall not apply when a permit or license has been issued by the City of Binghamton or other appropriate agency for the public use of any public highway, street, sidewalk, park, playground, or parking area for any authorized function, including, but not limited to, fairs, parades, block parties and carnivals.

§ 170-5. Applicability.

This article shall apply to all persons on public lands in the City except as provided in § 170-4 above and shall not apply to any person drinking an alcoholic beverage while operating a motor vehicle upon any public highway within the City in violation of § 1237 of the Vehicle and Traffic Law of the State of New York.

§ 170-6. Penalties for offenses. [Amended 5-21-07 by Ord. No. 14-2007; Amended 2-3-10 by Ord. No. 7-2010]

Any person who violates this article shall be subject to penalties as set forth in Chapter 1, General Provisions, § 1-4, General Penalty.

ARTICLE II, Consumption and Possession in Public Places [Adopted 4-18-1983 by Ord. No. 48-83 (Ch. 14, Art. III, §§ 14-36 through 14-39, of the 1970 Code)]

§ 170-7. Legislative intent.

It is the intention of the City of Binghamton as an exercise of its police power to promote the general health, safety and welfare of the residents of the City by adopting this article. This Council has found and determined that the possession of open containers of alcoholic beverages by persons under circumstances evincing an intent to consume the contents of such open containers on certain public lands and the consumption of alcoholic beverages on certain public lands, except under controlled conditions, is detrimental to the health,

safety and welfare of the residents of the City. Such possession and consumption contribute to the development of unsanitary conditions, disorderly gatherings and the creation of nuisances.

§ 170-8. Definitions.

For the purpose of this article, the following terms shall have the meanings ascribed to them. All other words shall have the meanings normally ascribed to them in regular usage.

ALCOHOLIC BEVERAGE -- Includes alcohol, spirits, liquor, wine, beer, cider, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being.

CONTAINER -- Any bottle, can, glass or other receptacle suitable for or used to hold any liquid.

PUBLIC LANDS -- Any public highway, street, sidewalk, park, playground, parking area, school property or municipal parking ramp.

§ 170-9. Prohibitions.

- A. No person shall have in his possession any open container containing any alcoholic beverage on any public land within the City under circumstances evincing an intent to consume the contents of said container upon any such public land.
- B. No person shall consume any alcoholic beverage on any public land within the City.

§ 170-10. Exceptions. [Amended 12-4-2006 by L.L. No. 2-2006; Amended 2-4-08 by Ord. No. 12-2008]

The above prohibitions shall not apply if the City Clerk has issued a Miscellaneous Activity Permit, with a statement of intent to serve alcohol, for use of a designated public highway, street, sidewalk, park, playground, or parking area; and, if necessary, the applicant has approval from the New York State Liquor Authority.

ARTICLE III, Consumption of Alcoholic Beverages By Minors On Private Property [Adopted 8-5-2020 by L.L. 20-01]

§ 170-11 Legislative intent.

It is the purpose of this article to protect the public interest, welfare, health and safety within the City of Oneonta by prohibiting the service to and consumption of alcoholic beverages and drugs by persons under the age of 21 at private residences located in the City of Oneonta. The Common Council finds that the occurrence of social gatherings at private residences where alcoholic beverages or drugs are served to or consumed by persons under the age of 21 is harmful to such persons themselves and a threat to public welfare, health and safety. The Common Council finds further that persons under the age of 21 often obtain alcoholic beverages or drugs at such gatherings and that such persons who are in control of such residences know or have reason to know of such service and/or consumption and will be more likely to ensure that alcoholic beverages and drugs are neither served to nor consumed by persons under the age of 21 at these gatherings.

§ 170-12 Definitions.

For the purpose of this article, the following terms shall be defined as follows:

ALCOHOLIC BEVERAGES

Any liquor, wine, beer, spirits, cider or other liquid or solid, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person; except that confectionaries containing alcohol as provided in Subdivision 12 of § 200 of the Agricultural and Markets Law shall not be considered alcoholic beverages within the meaning of this section.

CONTROL

The authority and ability to regulate, direct or dominate.

DRUG

Includes any substance listed in § 3306 of the Public Health Law.

MINOR

Any person under the age of 21.

OPEN HOUSE PARTY

A social gathering or otherwise, at a residence or other private property with minors present.

PERSON

A human being and, where appropriate, a public or private corporation, an unincorporated association, partnership, a government or a governmental instrumentality.

RESIDENCE

Any home, apartment, condominium, cooperative unit, complex, or dwelling unit of any kind, including amenity spaces, yards and open areas adjacent thereto.

§ 170-13 Prohibition.

No person having control of any residence shall allow an open house party to take place at said residence if such person knows or has reason to know that any alcoholic beverage or drug is being unlawfully possessed, served to or consumed by a minor at said residence.

§ 170-14 Exceptions.

The provisions of this article shall not apply to:

- A. The possession or consumption of an alcoholic beverage by persons lawfully permitted to do so pursuant to § 65-c of the New York State Alcoholic Beverage Control Law, or any other applicable law; or
- B. The possession or consumption of a drug for which the individual has a current, valid prescription or as otherwise permitted by other applicable law.

§ 170-15 Inconsistency with other laws; severability.

- A. If any part or provision of this article is inconsistent with any federal or state statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.
- B. If any part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by a court or competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section or the application thereof to other persons or circumstances.

§ 170-16 Penalties for offenses.

Failure to comply with the provisions of this ordinance shall constitute a violation, punishable by a fine of \$1,000 or imprisonment for 15 days.

Section 2. This act shall take effect immediately.