

TITLE VI – REGULATION OF BUSINESS AND VOCATIONS
BEER, LIQUOR AND WINE CONTROL

CHAPTER 145
GENERAL PROVISIONS

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145.01 DEFINITION. Where words and phrases used in the chapters of this Code of Ordinances pertaining to Beer, Liquor and Wine Control are defined by State law, such definitions shall apply to their use in these chapters and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings:

1. “Administrator” means the administrator of the alcoholic beverages division of the Iowa Department of Commerce, or any designee.
(Code of Iowa, Sec. 123.3)
2. “Club” means any nonprofit corporation or association of individuals, which is the owner, lessee or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.
(Code of Iowa, Sec. 123.3)
3. “Commercial Establishment” means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the standards and specifications of the Division and to the ordinances of the City.
(Code of Iowa, Sec. 123.3)
4. “Division” means the alcoholic beverages division of the Iowa Department of Commerce.
(Code of Iowa, Sec. 123.3)
5. “Grocery Store” means any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises.
(Code of Iowa, Sec. 123.129)
6. “Hotel or Motel” means a premise licensed by the State Department of Inspections and Appeals and regularly or seasonally kept open in a bone fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.
(Code of Iowa, Sec. 123.3[32])

7. "Legal Age" means that age defined in Chapter 123 of the Code of Iowa.
(Code of Iowa, Sec. 123.3)
8. "Person of Good Moral Character" means any person who meets all of the following requirements:
 - A. Has such financial standing and good reputation as will satisfy the Council and the Administrator that the person will comply with the Iowa Alcoholic Beverage Control Act and all other laws, ordinances and regulations applicable to his operations under State law.
 - B. Does not possess a federal gambling stamp.
 - C. It not prohibited by the provisions of Section 146.23 from obtaining a liquor license or a wine or beer permit.
 - D. Is a citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation.
 - E. Has not been convicted of a felony. However, if the person's conviction of a felony occurred more than five (5) years before the application for a license or permit, and if the person's rights of citizenship have been restored by the Governor, the Administrator or the Council may determine that the person is of good moral character notwithstanding such conviction.
 - F. If such person is a corporation, partnership, association, club, or hotel or motel, the requirements of this subsection shall apply to each of the officers, directors and partners of such person, and to any person who directly or indirectly owns or controls ten percent (10%) or more of any class of stock of such person or has an interest of ten percent (10%) or more in the ownership or profits of such person. For the purpose of this provision, an individual and the individual's spouse shall be regarded as one person.
(Code of Iowa, Sec. 123.3)
9. "Pharmacy" means a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist.
(Code of Iowa, Sec. 123.129)

145.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.

(Code of Iowa, Sec. 123.2)

145.03 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply alcoholic liquor, wine or beer to any person knowing to having reasonable cause to believe that

person to be under legal age, and a person or persons under legal age shall not 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 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)

145.04 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. A person violating this subsection is guilty of a simple misdemeanor.
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)

145.05 OPEN CONTAINER ON STREETS AND HIGHWAYS. A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, wine or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion. A person convicted of a violation of this paragraph is guilty of a simple misdemeanor.

(Code of Iowa, Sec. 123.28)

145.06 TREATMENT FOR INTOXICATED PERSONS. A person who appears to be intoxicated or incapacitated by a chemical substance in a public place and in need of help may be taken to a licensed treatment facility by a peace officer. If the person refuses the proffered help, the person may be arrested and charged with intoxication.

(Code of Iowa, Sec. 125.34[1])

If no licensed treatment facility is readily available the person may be taken to an emergency medical service customarily used for incapacitated persons.

(Code of Iowa, Sec. 125.34[2])

145.07 PROTECTIVE CUSTODY. The person being taken to a treatment facility is in protective custody and is not under arrest and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(Code of Iowa, Sec. 125.34[2])