

**CHAPTER 9.**  
**INTOXICATION**

Sections:

- 5-9.01 Public Places
- 5-9.02 Possession of Open Alcoholic Beverage Container
- 5-9.03 Consumption of Alcoholic Beverages on Public Streets or on Private Property Adjacent Thereto

**5-9.01 Public Places.**

It shall be unlawful for any person to appear in any public place or place open to the public view in an intoxicated or drunken condition.

(Sec. 1, Ord. 445, thereafter codified in Sec. 15.8, E.T.C.)

**5-9.02 Possession of Open Alcoholic Beverage Container.**

(a) Prohibited Conduct. No person in possession of any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or has a seal broken, or the contents of which have been partially removed, shall enter or remain on the posted premises of any retail off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code. Any person violating this provision shall be guilty of an infraction.

(b) Posting of Signs. All retail package off-sale alcoholic beverage licensees licensed to operate in the City of Emeryville pursuant to Division 9 of the Business and Professions Code shall post such licensed premises with permanent signs which shall include language stating that possession of any opened alcoholic beverage container on the premises or on the adjacent parking lot or public sidewalk is prohibited by law. Signs required to be posted pursuant to this section shall be clearly visible to:

- (1) Patrons of the licensed premises;
- (2) Persons using the parking lot immediately adjacent to the licensed premises; and
- (3) Persons on the public sidewalk immediately adjacent to the licensed premises.

(c) Violations – Damaged Signs. Any licensee who does not acquire, post and maintain signs pursuant to this provision is guilty of an infraction. The signs shall be purchased by the licensee from the Office of Public Works, at the City Administrative Offices. Signs damaged, stolen or otherwise removed must be reported by the licensee within three (3) working days from the date of damage or removal to the Office of Public Works. Signs damaged, stolen or otherwise removed must be replaced by the licensee within ten (10) working days from the date of damage or removal.

(d) Definitions.

- (1) “Posted premises” means those premises which are subject to licensure under any retail off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises, and any public sidewalk immediately adjacent to the licensed premises which are posted with notices pursuant to subsection (b).
- (2) “Parking lot immediately adjacent to the licensed premises” means any parking lot which is contiguous to the licensed premises and is utilized by the patrons of the licensed premises.

(Sec. 3, Ord. 95-003, eff. March 9, 1995)

**5-9.03 Consumption of Alcoholic Beverages on Public Streets or on Private Property Adjacent Thereto.**

(a) No person shall consume any alcoholic beverage:

(1) On any public street, sidewalk, or alley, highway, City park, City recreation area, City open space, playground; or

(2) Within fifty (50') feet of any public street, sidewalk, or alley, highway, City park, City recreation area, City open space, playground while on private property open to public view without the permission of the owner, his agent, or the person in lawful possession thereof.

(b) This section shall not apply to persons participating in events for which a short-term encroachment permit has been granted as provided in this Code, or a park use permit issued by the Office of Public Works, Marina Division, allowing for use of alcoholic beverages under specified conditions, and which shall contain the following conditions:

(1) Alcoholic beverages consumed at such events or entertainment shall not be in glass or metal containers except as specified in the permit;

(2) Sponsors of such events shall comply with all State laws relating to the sale of alcoholic beverages;

(3) Sponsors of special events or entertainment shall provide toilet facilities;

(4) Sponsors shall comply with all other conditions as required by rules promulgated by the Chief of Police;

(5) Sponsors shall obtain special event insurance coverage and provide proof of such coverage when applying for a permit.

(c) Penalties. Any person who has been found to be in violation of this section shall be subject to an infraction penalty under Chapter 2 of Title 1 of this code. Any subsequent violation of this section that occurs within ninety (90) days of the first violation shall be subject to a misdemeanor penalty under Chapter 2 of Title 1 of this code.

(Sec. 4, Ord. 95-003, eff. March 9, 1995)