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**Sec. 16-17. Public consumption of intoxicant and possession of open container of alcoholic beverage prohibited.**

- (a) As used in this section, "alcoholic beverage" includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, liquor, wine, or beer, and which contains one-half of one percent or more of alcohol by volume, and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (b) It shall be unlawful for any person to drink an alcoholic beverage while upon any street, alley, way, sidewalk, parkway, playground, or park within the city, or within any building owned by or leased to the city, whether such person is or is not in or upon any automobile or other vehicle or conveyance.
- (c) It shall be unlawful for any person to possess any can, bottle, or other receptacle containing an alcoholic beverage, as defined in subsection (a), that has been opened, or had its seal broken, or the contents of which have been partially removed, in any city park or other city-owned property or other public place, including, but not limited to, city-owned or city-leased buildings, parking lots, streets, alleys, ways, sidewalks, parkways and playgrounds.
- (d) It shall be unlawful for any person possessing any can, bottle, or other receptacle containing an alcoholic beverage, as defined in subsection (a), that has been opened, or had its seal broken, or the contents of which have been partially removed, to enter or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the Business & Professions Code. All licensees shall comply with the following requirements:
  - (1) All retail package off-sale alcoholic beverage licensees licensed pursuant to Division 9 (commencing with Section 23000) of the Business & Professions Code to operate in the city shall post the licensed premises with permanent signs which shall include language stating the following: "Possession of any open alcoholic beverage container in or outside this store is prohibited by law."
  - (2) Required signs shall be posted such that they are visible to (i) patrons of the licensee; (ii) patrons using the parking lot immediately adjacent to the licensed premises; and (iii) persons on any public sidewalk immediately adjacent to the licensed premises.
  - (3) For purposes of this subsection "posted premises" shall mean 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 subsections (d)(1) and (d)(2). "Parking lot immediately adjacent to the licensed premises" shall mean any parking lot, which is contiguous to the licensed premises and is utilized by patrons of the licensed premises, except a private residential parking lot immediately adjacent to the posted premises.
- (e) Subsections (b) and (c) shall not apply to any designated area or location within the city for a temporary permit of up to seven days, which designated area or location has been approved by resolution of the city council. In addition, subsections (b) and (c) shall not apply to any designated area or location within the city for a temporary permit of up to seven days, which designated area or location has been approved by the city manager or his/her designee upon determining that public convenience would be served, that the public health, safety and welfare would not be affected and if there is insufficient time for the city council to take formal action on the request. Such designation shall be reported to city council at their next regularly scheduled city council meeting.
- (f) Subsection (b) and (c) shall not apply to any designated building owned by or leased to the city which has been rented to a private citizen or group, which has been approved by the parks, community and human

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services commission. In addition, subsections (b) and (c) shall not apply to any designated building owned by or leased to the city which has been rented to a private citizen or group, which has been approved by the city manager or his/her designee upon determining that public convenience would be served, that the public health, safety and welfare would not be affected and if there is insufficient time for the parks, community and human services commission to take formal action on the request. Such designation shall be reported to the parks, community and human services commission at their next regularly scheduled parks, community and human services commission.

- (g) This section shall not apply when an individual is in possession of an alcoholic beverage container for the purpose of recycling or other related activity. Furthermore, this section shall not be deemed to make punishable any act or acts which are prohibited by any law of the state.
- (h) Any person in violation of this section shall be guilty of an infraction. Alcoholic beverage licensees in violation of subsection (d)(1) and (d)(2) shall also be guilty of an infraction.
- (i) Public Park. Section 19-1(a)(8) of the Fontana Municipal Code shall not apply to a designated area in a public park under Section 19-3 and Section 17.5 of the Fontana Municipal Code for a permit where the sale of beer and wine is incidental to the purpose of the permit. All permit applicants are still subject to, and must comply with, all applicable federal, state and local regulations for the sale of beer and wine. Any permit application under Section 19-3 and Section 17.5 of the Fontana Municipal Code, where the sale of beer and wine is incidental to the purpose of the permit, must obtain city manager approval. Additionally subsections (b) and (c) of this Section 16-17 shall not apply to any permit which has been approved by the city manager pursuant to this subsection (i).

(Ord. No. 1174, § 1, 12-19-95; Ord. No. 1277, § 1, 2-2-99; Ord. No. 1347, § 1, 6-5-01; Ord. No. 1652, § 1(Exh. E), 1-10-12; Ord. No. 1780, § 5, 9-25-18)