

DEC 8

AN ORDINANCE

5006

PROHIBITING THE CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES UPON THE STREETS AND PUBLIC PLACES WITHIN THE CITY OF ALTOONA AND PRESCRIBING PENALTIES FOR VIOLATION.

BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF ALTOONA, PENNSYLVANIA, AND IT IS HEREBY ENACTED AND ORDAINED BY THE AUTHORITY OF THE SAME.

SECTION 1. DEFINITIONS. Unless the context otherwise requires, the following words or phrases shall be construed according to the definitions set forth below:

- A. ALCOHOLIC BEVERAGES - Any spirits, wine, beer, ale or other liquid containing more than one-half of a percent ($\frac{1}{2}\%$) of alcohol by volume which is fit for beverage purposes.
- B. CONTAINER - Any bottle, can or other vessel in which alcoholic beverages are contained.
- C. PUBLIC PLACE - Any way, area or place open to the use of the public or wherein the public has been invited, whether privately or publicly owned, operated or leased.

SECTION 2. CONSUMPTION. No person shall consume any alcoholic beverage in any quantity upon any street, avenue, alley, sidewalk, stairway, thoroughfare, playground, park, parking lot, or other public place within the City of Altoona, nor shall any person consume any alcoholic beverage within five feet (5') of any public way or thoroughfare while on a private stairway, doorway, or other private property open to public view without the express or implied permission of the owner, his agent or other party in lawful possession thereof.

SECTION 3. POSSESSION. No person shall possess any container of alcoholic beverage whether wrapped or unwrapped which has been opened or on which the seal has been broken in any manner on any public street, avenue, alley, thoroughfare, playground, park, parking lot or other public place within the City of Altoona, nor shall any person possess any container or alcoholic beverage within five feet (5') of any public way or thoroughfare while on a private stairway, doorway, or other private property open to public view without the express or implied permission of the owner, his agent, or other person in lawful possession thereof.

SECTION 4. EXCEPTIONS. Provided however, that the provisions of Sections 2 and 3 above shall not apply to interior portions of any private dwelling, habitat or building, nor to the consumption or possession by persons in the areas herein designated of any duly prescribed and dispensed medication having alcoholic content as set forth in Section 1 hereof; and provided further that the provisions of said Sections 2 and 3 above shall not apply to premises duly licensed by the Pennsylvania Liquor Control Board and to persons then and there patrons of said license. Furthermore, the provisions of Sections 2 and 3 above shall not apply to those public places whereby express permission has been granted by the owner, his agent or other party in lawful possession of those areas, and all other necessary lawful requirements have been met, to hold or conduct fairs, bazaars, picnics, fund raisers or other seasonal activities; provided that, in order to protect the public's health, safety and welfare, the said public places are cordoned or barricaded in such a manner as to define those specific areas within which such owner's express permission has been given.

SECTION 5. PENALTY. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00), and/or to be imprisoned for a period not to exceed ninety (90) days.

SECTION 6. SEVERABILITY. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Council of the City of Altoona that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 7. All Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance, be and the same are hereby repealed.

SECTION 8. EFFECTIVE DATE. This Ordinance shall become effective five (5) days after enactment thereof.