

CHAPTER 9.28

POSSESSION OF ALCOHOL

9.28.010 Prohibited Possession of Opened Container, Public Property.

Except as otherwise expressly allowed by the provisions of this Chapter, it is unlawful for any person to enter upon, be, or remain upon, any public street, sidewalk, alley or public property when in possession of any receptacle which contains any alcoholic beverage and which has been opened, or the seal broken, or the contents of which have been partially removed. (See B&P § 23004 "Alcoholic Beverage".) (Ord. 90-19)

9.28.020 Prohibited Possession of Opened Container, Posted Private Property.

A. Prohibition. Except as otherwise expressly allowed by the provisions of this Chapter, it is unlawful for any person to enter upon, be, or remain on any posted premises when in possession of any receptacle which contains any alcoholic beverage and which has been opened, or the seal broken, or the contents of which have been partially removed.

B. Definition. "Posted premises" means any premises open to the public upon which the property owner has erected one or more signs clearly visible to persons upon the premises, which notify persons that it is unlawful for any person who has in his or her possession any receptacle containing any alcoholic beverage which has been opened, or the seal broken, or the contents of which have been partially removed, to enter upon, be, or remain on the premises designated in the sign.

C. Discretionary Posting. Any property owner of property open to the public may post a sign in accordance with the provisions of this Section.

D. Mandatory Posting.

1. It is unlawful for the owner of any retail, package off-sale alcoholic beverage activity, licensed pursuant to Subdivision 9 (commencing with Section 23000) of the California Business and Professions Code to fail to post signs upon the licensed premises and in any parking lot immediately adjacent to the premises and under the control of such owner, clearly visible to persons within the premises and in any parking lot immediately adjacent to the premises, which notify persons that it is unlawful for any person who has in his or

her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, to enter upon, be, or remain on the premises of any adjacent parking lot.

2. The provisions of this subsection do not apply to a private parking lot used for residential purposes which is immediately adjacent to the posted premises.

9.28.030 Warning Regarding Alcohol Consumption.

A. Any person or entity who owns, operates, manages, leases or rents premises offering wine, beer or other alcoholic beverages for sale, or dispensing for consideration to the public, shall cause a sign or notice to be permanently posted or displayed on the premises which reads as follows: **PREGNANCY AND ALCOHOL DO NOT MIX - DRINKING ALCOHOLIC BEVERAGES, INCLUDING WINE AND BEER DURING PREGNANCY CAN CAUSE BIRTH DEFECTS.** (Ord. 87-53)

B. The sign or notice shall be no smaller than eight and one-half inches wide by five and one-half inches long with lettering of no less than three-eighths inches in height.

C. The sign shall be placed:

1. Where the sale or dispensing of wine, beer or other alcoholic beverages to the public is primarily intended for consumption off the premises, at least one sign shall be so placed as to assure that it is conspicuously displayed so as to be readable at all points of purchase.

2. Where the sale of wine, beer or other alcoholic beverages to the public is primarily intended for consumption on the premises, at least one sign shall be placed to ensure that it is conspicuously displayed so as to be readable in each public restroom.

D. In the event a substantial number of the public patronizing a premises offering for sale or dispensing wine, beer or other alcoholic beverages uses a language other than English as a primary language, an additional sign or notice as is required by this section shall be worded in the primary language or languages involved.

9.28.040 Beaches, Parks and Waterways.

A. Prohibition: General. Unless otherwise provided in this Code, while upon any location specified below, it is unlawful for any person to possess a receptacle which contains an alcoholic beverage. (Ord. 94-16)

1. A public City beach, including its related accesses and parking lots; or
2. A public City beach over-look, including its related accesses and parking lots.

B. Only Beer and Wine Permitted. Even when it is lawful to possess an alcoholic beverage on public property, it shall be unlawful for any person to possess on any park any alcoholic beverage, except for beer and wine. (B&P Code § 23006, 23007)

C. Prohibition: Ban at Specified Locations. While upon any location specified below, it is unlawful for any person to possess a receptacle which contains an alcoholic beverage. (Ord. 99-07).

1. Cardiff by the Sea Sports Park, including its related parking lots.
2. Ecke Sports Park, including its related parking lots.
3. Glen Park, including its related parking lot. (Ord. 98-20).
4. Encinitas Viewpoint Park. (Ord. 99-07)

9.28.050 Authority to Possess. The prohibitions of this Chapter shall not be applicable to persons transporting or possessing alcoholic beverages in a City beach, park or waterway in accordance with a lease, concession, permit or other contract approved by the City.