

MEMORANDUM

To: Mayor, Board of Aldermen, and Staff

From: Curt Poore

Subject: Public Intoxication

The City has a code that makes it unlawful for any person to drink alcohol on public streets, parking lots, alleys, highways, thoroughfares, and sidewalks (unless a permit has been issued for a special event). That code also makes public intoxication unlawful in those same locations. That is a problem because a state statute (§67.305) prohibits a City from having an ordinance that makes public intoxication unlawful.

In order to correct this ordinance, I have attached Section 5.7 with proposed changes. I have also attached a proposed ordinance to adopt these changes.

You may be wondering what the police can do with a person intoxicated in public (who is not otherwise committing a crime). Although arrest and prosecution of such an individual is not allowed, state law does permit the police to take the intoxicated person to the person's residence, to any available treatment service, or to any other appropriate facility, including a jail to be held in custody not to exceed twelve (12) hours (think Otis on the Andy Griffith show). The City has adopted this language in Section 5-5 of the Code of Ordinances.