

NOTICE
ADOPTION OF A REVISED OPEN CONTAINER ORDINANCE
IN THE TOWN OF ARLINGTON

THIS IS AN AMENDMENT TO THE TOWN OF ARLINGTON'S OPEN CONTAINER ORDINANCE #79-01. THIS AMENDMENT WILL DELETE FROM SECTION I, ITEM 2 THE WORDS PARKS AND RECREATIONAL FACILITIES. ALSO SECTION III, DEALING WITH PERMITS WILL BE DELETED IN IT'S ENTIRETY.

THIS IS DONE IN ACCORDANCE WITH THTLE 24, V.S.A. CHAPTER 59, SECTION 1982 AMENDED 1979 NO. 180 (ADS.SESS.) SECTION 1, EFF MAY 5,1980

THE FULL TEXT OF THE ORDINANCE CAN BE EXAMINED AT THE TOWN HALL, OFFICE OF THE SELECTMEN, MONDAY THRU THURSDAY, 8AM UNTIL 4:00PM. WHEN QUESTIONS CAN BE DIRECTED TO MILLICENT CROSS, SECRETARY TO THE BOARD OF SELECTMEN, TELEPHONE 375-6474

THIS AMENDMENT WILL BECOME EFFECTIVE ON NOVEMBER 22, 1985, UNLESS PETITIONED BY 5% OF QUALIFIED VOTERS AND PRESENTED TO THE TOWN CLERK BY NOVEMBER 7, 1985.

DATED THIS SEPTEMBER 23, 1985
TOWN OF ARLINGTON, VERMONT

CLARENCE S. CURTIS, CHAIRMAN
RALPH SHERWIN
LAWRENCE MOLLOY
KEITH SQUIRES
PHILIP PUGLIESE, JR.

ARLINGTON BOARD OF SELECTMEN

TOWN OF ARLINGTON
ORDINANCE #79-01
OPEN CONTAINER ORDINANCE

For the purpose of promoting the public health, safety, welfare and convenience of the citizens and to provide procedures to prevent and abate public nuisance in the Town, the Selectmen of the Town of Arlington have adopted the within Ordinance:

SECTION I. Definitions. For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. The word “shall” is to be construed as mandatory and not merely directory.

- (a) “Alcohol” is the product of distillation of any fermented liquor, rectified either once or oftener what-ever may be the origin thereof, and includes ethyl alcohol which is considered non-potable.
- (b) “Malt beverage” is any fermented beverage of any name or description manufactured for sale from malt, wholly or in part, or from any substitute thereof, known as beer, porter, ale and stout, containing not less than one percent nor more than six percent of alcohol by volume at sixty degrees Fahrenheit.
- (c) “Person” is an individual, partnership, corporation, association, trust, or other institution or entity.
- (d) “Possession” is the detention and control, or the manual or physical custody of a container or containers of a beverage for which possession is prohibited under the terms of this ordinance.
- (e) “Public place” includes all lands and buildings owned by or leased to the Town of Arlington, and shall include all public streets, highways, bridges, sidewalks, and school grounds within the Town of Arlington.
- (f) “Spirits” is any beverage containing alcohol obtained by distillation, fortified wines and liquors and any other beverage containing more than twenty percent of alcohol by volume at sixty degrees Fahrenheit.
- (g) “Vinous beverage” is all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of fruits, or other agricultural products, containing sugar, the alcoholic content of which is not less than one percent nor more than twenty percent by volume at sixty degrees Fahrenheit.
- (h) “Alcoholic beverage” is to include liquor, alcohol, malt beverages, spirits and vinous beverages as herein defined.
- (i) “Opened container” is any container which is not the original container supplied for the purposes of selling alcoholic beverages or, if the original container, then any container on which the original sealing device has been broken or removed, regardless of whether such device has been re-attached or another sealing device applied in its place.

SECTION II. Prohibition. It shall be unlawful for any person without lawful permit hereunder to consume, open a container of or have in their possession an open container of an alcoholic beverage on, under or above any street, alley, sidewalk, driveway, parking place, whether publicly or privately owned, which is provided for the use of the public; or on, under or above any moving or stationary in any of said places, except as provided elsewhere in this ordinance. Possession upon one’s person of an open container of any such alcoholic beverage in any of said places, including motor vehicles, shall be prima facie evidence of a violation hereof.

SECTION IV Licensed Sale of Alcoholic Beverages. The provisions of this ordinance shall not apply to any place or event licensed for on-premises sale of alcoholic beverages.

SECTION V. Applicability of Ordinance to Private Property

- (a) It is recognized that the problems that caused this ordinance to be enacted may also occur on private property.
- (b) It is further recognized that the owners, lessors and lessees of private property should not have to continually patrol their private property, or make arrangements to have that private property patrolled in an effort to abate the kind of activity to which the provisions of this ordinance are directed.
- (c) Therefore, upon the acceptance by the Selectmen of a written application addressed to the Selectmen from property owner, lessors or lessees, the provisions of this ordinance shall apply to the private property described in the said application.
- (d) Annually, on the last day of March, all written applications submitted pursuant to subsection (c) hereunder shall automatically expire unless renewed pursuant to the terms of subsection (c) hereunder by the owners, lessors or lessees on or before the last day of March.
- (e) The owners, lessors or lessees of private property who have previously make application to the Selectmen pursuant to subsection (c) hereunder may revoke such application by written notice to the Selectmen. Said revocation shall be effective within ten (10) days or upon receipt by the Selectmen, whichever is sooner.
- (f) Any private property brought under the provisions of this ordinance shall be posted in a conspicuous manner prior to the enforcement of any alleged violation or in lieu thereof it shall be a condition precedent to any enforcement proceeding involving private property only to show that actual notice of applicability of this ordinance was given to any alleged offender.

SECTION VI. Penalty. A Person who violates any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred (\$100.00) dollars.

SECTION VII. Violations. In any complaint or information, and in any action or proceeding brought for the enforcement of any provision of this ordinance, it shall not be necessary to negate any exception, excuse provision, or exemption contained in this ordinance, and the burden of proof of any such exception, excuse, provision, or exemption shall be on the defendant.

SECTION VIII. Separability. In the event any section, subsection, sentence, clause or phrase of this ordinance shall be adjudicated invalid, or unconstitutional, such phrase is declared to be separable and the remaining portions of this ordinance to be in full force and effect.

SECTION IX. Publication and Effective Date. This ordinance shall become effective on March 4, 1985.

Clarence S. Curtis, Chairman
Ralph Sherwin
Lawrence Molloy
Keith Squires

Selectmen

33. Ordinance