

Alcoholic Beverages

Alcoholic Beverage Restrictions
An Ordinance For Restricting Alcoholic Beverage Use
On Town Property

Pursuant to the authority of 24 V.S.A. 2291, Section 103 (b), and Section 104 (b), (f), (i) and (j), of the Charter of the Town of Middlebury, the Selectmen of the Town of Middlebury hereby enact the following ordinance:

Section I - Purpose

101. To control the use and possession of alcoholic beverages on Town property, and to preserve the privilege of responsible persons to use and possess alcoholic beverages on Town property in a reasonable fashion thereby assuring the safety of the public and the protecting of property.

Section II - Definitions

201. Alcohol refers to the product of distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, and includes ethyl alcohol and alcohol which is considered nonpotable.

202. Container means any glass bottle, metal can, animal skin bag, or any other device of a nonporous or semi-orous nature which might be used to hold liquids.

203. Malt Beverage means all fermented beverages of any name or description manufactured for sale from malt, wholly or in part, or from any substitute therefore, known as beer, porter, ale, stout, containing not less than one percent nor more than six percent of alcohol by volume at sixty degrees fahrenheit.

204. Open Container shall mean a container other than one with an unbroken seal, or, containing a vacuum or pressure obtained during original bottling by a licensed bottler.

205. Persons includes a corporation, partnership, unincorporated association or any other legal entity.

206. Possession shall mean having an entity in hand or on person, within immediate control, or relatively accessible for use.

207. Spirits means all beverages containing alcohol obtained by distillation, fortified wines and liquors and any other beverage containing more than fourteen percent of alcohol by volume at sixty degrees fahrenheit.

208. Town Property shall mean any street, highway, sidewalk, park, building, or any other place owner by, or under the authority and control of the Town within the village area as defined on map #139-Village Area of Middlebury, Vermont 1968 prepared by Hans Klunder Associates, Inc. and recorded in the Middlebury Town Clerk's Office; and also Chipman Hill Park; Means Woods, Battell Woods, Wright Park and East Middlebury Recreation Park.

209. Vinous Beverages shall include all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of fruits, or other agricultural product, containing sugar, the alcoholic content of which is not less than one percent nor more than fourteen percent by volume at sixty degrees fahrenheit.

Section III - Restrictions

301. No person shall have in their possession an open container containing any malt or vinous beverage, or spirits, or alcohol while on Town property on in any vehicle located on Town property unless a permit has been issued specifically authorizing the possession of malt or vinous beverage, or spirits, or alcohol on Town property.

Section IV - Permit Procedure

401. A person either on his own behalf or on behalf of a group of persons, wishing to possess any malt or vinous beverage, or spirits, or alcohol while on Town property shall file with the Town Manager an application containing: (a) the name, address, and phone number of the applicant; (b) the hour, date and estimated duration of the possession; (c) the location of where possession will take place; (d) the purpose of the activity if any; (e) the applicant's proposed arrangements to insure the safety of the public and the persons covered under the permit, and the prevention from damage of public and the persons covered under the permit, and the prevention from damage of public and private property. Applications may be obtained during working hours form the Town Manager's Office.

402. The application shall be filed at least fifteen days prior to the possession. However, the Town Manager may waive this requirement if he determines upon receipt of the application that the applicant has satisfied satisfactorily the requirements of Section 501.

Section V - Official Action on the Permit

501. The Town Manager shall determine whether the applicant has:

- (a) submitted a complete and accurate application;
- (b) the purpose of possession is within the intent or purpose of the ordinance;
- (c) that adequate arrangements to insure the safety of the public and persons covered under the permit, and the prevention from damage of public and private property have been provided for.

502. Upon consideration of all items in Section (501), the Town Manager has the authority to approve or disapprove the application, in either case a decision must be made no later than five days after receipt of the application. If the Manager fails to respond in the five-day period, then the application shall be deemed granted, subject to whatever terms were contained in the application. If the application is disapproved and the permit is denied, the Manager shall provide written reasons to the applicant at the time of notification of disapproval of application and denial of permit. Permits may be obtained during normal business hours from the Town Manager's Office.

503. The Town Manager or the Board of Selectmen may amend or revoke a permit if it appears that the arrangements contained in the permit will no longer prevent injury to person or property due to a change in the circumstances under which the permit for possession was granted.

Section VI - Appeal Process

601. A person may appeal to the Selectmen the denial of permit by filing a written notice within five days of denial of permit. The Selectmen shall forthwith consider the appeal at hearing at which the applicant may be present. The Selectmen may affirm or reverse the Town Manager's decision, or attach such additional conditions to the permit as will, in their best judgement, protect the public safety

and persons covered under the permit, and the prevention from damage or public and private property.

Section VII - Penalties

701. A person who has in his or her possession an open container containing any malt or vinous beverage, or spirits, or alcohol while on Town property without a permit specifically authorizing such possession or who violates a term or condition of permit issued under shall be subject to a fine not in excess of \$1,000 this Ordinance, for each violation.

Section VIII - Severability

801. If any part of this ordinance shall be held to be void, invalid, or unconstitutional either under the laws or constitution of the State of Vermont or the United States by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and such portion shall be in full force and effect.

Section IX - Effective Date

901. This ordinance shall take effect forty (forty) days from date of adoption by the Selectmen, under Section 107 of the Charter of the Town of Middlebury.

Adopted: 24 May 1977, Effective 3 July 1977

Adopted: 29 March 1983, Effective 8 May 1983

Adopted: 22 June 1993, Effective 1 August 1993

Ordinance Pertaining to Public Consumption of Alcoholic Beverages

The following provisions are enacted and added to Title 3 of the Revised Ordinances of Wallingford (June 20, 1974) for the purpose of promoting the general health, welfare and safety of all persons within the said Town of Wallingford.

BE IT ORDAINED BY THE SELECTMEN OF THE TOWN OF WALLINGFORD, AS FOLLOWS:

CHAPTER 3: PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES

§3501. STATE LAWS APPLICABLE

In addition to all applicable provisions of this Revision, the laws of the State of Vermont shall be applicable to the sale, possession, consumption, transportation, and use of alcoholic beverages within the Town of Wallingford.

§3502. DEFINITIONS

For the purpose of this Chapter the following definitions shall apply:

a) **Alcoholic Beverages:** For the purpose of this Chapter, an alcoholic beverage shall be any malt beverage, spirits, spirituous liquor, or vinous beverage as defined in Title 7 VSA, §2.

b) **Restricted Areas:** The restricted areas within the Town of Wallingford are defined as follows:

(1) Any and all lands and premises, including but not limited to lawns, lands adjacent to walls, sidewalks, parking areas, streets, recreation areas, or any other portion of or area within, adjacent or appurtenant to any property owned or controlled by the Town of Wallingford, Wallingford School District, Wallingford Fire District, Gilbert Hart Memorial Library, Wallingford Library Association, or any other agency, or instrumentality of the Town of Wallingford.

(2) Upon or within twenty-five (25) feet of either side of the paved portion of any state or town road or highway within the boundaries of the Wallingford Fire District No. 1.

c) **Open Containers:** Any vessel or device from which an alcoholic beverage may be consumed, poured, or otherwise dispensed. An open container as defined herein, shall not include the container provided by a bottler, distiller, or manufacturer where the seal, sealing device, or closing device provided by such bottler, distiller, or manufacturer has not been broken or removed, provided that no other opening in such container is made by the consumer.

d) **Private Dwelling:** A private dwelling shall mean any structure, including garage, together with porch, steps, or patio attached or adjacent thereto, not primarily owned, occupied, operated or used for any commercial or business activity, or that portion of a commercial structure primarily used for residential, and not for commercial or business, purposes.

§3503. PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES

Except as hereinafter provided, it shall be unlawful for any person to consume an alcoholic beverage within a restricted are in the Town of Wallingford.

§3504. CONSUMPTION OF ALCOHOLIC BEVERAGES IN MOTOR VEHICLES

Except as hereinafter provided, it shall be unlawful for any person to consume alcoholic beverages within any motor vehicle stopped, standing, or parked, in or within any restricted area, except where such vehicle is stopped to avoid conflict with other traffic, or in compliance with the direction of an enforcement officer, or traffic control device, provided that such vehicle in which an alcoholic beverage is being consumed, shall depart the restricted are as soon as possible.

§3505. OPEN CONTAINER

Except as hereinafter provided, it shall be unlawful for any person to have in his possession, an open container of an alcoholic beverage within a restricted area, as aforesaid, except when the person possessing said open container is in a motor vehicle stopping in, or departing, the restricted area, in accordance with Section 3504 of this Chapter.

§3506. CONSUMPTION IN PERMITTED AREAS

Nothing in this Chapter shall be construed to prevent the consumption of an alcoholic beverage within any private residential dwelling, or upon or in any appurtenant structures, or on porches, or steps attached thereto, or within any establishment in which the consumption on the premises of alcoholic beverages is authorized by law. For purposes of this Chapter, the rear yard of a private dwelling is situated, beginning at the portion of the main structure farthest from the street, and running thence to the rear property line, subject, however, to the restrictions imposed in Section 3502 (b)(2) of this Chapter.

§3507. VIOLATION

(a) Violation of any provision of this Chapter shall subject the violator to a fine of not more than five-hundred (\$500.00) dollars, but not less than one-hundred (\$100.00) dollars, and imprisonment for not more than one (1) year, and may subject such violator to such injunctive, or other remedies as may be pursued by the Town of Wallingford under this revision or the provisions of title 24 V.S.A., Section 1974(b).

(b) An enforcement officer shall be empowered to confiscate as evidence of a violation of this Chapter, any open container in possession of any person in a restricted area, which is reasonably believed to contain an alcoholic beverage.

Adopted 4/1/75

Wallingford Selectboard

