

CHAPTER TWELVE
AN ORDINANCE FOR RESTRICTING ALCOHOLIC BEVERAGE
USE ON CITY PROPERTY

SECTION 1. PURPOSE

1. To control the use and possession of alcoholic, malt, vinous and spirituous beverages on city property; and to preserve the privilege of responsible person to use and possess alcoholic beverages on City property in a reasonable fashion thereby assuring the safety of the public and the protecting of property.

SECTION 2. DEFINITIONS

1. **ALCOHOLIC** - 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 non-potable.
2. **CONTAINER** – means any glass, bottle, metal can, animal skin bag, or any other device of a non porous or semi-porous nature which might be used to hold liquids.
3. **MALT BEVERAGE** – means all fermented beverages of any name or description manufactured for sale from malt, wholly or in part, or from any substitute thereof than six percent of alcohol by volume at sixty degrees Fahrenheit.
4. **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.
5. **PERSONS** – includes a corporation, partnership, unincorporated association or any other legal entity.
6. **POSSESSION** – shall mean having an entity in hand or on person, within immediate control, or relatively accessible for use.
7. **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 degrees Fahrenheit.
8. **CITY PROPERTY** – shall mean any street, highway, sidewalk, park, building, or any other place owned by, or under the authority and control of the City.
9. **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 3. RESTRICTIONS

1. No person shall have in their possession an open container containing any malt or vinous beverage, or spirits, or alcohol while on City property or in any vehicle located on City property unless a permit has been issued specifically authorizing the possession of malt or vinous beverage, or spirits, or alcohol on city property.
2. No beer, wine or spirituous beverage shall be sold between the hours of 11:00 P.M. and 6:00 A.M., on Sundays at 8:00 A.M., from an establishment holding a second class liquor license.
3. In addition to the above restrictions, no holder of a first class license or first and third class license shall sell or serve any malt, vinous or spirituous liquors on his licensed premises except on Mondays through Fridays between the hours of 8:00 A.M. and 2:00 A.M. the following morning and on Saturdays between the hours of 8:00 A.M. and 1:00 A.M. the following morning, except as otherwise prohibited by law or regulation, the hours provided in the policy shall be extended one hour for New Year's Day to holders of first class and first and third class licenses.
4. Owners or officers of a corporation of any licensed establishment which sells alcoholic beverages for on premises or off premises consumption shall have a person of 18 years of age or older present and in charge of the sale of malt, vinous or spirituous beverages. Such person shall be on the normal payroll or be paid for his services and records of his employment available for inspection by the local control commissioners.
5. At the request of the Mayor any two (2) members of the Council, a panel of three (3) control commissioners shall inspect any licensed premises for compliance with all liquor control laws as well as municipal ordinances.
6. The use, sale or dispensation of any regulated drug or marijuana by any patrol, employee or owner of any licensed establishment on or in the licensed premises shall be just cause for hearing and/or suspension of the license.
7. All liquor license holders shall be subject to this policy.

SECTION 4. PERMIT PROCEDURE

1. 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 City property shall file with the City Manager an application containing:
 - a. 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 group 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 private property. Applications may be obtained during working hours from the City Manager's Office.
2. The application shall be filed at least fifteen days prior to the possession. However, the City Manager may waive this requirement if he determines upon receipt of the application that the applicant has satisfied satisfactorily the requirements of Section 4 – 1.

SECTION 5. OFFICIAL ACTION ON THE PERMIT

1. The City 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.
2. Upon consideration of all items in Section (1) the City Manager has the authority to approve or disapprove the application, in either case a decision must be made no later than five work 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 City Manager's Office.
3. The City Manager or the Board of aldermen 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 6. PROVISION FOR BIXBY LIBRARY

For functions at the Bixby Memorial Free Library, the Board of Trustees of said library shall file an application consistent with the provisions of SECTION IV. The City Manager shall present the application to the City Council at their regular meeting or special meeting if called by the Mayor. The City Manager shall notify the Chair of the Board of Trustees of the date, time and place of said meeting. The City Council shall have the authority to approve, with or without conditions, or deny the request whose decisions shall be final.

SECTION 7. APPEAL PROCESS

A person may appeal to the Council the denial of permit by filing a written notice within five days of denial of permit. The Council shall forthwith consider the appeal hearing at which the applicant

may be present. The Council may affirm or reverse the City Manager's decision, or attach such additional conditions to the permit as will, in the best judgement, protect the public safety and person covered under the permit, and the prevention from damage of public and private property.

SECTION 8. PENALTIES

A person who has in his or possession an open container containing any malt or vinous beverage, or spirits, or alcohol while on City property without a permit specifically authorizing such possession or who violates a term or condition of a permit issued under this ordinance shall be subject to a fine of \$100 for each violation.

SECTION 9. SEVERABILITY

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 10. EFFECTIVE DATE

~~This ordinance will take effect sixty (60) days from the date of adoption by the Alderman pursuant to V.S.A. title 24 §1971,1972.~~