

TOWN OF LONDONDERRY

AN ORDINANCE RELATING TO THE USE OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES

WHEREAS, the unrestricted consumption of open malt, spiritous and vinous beverages upon town streets, public places, or within parked motor vehicles on town streets, or public places, presents and image inconsistent with an orderly and well policed community, and that a public safety problem has in fact existed,

NOW WHEREFORE, the Selectmen of the Town of Londonderry, Vermont hereby ordain pursuant to Title 24 V.S.A. Section 2291 Sub-Section (14):

SECTION 1 - TITLE: This Ordinance shall be known as THE LONDONDERRY ALCOHOLIC BEVERAGE CONTROL ORDINANCE.

SECTION II - 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 whatever may be the origin thereof, and includes ethyl alcohol and 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.
- C. SPIRITS is any beverage containing alcohol obtained by distillation, fortified wines and liquors.
- D. VINOUS BEVERAGE is all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar contents of fruits, or other agricultural products, containing sugar.
- E. PERSON is an individual, partnership, corporation, association, trust, or other institution or entity.
- F. 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.
- G. PUBLIC PLACE shall mean any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include but not be limited to any store, shop, bowling alley, cafe, theater, drug store, pool room, shopping center and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate areas of the above. For the purpose of this Ordinance, no place that sells malt, spiritous or vinous beverages for consumption on the premises shall be considered as public.

SECTION III - PROHIBITION: It shall be prohibited under the terms of this Ordinance to carry, hold or have on one's, person on the streets, sidewalks or on or within public places of the Town of Londonderry or within parked motor vehicles on town streets or public places, open containers of malt, spiritous or vinous beverages.

SECTION IV - NON APPLICABILITY: The terms of this Ordinance shall not apply to certain social functions, affairs or meetings of a public or private nature where prior approval has been granted by the Board of Selectmen to consume or have open beverage containers on or within a public place.

SECTION V -PERMITS:

- A. Exception to the above general prohibition may be made only by permit under the following conditions:
 - 1. Eligibility of permits will be offered to any individual, civic, community or informal group, or formal organization only in connection with an activity or event.
 - 2. The geographic (physical) limits of the area under permit should be accurately defined in the permit application and the permit, and be strictly adhered to by the permittee.

3. Persons availing themselves of this exception must be legitimately connected to, or engaged in the activity or group which is the subject of the permit.

B. Permits must be obtained in the following manner:

1. Application forms shall be drafted and be available in the Office of the Town Clerk.
2. The Londonderry Board of Selectmen will review each application.
3. Each application shall be considered as a separate agenda item at a regular or special Board of Selectmen's Meeting with the opportunity for public input as generally afforded at such meetings.
4. Granting of the permit shall be by majority vote of the Board of Selectmen.
5. The Board of Selectmen may impose any special or other conditions on said permit which they may deem reasonable and in service of the public interest. No condition may be imposed which discriminates against any person or group of persons.

C. Conduct of the Permittee/Revocation:

1. Aside from any special conditions that the Board of Selectmen may attach to a permit, the Permittee shall be responsible for the adherence to the conditions of the permit.
2. Temporary revocation may be made immediately by any Law Officer upon receipt of two oral complaints of unrelated individuals of disturbing of the peace or any offense that is unlawful.
3. The holder of a permit subject to revocation as cited above, may, upon written request delivered to the Selectmen, or their designee, before the next regular Board of Selectmen's Meeting, and have the subject of the permit revocation considered and acted upon by the Board of Selectmen, at which time the person (s)subject to the revocation action will have the right to appear and be heard and shall have the burden to prove any facts they may deem relevant.

SECTION VI - PENALTY AND FINES:

- A. Any Law Officer observing the consumption or presence of any open beverage container held or upon the person of one found in a public place shall confiscate the open beverage container and so much of the malt, spiritous or vinous beverage remaining unconsumed.
- B. A person, if found guilty of violating this Ordinance, shall be fined not more than FIFTY and 00/100 (\$50.00) Dollars for each offense.

SECTION VII -PUBLICATION AND EFFECTIVE DATE: This Ordinance shall be published in *The Message For the Week* for the week of August 2-August 8, 1983.

This ordinance shall take effect on September 23, 1983.

Citizens have the right to petition for a vote on the foregoing ordinance.

Any questions on the above may be referred to James Twitchell, Town Clerk, So. Londonderry, Vermont - or telephone 802-824-3356.

Passed and adopted by the Board of Selectmen of the Town of Londonderry this 25 day of July, 1983.