

Chapter 3

ALCOHOLIC BEVERAGES\*

Art. I. In General, §§ 3-1—3-25

Art. II. Open Containers, §§ 3-26—3-33

ARTICLE I. IN GENERAL

Secs. 3-1—3-25. Reserved.

ARTICLE II. OPEN CONTAINERS

Sec. 3-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcohol* shall mean 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.

*Malt beverage* shall mean 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.

*Possession* shall mean 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 chapter.

*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

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\*Cross reference—Administration, Ch. 2.

State law reference—Alcoholic beverage, 7 V.S.A. § 1 et seq.

entertainment of the general public. It shall also include the front or immediate areas of the above. For the purpose of this chapter, no place that sells malt, spirituous or vinous beverages for consumption on the premises shall be considered as public, nor shall any premises owned by the state be within the purview of this chapter.

*Spirits* shall mean any beverage containing alcoholic obtained by distillation, fortified wines and liquors.

*Vinous beverage* shall mean 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.

(Ord. No. 0-79-3, § II, 5-21-79; Ord. No. 0-79-5, § II, 7-16-79)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

### **Sec. 3-27. Prohibited in public places.**

It shall be prohibited to carry, hold or have on one's person on the streets, sidewalks or on or within public places of the town, open containers or malt, spirituous or vinous beverages.

(Ord. No. 0-79-3, § II, 5-21-79; Ord. No. 0-79-5, § III, 7-16-79)

**Cross reference**—Streets, sidewalks and other public places, Ch. 10.

### **Sec. 3-28. Exception to prohibition.**

The terms of this article 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 pursuant to section 3-29.

(Ord. No. 0-79-3, § III, 5-21-79; Ord. No. 0-79-5, § IV, 7-16-79)

### **Sec. 3-29. Permit required for exception; conditions for permit.**

An exception to the general prohibition in section 3-27 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 or physical limits of the area under the permit should be accurately defined in the permit application and the permit and shall be strictly adhered to by the permittee; and
  - (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.
- (Ord. No. 0-79-3, § III(A), 5-21-79; Ord. No. 0-79-5, § V(A), 7-16-79)

**Sec. 3-30. Procedures for obtaining permit.**

Permits must be obtained in the following manner:

- (1) Application forms shall be drafted and be available in the office of the chief of police;
  - (2) The chief of police will review each application and make any recommendations he deems relevant to the town manager who may in turn convey the recommendations to the board of selectmen;
  - (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 the 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.
- (Ord. No. 0-79-3, § III(B), 5-21-79; Ord. No. 0-79-5, § V(B), 7-16-79)

**Sec. 3-31. Conduct of the permittee; revocation of permit.**

(a) 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.

(b) Temporary revocation may be made immediately by the police department upon receipt of two (2) oral complaints by unrelated individuals of disturbing of the peace or any offense that is unlawful.

(c) The holder of a permit subject to revocation as cited above, may, upon written request delivered to the town manager or his designee before the next regular board of selectmen's meeting, have the subject of the permit revocation considered and acted upon by the board of selectmen at which time the person subject to the revocation action shall have the right to appear and be heard and shall have the burden to prove any facts they may deem relevant.

(Ord. No. 0-79-3, § III(C), 5-21-79; Ord. No. 0-79-5, § V(C), 7-16-79)

### **Sec. 3-32. Violation, penalty and fines.**

(a) Any police officer observing the consumption or presence of any open beverage container held or upon a person found in a public place in violation of this article shall confiscate the open beverage container and all the malt, spirituous or vinous beverage remaining unconsumed.

(b) A person, if found guilty of violating this article, shall be fined not more than fifty dollars (\$50.00) for each offense.

(Ord. No. 0-79-5, § VI, 7-16-79)

**Cross reference**—General penalty, § 1-13.

### **Sec. 3-33. Authorization to conduct criminal history investigations on first and/or second class liquor license applicants.**

The chief of police or his/her designee is authorized to conduct a criminal history investigation on those persons who apply for a first and/or second class liquor license. This investigation shall include a criminal records check with the Vermont Criminal Information Center (VCIC).

(Ord. No. 94-1, § II, 12-19-94)

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