

TOWN OF MIDDLEBURY  
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 Selectboard 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 entities properly licensed or permitted and approved by the Vermont Department of Liquor Control to possess and serve alcoholic beverages on Town property during public and private events, while assuring the safety of the public and the protection 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 non-potable.
202. Container means any glass bottle, metal can, animal skin bag, or any other device of a nonporous or semi-porous 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. Entity includes an individual, business, corporation, partnership, unincorporated association, or any other legal organization.

206. Possession shall mean having alcohol, malt beverages, spirits, or vinous beverages 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 owned by, or under the authority and control of the Town within the village area as defined on map #138 (part of a set numbered 138-143) titled Town of Middlebury Vermont, Addison County Regional Planning Commission, 1968, as recorded in the Middlebury Town Clerk's Office, which includes 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 from the natural sugar content of fruits or other agricultural product, 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 having any alcohol, malt beverages, spirits, or vinous beverages while on Town property or in any vehicle located on Town property unless attending a public or private event where a permit has been issued specifically authorizing the serving of alcohol, malt beverages, spirits, or vinous beverages on Town property.

### **Section IV - Permit Procedure**

401. An entity requesting alcohol, malt beverages, spirits, or vinous beverages be served during a public or private event on Town property shall file with the Town Manager a public assemblage permit specifically indicating the intent to possess and serve alcohol.

402. The application shall be filed at least 45 days prior to the event to allow sufficient time for the Selectboard to review the application at a regularly scheduled Selectboard meeting. This 45-day requirement may be waived at the sole discretion of the Town Manager if, in her/his judgment, the applicant has satisfied the requirements of Section 501 of this ordinance and sufficient time remains from the date of submission for the Selectboard to consider the application at a regular Selectboard meeting prior to the event.

**Section V - Official Action on the Permit**

501. The Town Manager, before submitting the public assemblage permit application to the Selectboard for approval, shall determine whether:

- (a) the applicant has submitted a complete and accurate application;
- (b) the applicant is able to comply with the *General Conditions of the Public Assemblage Permit*, especially in regard to serving alcohol, malt beverages, spirits, or vinous beverages;
- (c) adequate arrangements have been made to insure the safety of the public at large and persons attending the event and for the prevention of damage to public and private property.

502. The Selectboard may approve, approve with amendments, or deny a permit application. At any time the Selectboard may amend or revoke a permit if it appears that the arrangements or conditions contained in the permit will no longer prevent injury to person or property due to a change in the circumstances under which the permit was granted.

503. The Chief of Police may revoke a permit at any time should the event fail to follow the permit conditions or become a public nuisance, or in the event of other emergencies.

## **Section VI - Appeal Process**

601. An entity may appeal the Selectboard's decision to deny a permit application by filing a written notice with the Town Manager within five days of the decision. The Selectboard will consider the appeal at their next regularly scheduled Selectboard meeting. The Selectboard may affirm or reverse their decision, or attach such additional conditions to the permit as will, in their best judgement, protect the safety of the public at large and persons attending the event, and prevent damage to public or private property.

## **Section VII - Penalties**

701. A person who has in his or her possession an open container having any alcohol, malt beverages, spirits, or vinous beverages while on Town property without a permit specifically authorizing such possession or who violates a term or condition of an issued permit shall be subject to a fine not in excess of \$1,000 for each violation. Waiver fine is \$100.

## **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 Selectboard, under Section 107 of the Charter of the Town of Middlebury.

Adopted: 24 May 1977, Effective 3 July 1977

Amended: 29 March 1983, Effective 8 May 1983

Amended: 22 June 1993, Effective 1 August 1993

Amended: 9 February 2016; Effective 20 March 2016