

Amended and Adopted on  
July 13, 2020  
ORDINANCE #5

OPEN CONTAINER ORDINANCE

SECTION 1. No person shall have in his or her possession any open bottle or open container of whatever nature or description containing liquor, beer, ale, wine or other alcoholic beverage, while such person is upon any public highway, public street, public sidewalk, public parking area or other public place (excepting those premises duly licensed for sale and consumption of alcoholic beverages on the premises), or in or upon any vehicle of whatever make or description, with the intent to consume the same while at or upon any such public place. [There shall be a rebuttable presumption that there is intent to consume an alcoholic beverage when (a) the manufacturer's seal on the container is broken, (b) the container is less than full or (c) the person is intoxicated.] [The provisions of this Ordinance shall not be deemed to prohibit the possession of wine which has been resealed in accordance with the provisions of Alcoholic Beverage Control Law Section 81[4] and which, if in a motor vehicle, is transported in the vehicle's trunk or is transported behind the last upright seat or in an area not normally occupied by the driver or passenger in a motor vehicle that is not equipped with a trunk.]

SECTION 2. Any open bottle or other open container of an alcoholic beverage in any vehicle, shall be presumptive evidence that the same is in the possession of all occupants thereof with the intent to consume the same in the vehicle while in or upon a public place, and in violation of this ordinance. Consistent with Vehicle and Traffic Law Section 1227, for the purposes of this Ordinance "vehicle" shall not include a vehicle designed to carry ten (10) or more passengers and used to carry passengers for profit or hire.

SECTION 3. A violation of the open container portion of this ordinance shall constitute an offense against such ordinance, punishable by a fine not exceeding \$100.00 or by imprisonment in the Essex County jail for 10 days, or by both such fine and imprisonment for the first offense and by a fine not

exceeding \$250.00 or by imprisonment in the Essex County jail for 30 days, or by both such fine and imprisonment, for a second or subsequent offense, provided, however, that for the purpose of conferring jurisdiction upon courts and judicial officers generally, such violations shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.

SECTION 4. There is excepted from the provisions of this ordinance, and the same shall not be applicable to, the possession or use of the above mentioned open containers, etc. at any public event, celebration or other occasion whatever, whereat or in connection with which such exception has been duly authorized or approved of in advance by the Town Board.

SECTION 5. (A) The Town Board of the Town of Schroon ordains that there are certain local events and/or occasions that can be deemed appropriate by the Town Board for allowing the sampling and/or serving of craft beer, wine and/or hard cider on property owned by the Town of Schroon. In such cases certain rules and regulations as outlined in this section shall be in force for the proper administration of this exception.

(B) In order to promote the safety, health and general welfare by creating certain conditions and restrictions, the following rules and regulations shall be in full force for the serving and/or sampling of craft beer, wine and/or hard cider on Town of Schroon owned property.

1. Applications for event sponsors shall be made on a form developed by the Town of Schroon Town Clerk, submitted at least 30 business days prior to the event and must be approved by the Town Board. Said form will list the name of vendors participating in the event that will be providing craft beer and/or wine. The event sponsor will be responsible for the vendor(s) adhering to the rules of the Town of Schroon.
2. Any event where the serving size of craft beer, wine and/or hard cider exceeds three (3) ounces will be restricted to one (1) alcohol vendor.

3. All vendors of craft beer, wine and hard cider shall have all appropriate permits, licenses and insurances and copies shall be given to the event sponsor and the Town of Schroon. This shall include, but not be limited to, permits and/or other approvals required by the State Liquor Authority.
4. All vendors shall follow the local and state regulations for alcohol sales.
5. The open consumption of craft beer, wine and hard cider shall be only within a designated controlled space.
6. All vendors shall provide the appropriate staff to cut-off obviously drunk patrons and to ensure that no one under the age of 21 has access to craft beer, wine or hard cider.
7. The municipal fee for craft beer, wine and hard cider vendors if they have approval to serve their product shall be established if deemed appropriate by a Resolution of the Town Board.
8. The serving area must be constructed and/or arranged in a manner that prevents beer, wine or hard cider from being passed through to patrons outside of the controlled space.
9. Noise from the controlled area where craft beer, wine and/or hard cider is served shall not interfere with the neighbors' enjoyment of their property.

(C) Any person who violates disobeys or refuses to comply with or who resists the enforcement of Section 5 of this Ordinance shall, upon conviction, be subject to a fine of One Hundred Dollars (\$100.00) for each such offense.

SECTION 6. If any section or provision of this ordinance is decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so decided to be unconstitutional or invalid.

## TOWN OF SCHROON

### OPEN CAN CONTAINER ORDINANCE

SECTION 1. No person shall have in his possession of use, within the Township of Schroon, Essex Co., N.Y. any open bottle or open container of whatever nature or description containing liquor, beer, ale, wine or other alcoholic beverage, while such person is upon any public highway, public street, public sidewalk, or public parking area, or other public place (excepting those premises duly licensed for sale and consumption of alcoholic beverages on the premises), or in or upon any vehicle of whatever make or description, while at or upon any such place.

SECTION 2. Any open bottle, or other open container, in any vehicle, shall be presumptive evidence that the same is in the possession of all occupants thereof, and in violation of this ordinance.

SECTION 3. There is excepted for the provisions of this ordinance, and the same shall not be applicable to the possession or use of the above mentioned open containers, etc., at any public event, celebration or other occasion whatever, whereat or in connection with which such exception shall be duly authorized or approved of in advance by the Town Board.

SECTION 4. A violation of this ordinance shall constitute an offense against such ordinance, punishable by a fine not exceeding \$25.00 or by imprisonment in the Essex Co. jail for 10 days, or by both such fine and imprisonment. For the first offense and by a fine not exceeding \$50.00 or by imprisonment in the Essex County jail for 30 days, or by both such fine and imprisonment, for a second or subsequent offense, provided, however, that for the purpose of conferring jurisdiction upon courts and judicial officers generally, such violations shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.

SECTION 5. Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so decided to be unconstitutional or invalid.

SECTION 6. This ordinance shall take effect 10 days after due posting and publication thereof, and immediately as against any person personally served with a duly certified copy thereof; all in accordance with Article 9 of the Town Law; AND

Be it Further Resolved, in accordance with the Town Law, Sec. 133, that the above described ordinance shall be entered into the minutes of the Town Board, published twice in the Ticonderoga Sentinel, published at Ticonderoga, N.Y. in Essex Co. in the editions of July 18th and 25th, 1968. No newspaper being published in the Town of Schroon, and said Ticonderoga Sentinel being the official designated town newspaper of this Town and a printed copy of such ordinance to also be posted in the Town Clerk's signboard.

Adopted by Town Board: July 10, 1968.