

5 of 1979

A Local Law Prohibiting Alcoholic Beverages On Public
Highways, Sidewalks, and Parking Lots.

adopted:7-9-79

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF
WELLSVILLE, NEW YORK, AS FOLLOWS:

ARTICLE 1 - PURPOSE AND INTENT

The purpose of this Local Law is to promote the public health and welfare. It has been determined by the Board of Trustees that consumption of alcoholic beverages on the streets, sidewalks, public ways and parking lots results in those areas becoming littered with the used containers of such beverages, further resulting in broken glass and debris injurious to persons and property.

ARTICLE 2. - DEFINITIONS

The following definitions are to be used in construing this Local Law:

1. Public Highway - Any highway, road, street, avenue, alley, public place, public driveway, or any other public way. Nothing in this definition shall mean or be interpreted to mean a public building or any of the parks and recreation lands of the Village of Wellsville.

2. Street, Highway, Avenue - The entire width between the boundary lines of every way when any part thereof is open to the use of the public for the purpose of vehicular or pedestrian traffic.

3. Sidewalk - That portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines intended for public pedestrian use. The term sidewalk shall also include any alley or any other way open for public pedestrian traffic or use.

4. Parking Lot - Any portion of any parking lot owned by, leased or under the control of the Village of Wellsville or others, maintained for public use. Nothing in this definition shall mean or be interpreted to mean public parking areas which are adjunct and adjacent to Tullar Field recreation area, Island Park, or the lagoon area. The parking areas adjunct and adjacent to the Wellsville Fire Department and Wellsville Police Department shall not be included in the designation of park or recreation parking lots.

5. Alcoholic Beverage or Beverage - Shall mean and include alcohol, spirits, liquor, wine, beer, or cider.

ARTICLE 3 - ACTIVITY PROHIBITED

No person shall carry, transport or have in his possession on any public highway, sidewalk or parking lot within the Village of Wellsville any opened or resealed bottle, can, glass, or any other container or similar device containing an alcoholic beverage of any type or kind. This article is applicable to occupants of motor vehicles.

ARTICLE 4 - AFFIRMATIVE DEFENSE

It shall be an affirmative defense to any charge brought under this local law that:

1. The person charged is an employee of the Department of Public Works or is a law enforcement officer, and such person is acting in the course of and in the performance of his duties.

It is not the intention of this law to encumber or otherwise interfere with the process of trash collection or law enforcement.

2. The person charged is the owner, resident, lessee, or an agent thereof, who, in the course of cleaning or maintaining his premises, removes such container from about his premises for the purpose of discarding it.

It is not the intention of this law to interfere with normal or routine maintenance of property.

3. The container contains prescription medication prescribed for the person charged, which medication contains alcohol.

4. The person charged is in the process of directly transporting a resealed container between private residences or locations.

It is not the intention of this law to interfere with private house parties or similar functions. For purposes of illustration, such functions would include weddings, dinners, parties or social gatherings at halls, clubs, or park lands.

ARTICLE 5 - CONSTRUCTION WITH OTHER LAWS

Nothing in this Local Law shall be interpreted as superseding, modifying, or duplicating the provisions of Vehicle and Traffic Law Section 1227.

ARTICLE 6 - PENALTIES

1. Any person who violates this Local Law shall be guilty of a violation.

2. The Violation shall be punishable as provided in Penal Law Section 80.05 (4): A sentence to pay an amount fixed by the Wellsville Village Court not exceeding \$250.00; and in Penal Law Section 70.15 (4): A definite sentence of imprisonment fixed by the Wellsville Village Court not to exceed 15 days, or both such fine and imprisonment.

ARTICLE 7 - SAVINGS CLAUSE

If any section, subsection, paragraph, clause, phrase or provision of this Local Law shall be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such determination shall not effect the validity of this Local Law as a whole or any part or provision thereof other than the part so adjudged to be invalid or unconstitutional.

ARTICLE 8 - EFFECTIVE DATE

This Local Law will take effect immediately.