

PART II - CODE OF ORDINANCES
Chapter 6 - ALCOHOLIC BEVERAGES
ARTICLE III. - OPEN CONTAINERS
DIVISION 3. OPEN CONTAINERS IN PUBLIC RIGHTS-OF-WAY

DIVISION 3. OPEN CONTAINERS IN PUBLIC RIGHTS-OF-WAY³

Sec. 6-111. Findings of fact.

- (a) Pursuant to F.S. § 125.01, Sections 1.3 and 2.2A of the Sarasota County Charter, and Article VIII, Section 1(g) of the Constitution of the State of Florida, the Sarasota County Board of County Commissioners (hereinafter referred to as the "Board") has all powers of self-government not inconsistent with general or special law, including the power and authority to adopt ordinances providing for the public health, safety and welfare of the residents of Sarasota County.
- (b) Many outdoor restaurants, grocery stores, convenience stores and retail establishments in Sarasota County serve or sell Alcoholic Beverages. Customers of these establishments have been observed carrying Open Containers of Alcoholic Beverages and drinking from such containers on Public Rights-of-Way in the vicinity of such establishments. In addition, individuals have been observed drinking from Open Containers of Alcoholic Beverages on Public Rights-of-Way in various areas of Sarasota County, including, but not limited to, commercial and residential areas.
- (c) The possession of Open Containers of Alcoholic Beverages and the consumption of alcohol on Public Rights-of-Way in Sarasota County have resulted in the following:
 - (1) Loud street noise, particularly during late evening and early morning hours;
 - (2) Intoxicated behavior in public areas;
 - (3) Disturbance of the peace and tranquility of business areas and neighborhoods of the County;
 - (4) Degradation of the family atmosphere and amenities of neighborhoods and certain resort areas in the County;
 - (5) Concerns of tourists and residents for the safety of themselves and their possessions on Public Rights-of-Way where individuals are drinking from Open Containers of Alcoholic Beverages;
 - (6) Property damage; and
 - (7) Reluctance of tourists and residents to attend special outdoor events in the County due to individuals openly consuming Alcoholic Beverages on Public Rights-of-Way.
- (d) The Board has determined it is in the best interests of the citizens of Sarasota County to prohibit the possession of Open Containers of alcohol and the consumption of alcohol on Public Rights-of-Way in Sarasota County.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

³Editor's note(s)—Ordinance No. 96-081, adopted Nov. 12, 1996, and codified as §§ 6-111—6-121, sunset by its own terms on Oct. 22, 2009. Said provisions were removed and new ones created by Ord. No. 2009-062, adopted Nov. 10, 2009, to read as herein set out.

Sec. 6-112. Definitions.

As used herein, the following words shall have the following meanings:

- (1) *Alcoholic Beverage* shall mean any beverage containing alcohol. The presence of alcohol in a beverage may be determined by any person who by past experience in the handling or use of Alcoholic Beverages, or who by tasting, smelling or drinking such beverage, has knowledge as to the presence of alcohol therein.
- (2) *Open Container* shall mean any can, glass, bottle, carton, cup or other receptacle capable of containing liquid and which is opened or so configured that a person can drink therefrom and which contains any amount of Alcoholic Beverage: any commercially marketed Alcoholic Beverage, including beer, wine or liquor, the container of which is opened or has been opened; any Alcoholic Beverage container that is marketed with a seal that must be broken to be opened and such seal is broken; opened but empty Alcoholic Beverage containers that are commercially marketed, such as beer, wine, liquor, gin, vodka or other Alcoholic Beverages.
- (3) *Public Right-of-Way* shall mean any public street, alley, sidewalk, parking lot, highway, or any similar place open to the public for purposes of vehicular or pedestrian traffic or access, including shoulders of any road in a publicly owned right-of-way, whether or not the shoulder of the road is paved. Public Rights-of-Way shall not include public beaches, public parks or public recreation areas.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

Sec. 6-113. Possession of Open Containers and consumption of Alcoholic Beverages on Public Rights-of-Way prohibited in the unincorporated area of Sarasota County.

It shall be unlawful for any person to possess an Open Container or consume an Alcoholic Beverage upon any Public Right-of-Way in the unincorporated area of Sarasota County. A person shall be deemed in possession of an Open Container if said person handles the Open Container or the Open Container is in the clothes or on the body of the person.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

Sec. 6-114. Exemptions.

Regulation prohibiting the possession of Open Containers or the consumption of Alcoholic Beverages in Sarasota County shall not apply to the following activities:

- (1) Circuses, carnivals, fairs, special events and other activities for which a temporary use permit has been issued pursuant to the Unified Development Code (Chapter 124, as amended, to this Code), provided the temporary use permit specifically permits the possession and consumption of Alcoholic Beverages on Public Rights-of-Way.
- (2) Activities of lessees, concessionaires or contractors of Sarasota County operating on publicly owned property, where the lease, concession agreement or contract specifically permits the possession and consumption of Alcoholic Beverages on Public Rights-of-Way.
- (3) Any activity or event authorized or permitted by the Board or its designee, provided the authorization or permit specifically permits the possession and consumption of Alcoholic Beverages on Public Rights-of-Way.

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- (4) Any person engaged in collecting or removing discarded Open Containers of Alcoholic Beverages for purposes of trash collection, litter control or recycling, provided no alcohol is consumed by such person from said Open Containers.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010; Ord. No. 2018-047, § 3B., 11-27-2018)

Sec. 6-115. Evidence for conviction.

In any prosecution for violation of this division, any person who by past experience in the handling or use of Alcoholic Beverages, or who by tasting, smelling or drinking such Alcoholic Beverage, has knowledge as to the presence of alcohol therein, may testify as to his or her opinion of whether a beverage is or is not alcoholic, and a conviction based on such testimony shall be valid.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

Sec. 6-116. Applicability of prohibition.

Regulation enacted herein prohibiting the possession of an Open Container of Alcoholic Beverage or the consumption of alcohol shall apply only on Public Rights-of-Way in the unincorporated areas of Sarasota County and shall not apply within any municipality or to private property, public beaches, public parks or public recreational areas.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

Sec. 6-117. Enforcement.

The County Sheriff, the Sheriff's Deputies and any other law enforcement officer authorized by State or local law to enforce County ordinances shall have the duty and authority to enforce the provisions of this division.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

Sec. 6-118. Penalties.

Any person violating any provision of this division shall be subject to prosecution in the name of the State in a court having jurisdiction of misdemeanors in the same manner as misdemeanors are prosecuted. Upon conviction, such person shall be punished by fine not to exceed \$500.00 per violation or by imprisonment in the County jail not to exceed 60 days per violation or by both such fine and imprisonment.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

Sec. 6-119. Effect on other ordinances or regulations.

In the event of any conflict between any term or condition of this division and any term and condition of any other ordinance or regulation of Sarasota County, the terms or conditions of the most restrictive ordinance or regulation shall apply.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

Sec. 6-120. Severability.

It is declared to be the intent of the Board that if any provision of this division is, for any reason, finally held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions.

(Ord. No. 2009-062, § 2, 11-10-2009; Ord. No. 2010-043, § 1, 6-22-2010)

Secs. 6-121—6-125. Reserved.***ARTICLE IV. ALCOHOLIC BEVERAGE ESTABLISHMENTS*****Sec. 6-126. Findings of fact.**

The Board of County Commissioners of Sarasota County, Florida finds:

- (1) There are various alcoholic beverage establishments within Sarasota County which sell and serve alcoholic beverages for consumption on premises and which unlike other establishments which sell or serve alcoholic beverages for consumption on premises such as restaurants and hotels, do not also sell and serve substantial food items for consumption at the same time; and
- (2) Florida law prohibits the selling, serving or allowing the consumption of alcoholic beverages to persons under 21 years of age, recent studies confirm that underage drinking is a problem in Sarasota County; and
- (3) Incidents of physical violence in recent months at or in the vicinity of alcoholic beverage establishments in Sarasota County, including at least one fatality, have raised concerns regarding the presence of persons under the age of 21 in alcoholic beverage establishments within Sarasota County; and
- (4) The public health, safety and welfare would best be served by prohibiting persons under the age of 21 from entering or remaining in alcoholic beverage establishments within unincorporated Sarasota County.

(Ord. No. 2007-015, §§ 1, 2, 5-23-2007)

Sec. 6-127. Presence of persons under the age of twenty-one in alcoholic beverage establishments.

It shall be unlawful for any person under the age of 21 to enter or remain in any alcoholic beverage establishment, or to be permitted to do so by an owner, manager, employee or independent contractor of any alcoholic beverage establishment; except as provided in this article.

(Ord. No. 2007-015, §§ 1, 3, 5-23-2007)

Sec. 6-128. Alcoholic beverage establishment defined.

As used in this section, the term "alcoholic beverage establishment" is defined as: any premises devoted during any time of operation predominantly or totally to serving alcoholic beverages, for consumption on the licensed premises, in which the serving of food, if any, is merely incidental to the consumption of any such