

## CHAPTER 72: ALCOHOLIC BEVERAGES

### § 72-1. Legislative intent.

It is the intent of the Village of South Blooming Grove as an exercise of its police power to promote the general health, safety and welfare of the residents of the Village by enacting this chapter since it is the finding of the Village Board of Trustees that the possession of open containers of alcoholic beverages by persons on certain public places, except under controlled conditions, is detrimental to the health, safety and welfare of the residents of the Village in that such possession with intent to consume said beverage contributes to the development of unsanitary conditions and the creation of a nuisance. It is further the intent of the Village Board of Trustees of the Village of South Blooming Grove that this chapter not be considered as a traffic regulation insofar as it relates to motor vehicles or the operation thereof.

### § 72-2. Definitions.

For the purpose of this chapter, the following shall have the meanings ascribed to them. All other words shall have the meaning normally ascribed to them in regular usage.

**ALCOHOLIC BEVERAGE** — Alcohol, spirits, liquor, wine, beer, cider and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being and/or any liquid intended for human consumption containing more than one-half of one percent (.005) of alcohol by volume.

**CONTAINER** — Any bottle, can, glass, cup or other receptacle suitable for or used to hold any liquid.

**INTENT TO CONSUME** — Drinking from the container, with alcohol on the breath of the possessor and/or any circumstances evidencing intent to ultimately consume on any public place.

**OPEN CONTAINER** — A container, as defined herein, with the contents exposed to the atmosphere or the seal thereof broken.

**PUBLIC PLACE** — A place to which the public or a substantial group of persons has access including, but not limited to, any highway, street, road, sidewalk, parking area, shopping area, place of amusement, playground, park or beach located within the village, except that the definition of a public place shall not include those **premises** duly licensed for the sale and consumption of alcoholic beverages on the premises, excluding the area that is designated as parking for vehicles. Such public place shall also include the interior of any stationary motor vehicle which is on any highway, street, road, parking area, shopping area, playground, park or beach located within the village.

**PREMISE**— a building or part of a building

**VILLAGE** — The Village of South Blooming Grove.

### § 72-3. Prohibition.

No person shall have in his possession, with the intent to consume the same, any open container containing an alcoholic beverage, nor shall any person, except in a receptacle designated by the Village, deposit, place, discard or leave any container, whether or not containing an alcoholic beverage, on any public places within the Village.

### § 72-4. Exceptions.

The foregoing prohibition shall not apply in the event of a fair, picnic, parade or other gathering for which special permission has been granted or permitted by the Village Board of Trustees for use of **public places**.

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### **§ 72-5. Possession of open containers; intent to consume.**

- A. No person shall have, possess, carry or transport liquor, wine, beer or other alcoholic beverages in or upon any **public place**, highway, street, road, sidewalk, parking area, shopping area, place of amusement, playground, park or beach located within the Village of South Blooming Grove in open containers with the intent to consume same in such public place or with the intent to have same consumed by another person in such public place; and no person shall drink or otherwise consume liquor, wine, beer or other alcoholic beverages in or upon any **public place**, highway, street, road, sidewalk, parking area, shopping area, place of amusement, playground, park or beach located within the Village of South Blooming Grove.
- B. An open bottle or open container in which there is an alcoholic beverage in any vehicle shall be presumptive evidence that the same is in possession of all occupants and in violation hereof.
- C. Nothing in this section shall be deemed to prohibit the consumption of an alcoholic beverage in any duly licensed establishment whose certificate of occupancy extends outside of their primary place of business onto a patio or pavilion type structure.

### **§ 72-6. Application.**

This chapter shall apply to all public places within the Village, except as provided in § 72-4 above, and shall not apply to any person drinking an alcoholic beverage while operating a motor vehicle upon any public highway within the village in violation of § 1227 of the Vehicle and Traffic Law of the State of New York.

### **§ 72-7. Penalties for offenses.**

- A. Any person in violation of any provisions of this chapter shall be punished, upon conviction, by a fine of not less than \$20 nor more than \$250 for each violation and/or to a term of imprisonment not to exceed five days.
- B. The remedies contained within this chapter shall further not be exclusive, but shall be in addition to any other remedy provided by law, so long as not inconsistent herewith, nor shall the invoking of any remedy or procedure contained within this chapter preclude the pursuit of any and all other remedies, and the same are intended to be cumulative.

### **§ 72-8. Super session of other laws; authority.**

This chapter supersedes, and is in derogation of, Chapter 72 of the Code of the Town of Blooming Grove, County of Orange, and State of New York.

### **§ 72-9. Authority.**

This chapter is enacted by authority of § 20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

### **§ 72-10. Repeal.**

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

### **§ 72-11. Effective Date.**

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.