



City of Gahanna

200 South Hamilton
Road
Gahanna, Ohio 43230

Signature

Ordinance: ORD-047-2020

File Number: ORD-047-2020

**ORDINANCE TO AMEND THE CODE OF ORDINANCES OF GAHANNA, OHIO:
Amending Section 529.07 Open Container Prohibited of Chapter 529 Liquor
Control**

WHEREAS, the Division of Police has recommended amendments to Chapter 529 Liquor Control, of the Codified Ordinances of the City of Gahanna, for the purpose of establishing exceptions within existing code for possessing an opened container containing an alcoholic beverage within a Designated Outdoor Refreshment Area (DORA) created pursuant to §4301.82 of the Ohio Revised Code; and,

WHEREAS, By passing the amendments requested, the enforceability of the code is not impacted should a DORA not be sought or granted within the City of Gahanna,
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GAHANNA, COUNTY OF FRANKLIN, STATE OF OHIO:

Section 1. That Section 529.07 Open Container Prohibited of Chapter 529 Liquor Control, is hereby amended as set forth in EXHIBIT A, attached hereto and made a part herein.

Section 2. That existing Section 529.07 of the Codified Ordinances of the City of Gahanna, or any Ordinances or parts of Ordinances in conflict herewith, are hereby repealed and replaced.

Section 3. That this Ordinance shall be in full force and effect after passage by this Council and 30 days after date of signature of approval by the Mayor.


President


Jamie Leeseberg

Date

6-8-2020

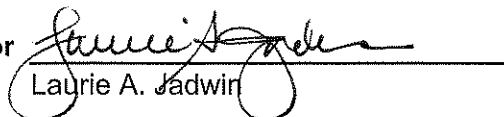
Attest by


April Beggerow, MPA, CMC
Clerk

Date

6/8/2020

Approved by the Mayor


Laurie A. Jadwin

Date

6.2.2020

Approved as to Form


Raymond J. Mularski
City Attorney

Date 6-3-2020

529.07 - OPEN CONTAINER PROHIBITED.

- (a) As used in this section:
 - (1) *Chauffeured limousine* means a vehicle registered under Ohio R.C. 4503.24.
 - (2) *Street, highway* and *motor vehicle* have the same meanings as in Ohio R.C. 4511.01.
- (b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:
 - (1) In a State liquor store;
 - (2) **Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;**
 - (3) In any other public place;
 - (4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
 - (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- (c)
 - (1) A person may have in the person's possession an opened container of any of the following:
 - A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D8, E, F, F-2, F-5, F-7 or F-8 permit;
 - B. Beer, wine or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
 - C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
 - D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
 - E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.
 - (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least 40 acres.
 - (3)
 - A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.
 - B. As used in subsection (c)(3)A. of this section:

1. "Orchestral performance" means a concert comprised of a group of not fewer than 40 musicians playing various musical instruments.
 2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than 150 acres of land and that is open for performances from the first day of April to the last day of October of each year.
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending an orchestral performance and the holder the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.

As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.

- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:
1. The person is attending a racing event at the facility; and
 2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;
- B. As used in subsection (c)(6)A. of this section:
1. *Racing event* means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
 2. *Outdoor motorsports facility* means an outdoor racetrack to which all of the following apply:
 - a. It is two and four-tenths miles or more in length.
 - b. It is located on 200 acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.

(7) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within a designated outdoor refreshment area created under R.C. § 4301.82 if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:

1. The permit holder's premises is located within the outdoor refreshment area.

2. The permit held by the permit holder has an outdoor refreshment area designation.

B. Division (c)(7) of this section does not authorize a person to do either of the following:

1. Enter the premises of a permit holder's establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;

2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under division (d) or (e) of this section.

- (d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:
 - (1) The person or guest is a passenger in the limousine;
 - (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
 - (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.
- (e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:
 - (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.
 - (2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver. (ORC 4301.62)
- (f) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4301.99(A))

