

**THE TOWNSHIP OF EWING
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 11-28

1st Reading 12-13-11

Date to Mayor 1-11-12

2nd Reading &
Public Hearing 1-10-12

Date Returned 1-13-12

Date Adopted:
1-10-12

Date Resubmitted to Council _____

Approved as to Form of Legality

Effective Date:
1-30-12

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO RESCIND CODE § 91-13 REGULATING OPEN CONTAINERS IN MOTOR VEHICLES (2011)

First Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Murphy				X		
Baxter	X				X	
Hyser	X					X
Wollert	X					
Summiel	X					

Second Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Murphy	X					
Baxter	X					
Hyser	X				X	
Wollert	X					
Summiel	X					X

By _____ Date _____ Accepted _____ Rejected _____
Mayor

Reconsidered
By Council _____ Override Vote YEA _____ NAY _____

President of the Council

Municipal Clerk

**TOWNSHIP OF EWING
ORDINANCE NO. 11-28**

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO RESCIND CODE § 91-13 REGULATING OPEN CONTAINERS IN MOTOR VEHICLES

WHEREAS, upon review of Ewing Township Code § 91-13, this section is preempted by the New Jersey Criminal Code governing consumption of alcoholic beverages by the operator or passenger and open containers of alcohol beverages in a motor vehicle, as stated in N.J.S.A. 39:4-51a and N.J.S.A. 39:4-51b, respectively; and,

WHEREAS, N.J.S.A. 39:4-197, prohibits municipalities from enacting ordinances to regulate driving conduct addressed by Title 39, with few exceptions, none of which are applicable here; and,

WHEREAS, accordingly, Ewing Township Code § 91-13 must be rescinded because it covers the same behavior prohibited by N.J.S.A. 39:4-51a and N.J.S.A. 39:4-51b and has additionally been rejected as improper by the New Jersey Administrative Office of the Courts.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Ewing that **Chapter 91, ALCOHOLIC BEVERAGES, § 91-13** of the Code of the Township of Ewing is hereby RESCINDED as follows:

Section 1: **Chapter 91, ALCOHOLIC BEVERAGES, § 91-13** of the Code of the Township of Ewing is hereby RESCINDED.

§ 91-31. Public or private vehicles.

~~No person shall consume any alcoholic beverage in or upon any private vehicle of any type whatsoever, including but not limited to motor vehicles, automobiles, equipment, motorcycles, mopeds, bicycles and campers, whether such vehicles are in motion or parked.~~

Section 2. This Ordinance shall take effect upon passage and final approval as provided by law.

STATEMENT

This Ordinance amends the Revised General Municipal Ordinances of the Township of Ewing to rescind Code § 91-13 which regulates open containers in motor vehicles.