

Deputy Clerk

From: Deputy Clerk [Deputyclerk@absecon-newjersey.org]
Sent: Wednesday, January 13, 2010 10:09 AM
To: laurieksmith@hotmail.com
Subject: FW: Ordinance, Absecon

-----Original Message-----

From: Deputy Clerk [mailto:Deputyclerk@absecon-newjersey.org]
Sent: Monday, January 11, 2010 11:11 AM
To: laurieksmith@hotmail.com
Subject: Ordinance, Absecon

CITY OF ABSECON

ORDINANCE 12-2009

AN ORDINANCE TO MAKE IT UNLAWFUL FOR ANY PERSON UNDER THE LEGAL AGE TO KNOWINGLY POSSESS OR KNOWINGLY CONSUME AN ALCOHOLIC BEVERAGE ON PRIVATE PROPERTY WITHOUT LEGAL AUTHORITY AND PROVIDING PENALTIES FOR THE VIOLATION

WHEREAS, L.200, c.33, was duly passed by both houses of the New Jersey Legislature and signed into law by the Governor on June 28th, 2000 to become effective immediately; and

WHEREAS, this legislation amends New Jersey Statutes 40:48-1 et seq., to provide a new section authorizing a municipality to enact an ordinance making it unlawful for any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage on private property and provides for the assessment of penalties including suspension, revocation or postponement of certain driving privileges; and

WHEREAS, the City of Absecon intends to adopt such an Ordinance in accordance with the aforesaid enabling legislation; and

WHEREAS, the Governing Body of the City of Absecon is of the opinion that such an ordinance is in the public interest, will promote public safety and will contribute to the overall public health, safety and welfare of the community at large.

NOW THEREFORE BE IT RESOLVED, the Governing Body of the City of Absecon that:

Section 1: UNDERAGE POSSESSION OR CONSUMPTION: It shall be unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property.

Section 2: PENALTY

A. Any person violating the provisions of the Article shall, in accordance with the provisions of N.J.S.A. 40:48-1.2, be punished by a fine of \$250.00 for a first offense and \$350.00 for any subsequent offense.

B. In addition to the fine authorized for this offense, the Court may suspend or postpone for six (6) months the driving privileges of the defendant. Upon conviction of any person and the suspension or postponement of that person's driver's licenses, the Court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the Court pursuant to N.J.S.A. 40:48-1.2. If a person at the time of the imposition of sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six (6) months after that person reaches the age of 17 years.

C. If a person at the of imposition of a sentence has a valid driver's license issued by this state, the Court shall immediately collect the license and forward it to the Division of Motor Vehicles along with the report. If for any reason the license cannot be collected, the Court shall include in the report the complete name, address, date of birth, eye color, and sex of the person, as well as the first and last date of the license suspension period imposed by the Court.

D. The Court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement the person shall be subject to the penalties set forth in R.S. 39:3-40. A person shall be required to acknowledge receipt of written notice in writing. Failure to receive written notice shall not be a defense to a subsequent charge of a violation of R.S. 39:3-40.

E. If a person convicted under this Article is not a New Jersey resident, the Court shall suspend or postpone, as appropriate, the non-residential driving privilege of the person based on the age of the person and submit it to the Division of Motor Vehicles on the required report. The Court shall not collect the license of a non-resident convicted under this article. Upon receipt of a report from the Court, the Division of Motor Vehicles shall notify the appropriate officials in the licensing jurisdictions of the suspension or postponement.

Section 3: EXCEPTIONS

A. Nothing contained in this Article is intended, nor shall it be construed, as prohibiting an under aged person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony of rite, or consuming or possessing an alcoholic beverage in the presence of and with permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.

B. As used in this Article, the following terms shall have the meaning set forth: "Guardian" means a person who has qualified as a guardian of the under ages person pursuant to testimony or court appointment; "Relative" means the under ages person's Grandparent, aunt, or uncle, sibling, or any other person related by blood or affinity.

C. Nothing contained in this Article is intended, nor shall be construed as prohibiting possession of alcoholic beverages by any such person while actually engaged in the performance of employment by a person who is licensed under Title 33 of the Revised Statutes, or while actively engaged in the preparation of food while enrolled in a culinary arts or a hotel management program at a county vocational school or post-secondary education institution; provided, however, that this Article shall not be construed to preclude the imposition of a penalty under this Article, R.S. 33:1-81, or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

Section 4: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 5: SEVERABILITY: If any portion of this Ordinance shall be determined to be invalid, such determination shall not affect the validity of the remaining portions of said Ordinance.

Section 6: EFFECTIVE DATE: This Ordinance shall take effect upon final passage and publication in accordance with law.

Dated: October 1st, 2009

APPROVED: _____ Peter C. Elco, Mayor

ATTEST: _____ Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a work and regular meeting of the Municipal Council held on September 17th, 2009. Laid over and advertised for public hearing and final adoption on October 1st, 2009. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a work and regular meeting held on October 1st, 2009.