

AN ORDINANCE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX,
STATE OF NEW JERSEY ADOPTING NJSA 40:48-12 REGARDING
CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON PRIVATE
PROPERTY BY PERSONS UNDER LEGAL AGE

WHEREAS, A municipality may 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

WHEREAS, the Mayor and Council of the Borough of Andover, County of Sussex, State of New Jersey, deems such an Ordinance to be in the best interest of the community at large;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Andover, as follows:

1. Unlawful possession or consumption.

It shall be unlawful for any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage on private property.

- A. This article does not prohibit an underage person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.
- B. This article does not prohibit 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 hotel management program at a county vocational school or post secondary educational institution; however, no provision of this article shall be construed to preclude the imposition of a penalty under this section, N.J.S.A. 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.

2. Violations and penalties.

- A. Any person under the legal age to purchase alcoholic beverages who, without legal authority, knowingly possesses or who knowingly consumes any alcoholic beverage on private property shall, upon conviction, be punished by a fine of \$250 for a first offense and \$350 for any subsequent offense. The court, may, in

addition to the fine authorized for this offense, suspend or postpone for six months the driving privilege of the defendant.

- B. Upon the conviction of any person and the suspension or postponement of that person's driver's license, 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 this section. If a person at the time of the imposition of a 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 months after the person reaches the age of 17 years.
- C. If a person at the time of the 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, 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 N.J.S.A. 39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to subsequent charge of a violation of N.J.S.A. 49:3-40.
- E. The court shall, of any person convicted under this section who is not a New Jersey resident, suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this section. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

3. Definitions.

As used in this article, the following terms shall have the meanings indicated.

GUARDIAN – A person who has qualified as a guardian of the underaged person pursuant to testamentary or court appointment.

RELATIVE – The underaged person's grandparent, aunt or uncle, sibling or any other person related by blood or affinity.

4. Severability.

If any clause, sentence, paragraph, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be in any way invalid, such clause sentence, paragraph, section or part of this ordinance shall be considered to be severable and such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof, directly involved in the controversy resulting in such valid judgment having been rendered, and in the event that the legislature of the State of New Jersey, or of the United State of America, enacts a statute which pre-empts any clause, sentence, paragraph, section or part of this ordinance, such clause, sentence, paragraph, section or part of this ordinance shall be considered to be severable and only that portion directly affected shall by such statute be considered to be pre-empted and invalid.

NOTICE

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Mayor and Council of the Borough of Andover on Monday, June 12, 2006 and shall be considered for final reading and adoption, after public hearing, at a meeting of the Mayor and Council to be held on Monday, July 10, 2006 at the Borough Hall beginning at 7:30 p.m.

Doris L. Lewis

Doris L. Lewis, RMC
Borough Clerk

ADOPTED: JULY 10, 2006

SIGNED: JULY 11, 2006