

ORDINANCE NO. 24 of 2009

AN ORDINANCE OF THE CITY OF BRIGANTINE
MAKING 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 THEREOF

WHEREAS, L.2000,C33 was duly passed by both Houses of the New Jersey Legislature and signed into law by the Governor on June 28, 2000 to become effective immediately; and

WHEREAS, the legislation amends New Jersey Statute 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 Brigantine is desirous of adopting such an ordinance in accordance with the aforesaid enabling legislation; and

WHEREAS, the Council of the City of Brigantine 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, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE IN THE COUNTY OF ATLANTIC AND STATE OF NEW JERSEY AS FOLLOWS:

SECTION I: 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 II: Penalty

- a. Any person violating the provisions of this Section 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 drivers license, the Court shall forward a report to the Motor Vehicle Commission 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

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the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall ⁽²⁾in for a period of six (6) 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 drivers license issued by the State of New Jersey, the Court shall immediately collect the license and forward it to the Motor Vehicle Commission 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 Section 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 Motor Vehicle Commission on the required report. The Court shall not collect the license of a non-resident convicted under this Section. Upon receipt of a report from the Court, the Motor Vehicle Commission shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

SECTION III: Exceptions

- a. Nothing contained in this Section is intended, nor shall it be construed, as prohibiting 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. As used in this Section, the following terms shall have the meaning set forth:
- Guardian:** means a person who has qualified as a guardian of the underaged person pursuant to testimony Or court appointment.
- Relative:** means the underaged person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.
- c. Nothing contained in this Section is intended, nor shall it 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 school for the culinary arts or a hotel management program at a county vocational school or post-secondary educational institution, provided however, that this Section shall not be construed to preclude the imposition of a penalty under Section, 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 IV: Severability

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If any section or part of this Ordinance is deemed to be invalid or

SECTION IV: **Severability**

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If any section or part of this Ordinance is deemed to be invalid or illegal in any Court of competent jurisdiction then said part is severable from this Ordinance as a whole and the remaining sections or parts of this Ordinance shall remain in full force and effect.

SECTION V: **Repealer**

All Ordinances or portions thereof inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

SECTION VI: Effective Date

This Ordinance shall take effect after final adoption and publication as prescribed by law.

INTRODUCTION September 16, 2009

ADOPTION October 7, 2009

MAYOR PHILIP J. GUENTHER

ATTEST:

LYNN SWEENEY, RMC, CITY CLERK