

ORDINANCE 2006- 20

AN ORDINANCE OF THE BOROUGH OF CHESTER, COUNTY OF MORRIS, AND STATE OF NEW JERSEY MAKING IT UNLAWFUL FOR ANY PERSON UNDER LEGAL AGE TO KNOWINGLY POSSESS OR KNOWINGLY CONSUME AN ALCOHOLIC BEVERAGE ON PRIVATE PROPERTY WITHOUT LEGAL AUTHORITY AND PROVIDING PENALTIES FOR THE VIOLATION HEREOF

WHEREAS, municipalities are empowered to make, amend, repeal, and enforce its ordinances pursuant to Statute (N.J.S.A. 40:48-1, et seq.); and

WHEREAS, municipalities are required by Statute to follow specific procedures for the passage of ordinances (N.J.S.A. 40:49-2 et seq.); and

WHEREAS, Senate No. 692 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, this legislation amends New Jersey Statute 40:48-1 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 the suspension, revocation or postponement of certain driving privileges; and

WHEREAS, the Borough of Chester, Morris County, intends to adopt an ordinance in accordance with the aforesaid enabling legislation; and

WHEREAS, the Mayor and Borough Council of the Borough of Chester, Morris County, is of the opinion that such an ordinance is in the public interest and will promote public safety and will contribute to the overall public health, safety and welfare of the community at large.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Borough Council of the Borough of Chester, in the County of Morris, and State of New Jersey, as follows:

**SECTION I. Underage 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, except as provided for in Section 4 below.

## **SECTION 2. Penalty.**

Any person convicted of violating the provisions of this ordinance shall, in accordance with the provisions of the N.J.S.A. 40:48-1 as amended, be punished by a fine not to exceed \$250.00 for the first offense and not to exceed \$350.00 for any subsequent offense.

## **SECTION 3. Additional Penalties.**

A. In addition to the fine authorized for this offense the Court may suspend or postpone for six (6) months the driving privilege of the defendant. 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 N.J.S.A. 40:48-1 as amended. 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 (6) months after the person reaches the age of 17 years.

B. 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 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 the first and last date of the license suspension period imposed by the Court.

C. 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 R.S.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 a subsequent charge of a violation of R.S. 39:3-40.

D. If a person convicted under this ordinance is not a New Jersey resident, the Court shall suspend or postpone, as appropriate, the non-resident 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 Ordinance. Upon receipt of a report from the Court, the Division of Motor Vehicles shall notify the appropriate officials in



the licensing jurisdiction of the suspension or postponement.

#### **SECTION 4. Exceptions.**

A. Nothing contained in this Ordinance is intended, nor shall it be construed, as prohibiting an underaged 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; provided that, if the underaged person is found to possess or consume an alcoholic beverage in the presence of and with the permission of a relative other than a parent or guardian, the police shall notify the parent or legal guardian, by certified mail, of the incident together with the name of the relative who gave permission for the possession or consumption of the alcoholic beverage by the underaged person. The notification shall include a request that the parent or guardian acknowledge and return a copy of the letter to the police department within 15 days of receipt.

B. As used in the preceding Section (Section 4.1 hereof), 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 testamentary or Court appointment.

“Relative” means the underaged person's grandparent, aunt or uncle, sibling, or any other persons related by blood or affinity.

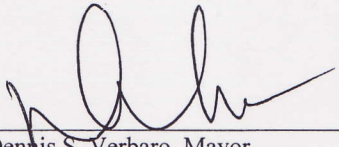
C. Nothing contained in this Ordinance is intended nor shall it be construed as prohibiting possession of alcoholic beverages by any such person while actually engaged in the performance of employment by a person who is licensed under Title 33 of the Revised Statutes, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; provided, however, that this Ordinance shall not be construed to preclude the imposition of a penalty under this Ordinance, 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 5.** If any Chapter, Article, Section or Subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction

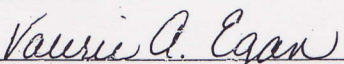
such decisions shall not effect the remaining portions of this Ordinance.

**SECTION 6.** All ordinances or rules or regulations of the Borough of Chester, which are inconsistent with the provisions of this ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 7.** This ordinance shall take effect upon passage and publication according to law.

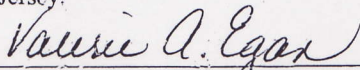
  
Dennis S. Verbaro, Mayor

Attest:

  
Valerie A. Egan, Borough Clerk/Administrator

**LEGAL NOTICE OF FINAL ADOPTION**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Chester, in the County of Morris, State of New Jersey, held in the municipal building on the 1<sup>st</sup> day of August 2006, and the same came up for final passage at a meeting of the said Borough Council on the 15<sup>th</sup> day of August, 2006 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law. By order of the Borough Council of the Borough of Chester, County of Morris and State of New Jersey.

  
Valerie A. Egan, Municipal Clerk