

ORDINANCE NO. 2068-2006

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 56 OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000, ENTITLED "ALCOHOLIC BEVERAGES", SPECIFICALLY ARTICLE I, SECTION 56-8, MINORS

WHEREAS, the Mayor and Council of the Borough of Fair Lawn are concerned with the rising abuse of alcohol by underaged persons on private property; and

WHEREAS, N.J.S.A. 40:48-1.2 authorizes a municipality to adopt an Ordinance prohibiting the possession and consumption of alcoholic beverages without legal authority on private property by underaged persons; and

WHEREAS, the Mayor and Council of the Borough of Fair Lawn deems that the passage and adoption of such an Ordinance would be in the public interest and helpful in the right to curtail alcohol abuse by underaged persons.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn as follows:

SECTION 1. Section 56-8, entitled "Minors", Article I of Chapter 56 of the Code of the Borough of Fair Lawn 2000, entitled "Alcoholic Beverages", is hereby amended and supplemented as follows:

The term "minor" or "minors" used throughout Section 56-8 is changed to "underaged person(s)" or "person(s) under the legal age", as appropriate.

New subsection F is added as follows:

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

A person under the legal age shall be deemed to possess or consume an alcoholic beverage without legal authority if said possession or consumption is not in connection with any of the following:

- (1) In connection with a religious observance, ceremony or rite; or
- (2) 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; or
- (3) By any such person while actually engaged in the performance of employment by a person licensed under Title 33 (the Alcoholic Beverage Control Law) or

while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational or post secondary educational institution.

As used in this section:

"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 grandparents, aunt or uncle, sibling, or any other person related by blood or affinity.

SECTION 2. A violation of this Ordinance shall be punishable by a fine of \$250.00 for the first offense, and \$350.00 for any subsequent offense. In addition to any fine authorized for this offense, the court may suspend or postpone for six 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 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.

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.

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.

If the 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 to the division the required report. The court shall not collect the license of a non-resident 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.

SECTION 3: In addition to the general penalty prescribed in **SECTION 2** hereof, the Court may require any person convicted under this ordinance to participate in an alcohol education or treatment program authorized by the Department of Health at the defendants' expense and/or to engage in a period of community service not exceeding 90 days, in the discretion of the Judge imposing the sentence.

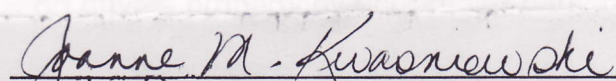
SECTION 4: Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any section or part hereof.

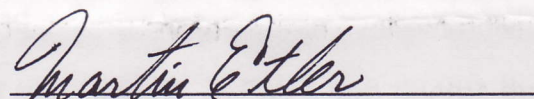
SECTION 5: All ordinances, codes or parts thereof that are inconsistent with this ordinance are repealed or otherwise modified.

SECTION 6: This Ordinance shall take effect upon passage and publication as required by law.

Attest:

Approved:


Joanne M. Kwasniewski, RMC/CMC/MMC
Municipal Clerk


Martin Etler
Mayor

Introduced: December 5, 2006

Adopted: December 19, 2006