

BOROUGH OF HAMBURG

16 Wallkill Avenue
Hamburg NJ 07419

Phone (973)827-9230
Fax (973)827-0466
hamburgboro@nac.net

BOROUGH OF HAMBURG

ORDINANCE #08-2001

AN ORDINANCE TO AMEND CHAPTER III, GENERAL POLICE REGULATIONS, BY ADDING A NEW SECTION 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 Hamburg deems such an Ordinance to be in the best interest of the community at large;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hamburg that a new section be added to Chapter III, General Police Regulations, as follows:

3-13 Consumption and Possession of Alcoholic Beverages on Private Property by Persons Under the Legal Age.

Subsections:

- 3-13.1 Definitions
- 3-13.2 Consumption or Possession Prohibited
- 3-13.3 Non-Applicability
- 3-13.4 Violation and Penalty
- 3-13.5 Severability

3-13.1 Definitions.

- a. "Guardian" means a person who has qualified as a guardian of the underage person pursuant to testamentary or court appointment.
- b. "Relative" means the underage person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

3-13.2 Consumption or Possession Prohibited on Private Property.

The consumption or possession of alcoholic beverages of any type on private property by a person who is under legal age and without legal authority is prohibited.

3-13.3 Non-Applicability.

- a. The provisions of this section shall not apply to an underage person who consumes or possesses an alcoholic beverage in connection with a religious observance, ceremony, or rite, or consumes or possesses 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. The provision of this section shall not apply to 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.
 - (1) 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.

3-13.4 Violation and Penalty.

- a. Any person who shall violate any section of this ordinance shall be subject to a fine of two hundred fifty dollars (\$250.00) for the first offense, and three hundred fifty dollars (\$350.00) for any subsequent offense.
- b. The court may, in addition to the fine, 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 suspension or postponement of the privilege 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 age of 17 years.

If a person at the time of the imposition of a sentence has a valid driver's license issued by the 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 day of the license suspension period imposed by the court.

The court shall also 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, that person shall be subject to the penalties set forth in 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 shall not be a defense to a subsequent charge of violation 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.

3-13.5 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 in the United States 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

NOTICE is hereby granted that the above Ordinance was introduced and passed first reading at a regular meeting of the Mayor and Council of the Borough of Hamburg, held on Monday, November 5, 2001 at 7:30 p.m. and will be considered for a final passage at a regular meeting of said Mayor and Council to be held on Monday, December 3, 2001 at 7:30 p.m. or as soon thereafter as same can be considered, in the Municipal Building, 16 Wallkill Avenue, Hamburg, New Jersey, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. A copy of said Ordinance is on file in the Office of the Borough Clerk, Municipal Building, 16 Wallkill Avenue, Hamburg, New Jersey, and is available for public inspection during regular business hours. During the week prior and up to the time of public hearing, copies of said Ordinance will be available to the members of the general public who request the same.

Doreen Klinger
Acting Borough Clerk