

## **CHAPTER VI**

### **ALCOHOLIC BEVERAGE CONTROL**

#### **6-1 PURPOSE.**

This chapter is enacted to regulate the sale and transportation of alcoholic beverages in the Township of Manchester in accordance with the provisions of an Act of Legislature of the State of New Jersey entitled "An Act Concerning Alcoholic Beverages" (Chapter 436 of the Laws of 1933), its supplements and amendments, and also comprising N.J.S. 33:1-1 et seq., and in accordance with the rules and regulations of the Director of the Division of Alcoholic Beverage Control. (New)

#### **6-2 DEFINITIONS.**

For the purpose of this chapter, the words and phrases herein shall have the same meaning as in N.J.S. 33:1-1 et seq., and the rules and regulations of the Director of the Division of Alcoholic Beverage Control. (Ord. No. 84-240 § 1)

#### **6-3 LICENSES.**

**6-3.1 Laws Applicable.** All applications for license, all licenses issued, and all proceedings under this chapter shall be in accordance with the Act, rules and regulations referred to in Section 6-1, and all other applicable laws of the State of New Jersey or of the United States. (Ord. No. 84-240 § 2A; New)

**6-3.2 Issuing Authority.** All licenses required by this chapter shall be issued by the Township Council, which shall also administer the provisions of this chapter. (Ord. No. 84-240 § 2B)

**6-3.3 License Required.** No person shall sell or distribute alcoholic beverages within the Township without having obtained a license in accordance with the Act referred to in Section 6-1 and the provisions of this chapter, except in those cases provided by law where the licenses in question are issued by the Director of the State Division of Alcoholic Beverage Control. (Ord. No. 84-240 § 2C; New)

**6-3.4 Classes of Licenses; Fees.** The classes and maximum number of licenses to be issued by the Township are hereby fixed as follows and the annual fees of licenses for the sale or distribution of alcoholic beverages in the Township shall be as follows:

Class of License	Annual License Fees
a. Plenary retail consumption licenses.	\$2,000.00
b. Plenary retail distribution licenses.	\$2,000.00
c. Club licenses.	\$150.00

(New)

#### **6-4 REGULATIONS OF LICENSES.**

**6-4.1 Hours of Sale.** No alcoholic beverages shall be sold, delivered or served to or consumed in any licensed premises on any day between the hours of 2:00 a.m. and 7:00 a.m. except Sundays and New Year's Day each year as herein after provided. (Ord. No. 84-240 § 6)

**6-4.2 Sundays.** Provisions of subsection 6-4.1 shall not apply on Sundays. On Sundays, no alcoholic beverages may be sold, served, delivered to or consumed in the licensed

premises between the hours of 3:00 a.m. and 7:00 a.m. (Ord. No. 84-240 § 6)

**6-4.3 New Year's Day.** Provisions of subsection 6-4.1 shall not apply on January 1. When January 1 falls on a Sunday, no alcoholic beverages may be sold, served, delivered to or consumed between the hours of 5:00 a.m. and 7:00 a.m. (Ord. No. 84-240 § 6)

**6-4.4 Eastern Standard Time.** The hours referred to shall be Eastern Standard Time, except from 2:00 a.m., on the last Sunday in April until 2:00 a.m. on the last Sunday in September, each year, when they shall be Eastern Daylight Saving Time, which time is one hour in advance of Eastern Standard Time. (Ord. No. 82-240 § 6)

**6-4.5 Sales to Certain Persons.** No licensee or employee of a licensee shall sell, serve or deliver, directly or indirectly, any alcoholic beverages to any intoxicated person or person under the legal age, or permit the consumption of alcoholic beverages on any licensed premises by any of the above-named persons. (New)

**6-4.6 Closing of Premises During Prohibited Hours of Sale; Exceptions.** During the hours when sales of alcoholic beverages are prohibited, the entire licensed premises shall be closed and no person shall be admitted or permitted to remain thereon except the licensee or bona fide employees of the licensee; provided, however, that such requirement for the closing of the premises shall not apply to bona fide hotels or restaurants as defined in N.J.S. 33:1-1(t) and to clubs eligible for a club license under N.J.S. 33:1-12(5) and to other establishments where the principal business is other than the sale of alcoholic beverages. (New)

**6-4.7 Distance Between Licensed Premises.**

- a. No plenary retail consumption license shall be issued for any premises situated closer than two thousand

(2,000) feet to the nearest other licensed plenary retail consumption establishment.

- b. For the purpose of this subsection, the method of measurement shall be by measuring from the outside boundary of the perimeter of the lot, tract or parcel of land from which the licensed premises are situated a distance of two thousand (2,000) feet perpendicularly at all points around such perimeter.  
(Ord. No. 84-240 § 5)

**6-4.8 Application for Licenses.** Applications for licenses required by this chapter shall be made upon forms to be obtained from the Township Clerk, promulgated or approved by the Director of the Division of Alcoholic Beverage Control.  
(New)

**6-4.9 Issuance of New Additional or Reissue of Voided Retail Licenses.**

- a. Whenever the Township is authorized to issue one or more new, additional, or reissue voided plenary retail consumption or retail distribution licenses, and the Township Council by resolution, determines to permit the issuance thereof, it shall cause to be published a notice of the proposed issuance of the license or licenses and that the applications therefor will be accepted by the Township Council. The notice shall specify the time and date after which no further applications will be accepted. The notice shall be published in a newspaper circulating generally in the municipality by not less than two (2) insertions, one week apart, the second of which shall be made not less than thirty (30) days prior to the time and date specified in the notice as the time and date after which no further applications will be accepted.
- b. Provisions of this chapter shall not be construed to require the issuance of any licenses with respect to which a notice has been published, and the Township

Council may reject any and all applications, which in its discretion, does not meet the criteria as set forth in the applicable State Statutes, regulations or this ordinance.

- c. Whenever the Township Council is authorized to issue one or more plenary retail licenses and it determines to permit the issuance thereof, the Township Council by resolution, may authorize that such license or licenses be issued to the highest qualified bidder therefor, and shall conduct a public sale for such purpose. The Township Council, by resolution, may prescribe qualifications for prospective bidders including the requirement that a licensee, as a condition of the award of the license, shall operate restaurants, public accommodations and other public facilities in connection therewith; it may by resolution, fix a minimum bid and conditions of sale with a reservation of the right to reject all bids, where the highest bid is not accepted. In the event that the Township Council determines to conduct a sale pursuant to this subsection the proceedings set forth in N.J.S. 33:1-19.4 and 19.5 and regulations of N.J.A.C. shall govern the procedures of sale.
- d. Applications for all plenary retail consumption and distribution licenses shall be accompanied by (1) proof of financial responsibility as determined by the Township Council, (2) proof of ownership or interest in the premises and or location where the license is to be issued, (3) if the application is for a building not yet constructed, plans of this proposed building shall accompany the application to show the appearance and design of the proposed building, the type or types of exterior building material and over-all room dimensions, if the application is for an existing building, a similar set of plans shall be submitted.
- e. Filing and advertising of the notice of application for municipal plenary retail consumption or distribution

license shall be in accordance with the applicable sections of N.J.A.C. 13:2-2.1 etc., or any amendments or changes thereto which section is hereby adopted by reference and shall remain in force and effect as a requirement of this chapter.

- f. Club licenses may be issued at the discretion of the Township Council in accordance with N.J.S. 33:1-1 etc., and N.J.A.C. 13:2-8.1 etc.,  
(Ord. No.84-240 § 7)

**6-4.10 Licensee to Post Copy of This Chapter.** Every licensee shall keep a copy of this chapter posted in a conspicuous place in the rear of the bar on the licensed premises at all times. (New)

#### **6-5 REVOCATION OF LICENSE.**

Any license issued under this chapter may be suspended or revoked for violation of any of the provisions of this chapter or any provision of any applicable statute or any of the rules or regulations of the State Director of Alcoholic Beverage Control.

Proceedings for suspension or revocation shall be in accordance with the provisions of N.J.S. 33:1-31 by service of a five (5)-day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing.

Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this chapter; and any prior violation shall be cause for rejection of any application. (Ord. No. 84-240 § 8; New)

**6-6 PERSONS UNDER THE LEGAL AGE.**

**6-6.1 Sale of Alcoholic Beverages Prohibited.** No licensee shall sell or serve alcoholic beverages to persons under the legal age. (New)

**6-6.2 Unlawful Acts by Persons Under Legal Age for Purchase of Alcoholic Beverages; Disorderly Persons.** It shall be unlawful for:

- a. A person under the legal age for purchasing alcoholic beverages to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage; or
- b. A person under the legal age for purchasing alcoholic beverages to consume any alcoholic beverage on premises licensed for the retail sale of alcoholic beverages, or to purchase, attempt to purchase or have another purchase for him or her any alcoholic beverage; or
- c. Any person to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or to purchase alcoholic beverages, for another person who does not because of his/her age have the right to purchase and consume alcoholic beverages.

Any person who shall violate any of the provisions of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, in accordance with N.J.S. 33:1-81, as amended, shall be punished by a fine of not less than five hundred (\$500.00) dollars. In addition, the Court shall suspend the person's license to operate a motor vehicle for six (6) months or prohibit the person from obtaining a license to operate a motor vehicle in this State for six (6) months beginning on the date he/she becomes eligible to obtain a license or on the date of conviction, whichever is later. In addition to the general penalty prescribed for an offense, the Court may require any person under the legal age to purchase alcoholic beverages who violates this act to participate in an

alcohol education or treatment program authorized by the Department of Health for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted. (N.J.S. 33:1-81)

### **6-6.3 Consumption by Underage Persons on Private Property.**

a. *Definitions:*

*Guardian* shall mean a person who has qualified as a guardian of the underage person pursuant to a testamentary or court appointment.

*Relative* shall mean the underage person's grandparent, aunt or uncle, sibling who has attained the age of twenty-one (21) years, or any other person related by blood or affinity.

b. *Prohibition.* Pursuant to the provisions of N.J.S.A. 40:48-1 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.

c. *Exceptions.*

1. The provisions of this subsection shall 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 legal age to purchase and consume alcoholic beverages.

2. The provisions of this subsection shall not prohibit possession of alcoholic beverages of any person while actually engaged in the performance of employment by a person who is licensed by Title 33 of the New Jersey Statutes.



- d. *Penalty.* Any person convicted of a violation of this subsection shall be punished by a fine of up to two hundred fifty (\$250.00) dollars for a first offense and up to three hundred fifty (\$350.00) dollars for any subsequent offense. In addition to the aforementioned penalty any person convicted under this subsection may be subject to a suspension or postponement for six (6) months of the driving privilege of the defendant.

(Ord. No. 03-009 §§ 1-5)

## **6-7 ALCOHOLIC BEVERAGE CONTROL IDENTIFICATION CARDS.**

**6-7.1 Identification Card Required.** Any entity holding any plenary retail consumption license or any retail distribution license issued in the Township of Manchester shall make application for an identification card to the Township Clerk on behalf of any employee of a licensee who serves, dispenses, sells, mixes, processes or prepares any alcoholic beverages at or from any bar or establishment selling alcoholic beverages. No one may serve, dispense, sell, mix, process or prepare any alcoholic beverage at a licensed premises without having first obtained such an identification card. (Ord. No. 99-035 § 2; Ord. No. 00-039 § 2)

**6-7.2 Application.** The application for an identification card shall be made on a form prescribed by the Township Clerk and shall include a set of fingerprints and two (2) passport type photographs supplied by the applicant. The Clerk shall issue the identification card after the application is approved. (Ord. No. 99-035 § 3; Ord. No. 00-039 § 3)

**6-7.3 Possession of Card.** All employees required to have an identification card in accordance with the provisions of this section shall have it in their possession at all times when working in or about the licensee's business. (Ord. No. 99-035 § 4; Ord. No. 00-039 § 4)

**6-7.4 Employment Pending Issuance of Identification Card.** Any employee required to be licensed under this section may work in the licensed premises after the application is made to the Township Clerk and pending the application process. (Ord. No. 99-035 § 5; Ord. No. 00-039 § 5)

**6-7.5 Term of Validity.** The identification card issued pursuant to this section shall be valid from one (1) year from the date of issuance. Each initial identification card shall be issued for a fee of fifteen (\$15.00) dollars. Each renewal shall be issued for a fee of fifteen (\$15.00) dollars. (Ord. No. 99-035 § 6; Ord. No. 00-039 § 6)

**6-7.6 Appeals.** Any person who is denied a license as required by this section, other than a denial for a crime of moral turpitude shall have the right to appeal the denial to the Township Council. The letter requesting the appeal shall be filed with the Township Clerk no later than ten (10) days after the date of the letter of denial. Denials for crime of moral turpitude shall be appealed through the Division of Alcoholic Beverage Control. (Ord. No. 00-039 § 7)

**6-7.7 False Representation on Application.** It shall be a violation to make a false representation on an application for an identification card under this section. (Ord. No. 00-039 § 8)

**6-7.8 Penalty.** Any person, firm, proprietorship, partnership, association or corporation who violates any provision of this section, or whose agents violate any provision of this section, shall be subject to a fine of up to five hundred (\$500.00) dollars. (Ord. No. 99-035 § 7; Ord. No. 00-039 § 9)