

**BOROUGH OF OAKLAND
ORDINANCE # 06-CODE-527**

**AN ORDINANCE REGULATING THE USE OF ALCOHOL
BY PERSONS UNDER THE LEGAL AGE**

WHEREAS, N.J.S.A. 40:48-1.2 allows a municipality to enact an ordinance making it unlawful for any person under the legal age to possess or consume alcohol on private property and to establish penalties, including suspension or postponement of driving privileges.

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

SECTION I. CONSUMPTION BY PERSONS UNDER THE LEGAL AGE.

1. It is unlawful for any person under the legal age and without legal authority to consume alcohol, be under the influence of alcohol, knowingly possess or knowingly consume an alcoholic beverage on public or private property.

2. The prohibition contained in this section shall not prohibit 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.

3. 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 persons' grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

4. Nothing contained in this section shall prohibit possession of alcoholic beverages by any such underaged person while actually engaged in the performance of employment by a person who is licensed under Title 33 of the revised statutes of the State of New Jersey, 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; however, nothing in this section shall be construed to preclude the imposition of a penalty under this section, N.J.S.A. 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 II. PENALTIES.

- A. Any violation of this article shall 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 months the driving privilege of the Defendant. Upon the conviction of any person, any 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 suspension or postponement imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than seventeen (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 (6) months after the person reaches the age of seventeen (17) years.
- C. 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 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 N.J.S.A. 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 N.J.S.A. 39:3-40.
- E. If the person convicted under such an 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.

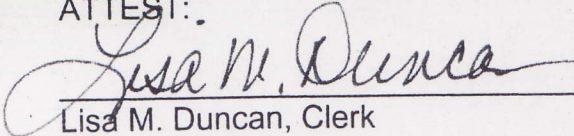
SECTION III. If any part of this Ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portion of the Ordinance.

SECTION IV. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Oakland be and the same are hereby ratified and confirmed, except where inconsistent herewith. In the event of any such inconsistency, the terms and provisions of this Ordinance shall be deemed to govern.

SECTION V. The terms and provisions of this Ordinance are hereby declared to be severable; should any section or portion thereof be held invalid or unconstitutional, such decision shall not affect the validity of any remaining sections hereof.

SECTION VI. This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:


Lisa M. Duncan, Clerk


John Szabo, Mayor

THIS IS TO CERTIFY THAT THIS
IS A TRUE COPY AS ADOPTED BY
THE MAYOR AND COUNCIL OF THE
BOROUGH OF OAKLAND AT A
MEETING HELD ON April 19, 2006
BOROUGH CLERK 