

## **Chapter 6, ALCOHOLIC BEVERAGES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Paulsboro as indicated in article histories. Amendments noted where applicable.]

### **ARTICLE I, Licenses [Adopted 12-18-1946 by Ord. No. 271]**

#### **§ 6-1. Plenary retail and seasonal retail consumption licenses: number to be issued.**

No new plenary retail consumption licenses or seasonal retail consumption licenses shall be issued in Paulsboro unless and until the combined total number of such licenses existing in Paulsboro is fewer than one for each 1,000 of its population, as shown by the last then preceding federal census.

#### **§ 6-2. Plenary retail consumption licenses: fees. [Amended 11-19-1957 by Ord. No. 394; 5-3-1994 by Ord. No. 0.8.94; 4-18-2000 by Ord. No. 0.1.00]**

The annual fee for a plenary retail consumption license shall be \$604.80.

#### **§ 6-3. Hours. [Amended 10-21-1958 by Ord. No. 403; 10-6-1970 by Ord. No. 522]**

- A. No licensee shall sell, service or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage or allow consumption of any alcoholic beverage on the premises on New Year's Day, when it is a weekday, between the hours of 4:00 a.m. and 7:00 a.m.; on all days (other than Sunday) between the hours of 2:00 a.m. and 7:00 a.m.; on Sunday commencing at 2:00 a.m. through and until 7:00 a.m. Monday. [Amended 4-6-1982 by Ord. No. 0.1.82]
- B. During the hours that sales are prohibited by Subsection A of this section, the entire licensed premises shall be closed, except that the licensed premises may remain open until 2:30 a.m. Tuesday through Sunday for the purpose of allowing for the orderly removal of the patrons from the premises. Further, the closing of premises requirement shall not apply to restaurants as defined in N.J.S.A. 33:1-1(t) or to clubs provided for in N.J.S.A. 33:1-12(5). As used in this subsection, the word "closed" means that all patrons must be off the licensed premises. [Amended 8-19-1975 by Ord. No. 582; 12-17-2002 by Ord. No. 23.02]



**§ 6-4. Plenary retail distribution licenses: number to be issued.**

No new plenary retail distribution licenses shall be issued in Paulsboro unless the number of such licenses existing in Paulsboro is fewer than one for each 3,000 of its population, as shown by the last then preceding federal census.

**§ 6-5. Plenary retail distribution licenses: annual fee. [Amended 11-19-1957 by Ord. No. 394; 5-3-1994 by Ord. No. 0.8.94; 4-18-2000 by Ord. No. 0.1.00]**

The annual fee for a plenary retail distribution license shall be \$518.40.

**§ 6-6. Retail sale in original containers: hours. [Amended 3-7-1995 by Ord. No. 0.2.95]**

- A. A licensee may sell or deliver or allow, permit or suffer the sale or delivery of wine and malt alcoholic beverages at retail in original bottle or can containers in which the beverage was delivered to the retail licensee, for consumption off the licensed premises, only on the same days and during the same hours as the sale of alcoholic beverages for consumption on the premises is permitted.
- B. No licensee shall sell or deliver or allow, permit or suffer the sale or delivery of any packaged alcoholic beverage not listed in Subsection A of this section of the Code, including, but not limited to, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors, at retail for consumption off the licensed premises, on Sunday, or before 9:00 a.m. or after 10:00 p.m., prevailing time, on any other day of the week.

**§ 6-7. Club licenses; number; annual fee. [Amended 11-5-1986 by Ord. No. 0.12.86]**

Club licenses shall be limited to six. The annual license fee for club licenses shall be \$150.

**§ 6-8. Prorating of license fees.**

All license fees provided for in this ordinance shall be prorated when license is granted after July 1 of any year.

**§ 6-9. Applicability.**

Nothing in this ordinance shall prevent the renewal of licenses existing on the effective day of



this ordinance, or the transfer of such licenses, or the renewal of licenses so transferred.

**§ 6-10. Issuance of limited retail distribution licenses.**

No limited retail distribution licenses shall be issued.

**§ 6-11. Sunday sales prohibited.**

In accordance with referendum vote held November 6, 1934, the sale of alcoholic beverages on Sundays is prohibited.

**§ 6-12. Fingerprints required to be furnished. [Added 11-6-1956 by Ord. No. 378]**

- A. All owners or holders of plenary retail consumption licenses and plenary retail distribution licenses shall submit with their next application for renewal a complete set of fingerprints, for the use of the Department of Public Safety in investigating their eligibility and qualifications for license renewal.
- B. All new owners or license transferees of plenary retail consumption licenses and plenary retail distribution licenses shall submit with their application for new licenses or transfer of existing licenses a complete set of fingerprints, for use of the Department of Public Safety in investigating their eligibility and qualifications for a new license or transfer. This paragraph shall be effective immediately.
- C. If any applicant for plenary retail consumption license or a plenary retail distribution license shall be a corporation, complete set of fingerprints shall be submitted by all officers of said corporation before a new license, a renewal or a transfer of license shall be granted.
- D. All persons who are now employed by any owner or holder of a plenary retail consumption license as a bartender or barmaid, engaged in mixing or serving drinks over the bar, shall, on or before the 31st day of December 1956, submit a complete set of fingerprints for the use of the Department of Public Safety in investigating their eligibility and qualifications for employment in the licensed establishment.
- E. All persons who are hereafter employed by any owner or holder of a plenary retail consumption license as a bartender or barmaid, engaged in mixing or serving drinks over the bar, shall, before being employed and before going to work, submit a complete set of fingerprints for the use of the Department of Public Safety in investigating their eligibility and qualifications for employment in the licensed establishment. After said investigation, should any such employee be found to be not a proper person under the laws of the State of New Jersey and regulations adopted thereunder, or under any local ordinances, his



employment shall be terminated upon written notification hereof by the Borough Clerk to the licensee. This subsection shall be effective immediately.

- F. All fingerprints required to be filed under this amendment to the above-entitled ordinance shall be kept on file by the Department of Public Safety. [Amended 4-15-1975 by Ord. No. 575<sup>EN(1)</sup>]

**§ 6-13. Violations and penalties. [Amended 11-6-1956 by Ord. No. 378; 12-17-2002 by Ord. No. 23.02]**

All licensees shall conduct their places of business in accordance with all applicable laws, ordinances, and regulations. A violation of any provision of this article shall be punishable, upon conviction thereof, by a fine not exceeding \$1,250, imprisonment in the county jail not exceeding 90 days or 90 days of community service or any combination thereof, at the discretion of the sentencing court.

**§ 6-14. Repealer.**

All resolutions and ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

**§ 6-15. (Reserved)<sup>EN(2)</sup>**

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**ARTICLE IA, Definitions [Adopted 11-18-1980 as Section I of Ord. No. 0.15.80]**

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**§ 6-15.1. Terms and phrases defined.**

As used in this chapter, the following terms shall have the meanings indicated:

**ALCOHOLIC BEVERAGE** -- Any liquid or solid capable of being converted into a fluid, suitable for human consumption and having an alcoholic content of more than 1/2 of 1% by volume, including alcohol, beer, lager beer, ale, porter, naturally fermented wine, treated wine, blended wine, fortified wine, sparkling wine, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors fit for use for beverage purposes, or any mixture of the same and fruit juices.

**CONSUMPTION OF AN ALCOHOLIC BEVERAGE** -- A person shall be deemed to "consume" if he drinks, swallows or imbibes any fluid or solid capable of being converted into a



fluid as defined in the definition of "alcoholic beverage" in this section. A person shall be presumed to have consumed such alcoholic beverage in violation of the provisions of §§ 6-19 and 6-22 if the owner or other person in physical control of the alcoholic beverage is in close proximity to him, the alcoholic beverage is not sealed or has been partially consumed and he emits an odor of alcoholic beverage coming from his person or exhibits physical conduct, attributes or demeanor associated with the consumption of alcoholic beverages; or a person is in possession of an alcoholic beverage that is not sealed, has been partially consumed or is in a container such as a glass or cup and the person emits an odor of alcoholic beverage coming from his person or exhibits physical conduct, attributes or demeanor associated with the consumption of alcoholic beverages.

**INTENT TO CONSUME AN ALCOHOLIC BEVERAGE --** A person shall be deemed to "intend to consume an alcoholic beverage" in violation of §§ 6-19 and 6-22 of this chapter if that person is in physical custody of an alcoholic beverage in container such as a glass or cup or an alcoholic beverage in an unsealed or open bottle, can or other such beverage container which has been partially consumed.

**POSSESSION OF AN ALCOHOLIC BEVERAGE --** A person shall be deemed to be "in possession of an alcoholic beverages" within the meaning of this ordinance if he intends to or does exercise custody, control or dominion over such alcoholic beverage; provided, however, that actual physical or manual possession is not required if the intention to exercise such custody, control or dominion over the alcoholic beverage is manifested from the direct or circumstantial evidence where it is reasonable to infer that the capacity to do so exists. Possession, custody or control need not be exclusive, but may be jointly exercised by two or more persons. A person shall be presumed to be jointly in possession, custody or control of the alcoholic beverage if the owner or person in physical control of the alcoholic beverage is in close proximity to him, and the alcoholic beverage is not sealed or has been partially consumed.

**PRIVATE PLACE --** Any place which is not a public place as defined below.

**PUBLIC PLACE --** Any place, either publicly or privately owned, which is or may be frequented by the public.

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**ARTICLE II, Minors [Adopted 7-6-1954 by Ord. No. 351; amended in its entirety 11-18-1980 by Ord. No. 0.15.80]**

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**§ 6-16. Entry on licensed premises restricted. [Amended 3-7-1995 by Ord. No. 0.2.95; 12-17-2002 by Ord. No. 23.02]**

- A. It shall be unlawful for a person under the age of 21 years to enter any premises licensed for the sale of alcoholic beverages unless that person is in or on the premises in the course of his



or her employment or is accompanied by his or her parent or legal guardian. This provision shall not apply to licensed premises the primary use of which is as a restaurant.

- B. If an establishment possesses a plenary retail licence for the consumption or distribution of alcoholic beverages for only a portion of its premises, the aforementioned restriction shall be limited to that portion of the establishment specifically covered by the license.

**§ 6-17. Purchase or attempt to purchase; sale, service or delivery.**

It shall be unlawful for a person under the legal age for the consumption of alcoholic beverages established by the State of New Jersey to purchase, attempt to purchase or have another purchase for him or her any alcoholic beverages on any licensed premises for the sale of alcoholic beverages.

- A. It shall be unlawful for any person over the legal age for the consumption of alcoholic beverages established by the State of New Jersey to sell, serve, deliver or give, either directly or indirectly, any alcoholic beverage to any person under the legal age for the consumption of alcoholic beverages established by the State of New Jersey in or upon the licensed premises; and it shall be unlawful to allow, permit or suffer the consumption of any alcoholic beverage by any person under the legal age for the consumption of alcoholic beverages established by the State of New Jersey in or upon the licensed premises.
- B. It shall be unlawful for any person over the legal age for the consumption of alcoholic beverages established by the State of New Jersey to buy or secure in any way, either directly or indirectly, any alcoholic beverage for service, delivery or gift to any person under the legal age for the consumption of alcoholic beverages established by the State of New Jersey for consumption in or upon the licensed premises.
- C. It shall be unlawful for any person over the legal age for the consumption of alcoholic beverages established by the State of New Jersey to purchase any alcoholic beverages for or on behalf of any person under the legal age for the consumption of alcoholic beverages established by the State of New Jersey with money directly or indirectly obtained from or to be repaid by such under-aged person or any other such under-aged person.

**§ 6-18. Misrepresentation of age.**

It shall be unlawful for any person under the legal age for the consumption of alcoholic beverages established by the State of New Jersey to misrepresent or mistake his or her age for the purpose of inducing any retail licensee or any employee of any licensee to sell, serve or deliver any alcoholic beverages to him or her.



**§ 6-19. Unlawful possession, consumption, distribution and delivery.**

- A. In any public place or in any motor vehicle on any public highway, road, street or alley in the Borough of Paulsboro, it shall be unlawful for any person under the age for the consumption of alcoholic beverages established by the State of New Jersey to:
- (1) Attempt to consume or possess any alcoholic beverage.
  - (2) Consume or possess any alcoholic beverage.
  - (3) Engage in or attempt to engage in, concert with one or more persons, in an act of consuming or possessing any alcoholic beverage.
  - (4) Distribute, deliver or make available for consumption of any alcoholic beverages to person under the legal age for the consumption of alcoholic beverages established by the State of New Jersey, or to attempt to perform such acts.
  - (5) Possess, display, dispense or distribute any alcoholic beverage out of its original container.
- B. In determining whether or not any of the unlawful acts set forth in Subsection A of this section have been committed, the trier of fact, in addition to or as part of the proofs, may consider the following factors:
- (1) Statement made by an owner or by anyone in control of the alcoholic beverage.
  - (2) The proximity of the defendant to the alcoholic beverage, his opportunity or ability to consume.
  - (3) Whether the alcoholic beverage is unsealed or has been partially consumed or is in an open or unsealed container such as a glass or cup.
  - (4) Whether the defendant or any person(s) in close proximity to him exhibits an odor of alcoholic beverage coming from his and/or their person or exhibits physical conduct, attributes or demeanor associated with the consumption of alcoholic beverages.
  - (5) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the alcoholic beverage to deliver, distribute or make available such alcoholic beverage to the defendant or another person or persons in close proximity to the defendant.
- C. In addition to considering the factors in Subsection B of this section when determining if any of the unlawful acts set forth in Subsection A of this section have been committed, it shall be deemed that an underage person is in possession of any alcoholic beverage and in violation of this section if the underage person is in or on any premises licensed for the sale of alcoholic beverages and in close proximity to an alcoholic beverage. [Added 3-7-1995 by Ord. No.



0.2.95]

**§ 6-20. Violations and penalties.**

- A. All licensees shall conduct their places of business in accordance with all applicable laws, ordinances, and regulations. A violation of any provision of this article shall be punishable, upon conviction thereof, by a fine not exceeding \$1,250, imprisonment in the county jail not exceeding 90 days or 90 days of community service, or any combination thereof, at the discretion of the sentencing court. [Amended 12-17-2002 by Ord. No. 23.02]
- B. When the Municipal Court suspends the imposition of a defendant's sentence, or a portion thereof, or sentences him to be placed on probation, the Municipal Court may attach such reasonable conditions authorized by N.J.S.A. 2C:45-1, including the performance of community-related services and the imposition of conditions reasonably related to the rehabilitation of the defendant, including but not limited to alcoholic rehabilitation programs or other such programs related to alcoholic education or rehabilitation.

**§ 6-21. Posting and display of regulations.**

A copy of this ordinance shall be displayed at all times in every establishment within the Borough of Paulsboro which is the holder of a plenary retail consumption license, a plenary retail distribution license or a club license.

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**ARTICLE III, Consumption in Certain Places [Adopted 11-18-1980 as Section III of Ord. No. 0.15.80<sup>EN(3)</sup>]**

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**§ 6-22. Consumption in certain places prohibited.**

- A. No person acting individually or participating with one or more persons shall consume or attempt to consume an alcoholic beverage or possess, display, dispense or distribute any alcoholic beverage out of its original container:
  - (1) While in a public place, private place of which he is not an owner, tenant or lawful occupant, or in any public conveyance, without permission of any owner, tenant, lawful occupant or any person having the authority to grant such permission.
  - (2) While in or on any property owned by the Borough of Paulsboro in the County of Gloucester without the permission of the Borough of Paulsboro.



- (3) While in a private motor vehicle in motion on or parked in any public place, or upon any private place of which he is not an owner, tenant or lawful occupant without the express permission of the property owner, tenant, lawful occupant or other person having the authority to grant such permission.
- B. In determining whether or not any of the unlawful acts set forth in Subsection A of this section have been committed, the trier of fact, in addition to or as part of the proofs, may consider the following factors:
- (1) Statement made by an owner or by anyone in control of the alcoholic beverage.
  - (2) The proximity of the defendant to the alcoholic beverage and his opportunity or ability to consume.
  - (3) Whether the alcoholic beverage is unsealed or has been partially consumed or is in an open or unsealed container such as a glass or cup.
  - (4) Whether the defendant or any person(s) in close proximity to him exhibits an odor of alcoholic beverage coming from his and/or their person or exhibits physical conduct, attributes or demeanor associated with the consumption of alcoholic beverages.
  - (5) Direct or circumstantial evidence of the intent of an owner or anyone in control of the alcoholic beverage to deliver, distribute or make available such alcoholic beverage to the defendant or any other person or persons in close proximity to the defendant.

#### **§ 6-23. Violations and penalties.**

- A. All licensees shall conduct their places of business in accordance with all applicable laws, ordinances, and regulations. A violation of any provision of this article shall be punishable, upon conviction thereof, by a fine not exceeding \$1,250, imprisonment in the county jail not exceeding 90 days, or 90 days of community service or any combination thereof, at the discretion of the sentencing court. [Amended 12-17-2002 by Ord. No. 23.02]
- B. When the Municipal Court suspends the imposition of a defendant's sentence, or a portion thereof, or sentences him to be placed on probation, the Municipal Court may attach such reasonable conditions authorized by N.J.R.S. 2C:45-1, including the performance of community-related services and the imposition of conditions reasonably related to the rehabilitation of the defendant, including but not limited to alcohol rehabilitation programs or other such programs related to alcohol education or rehabilitation.

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#### **ARTICLE IV, Consumption by Minors on Private Property [Adopted 12-5-2000 by**



**Ord. No. 0.12.00]**

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**§ 6-24. Consumption by person under legal age on private property; penalty.**

It is unlawful for any person under the legal age to purchase alcoholic beverages in this state, to knowingly possess or consume an alcoholic beverage on private property. Violation of this provision shall result in a fine of \$250 for the first offense and \$350 for each subsequent offense.

**§ 6-25. Additional penalty.**

- A. In addition to the fine authorized above for this offense, the court may suspend or postpone for six months the driving privilege of the offender. Upon such suspension or postponement of the offender's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last days of the suspension or postponement imposed by the court pursuant to this section.
- B. If, at the time of the imposition of this sentence, a person 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.
- C. 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 days of the license suspension period imposed by the court.
- D. The court shall inform the person orally and in writing that if he or she is convicted of operating a motor vehicle during the period of license suspension or postponement, he or she 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.

**§ 6-26. Penalty for offenders under 17 years old.**

If, at the time of the imposition of a sentence, the offender is under the age of 17 years, 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 run for a period of six months after the person reaches the age of 17 years.

**§ 6-27. Nonresident offenders.**

If a person convicted under this ordinance is not a resident of this state, the court shall suspend



or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and shall submit to the Division of Motor Vehicles the required report. The court shall not collect the license of a nonresident convicted under this ordinance.

**§ 6-28. Exceptions.**

- A. This ordinance 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, step-parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.
- B. This ordinance shall not prohibit 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 New Jersey 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; however, this ordinance shall not be construed to preclude the imposition of a penalty under this ordinance 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.

**§ 6-29. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

GUARDIAN -- A person who has qualified as a guardian of an underage person pursuant to testamentary or court appointment.

PARENT:

- A. Either the natural father or the natural mother of a child born of their valid marriage to each other, if no subsequent judicial decree has divested one or both of them of their statutory co-guardianship as created by their marriage.
- B. Either the adoptive father or the adoptive mother of a child jointly adopted by them, if no subsequent judicial decree has divested one or both of them of their statutory co-guardianship as created by the adoption.
- C. The natural mother of an illegitimate child, if her position as sole guardian of such a child, has not been divested by a subsequent judicial decree.
- D. A child's putative blood parent who has expressly acknowledged paternity and contributed



meaningfully to the child's support.

- E. Any individual or agency whose status as guardian of the person of the child has been established by judicial decree.

RELATIVE -- The underage person's grandparent, aunt or uncle, sibling or any other person related by blood or affinity.

STEP-PARENT -- The mother or father of a child born during a previous marriage of the other parent and hence, not the natural parent of such child.

#### **§ 6-30. Severability.**

If any portion of this ordinance is adjudged unconstitutional or invalid, such adjudication shall not affect or invalidate the remainder of the ordinance, which shall remain in full force and effect.

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### **ARTICLE V, Prohibition of Certain Items in Establishments Holding Plenary Retail Distribution Licenses [Adopted 12-17-2002 by Ord. No. 23.02]**

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#### **§ 6-31. Sale of certain items prohibited.**

No establishment possessing a plenary retail license for the distribution of alcoholic beverages shall sell or permit, suffer, or allow the sale of any food items neither enumerated at nor contemplated by N.J.S.A. 33:1-12(3)(a), to wit: distillers', brewers' and vintners' packaged holiday merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; novelty wearing apparel identified with the name of the establishment licensed under the provisions of this act; cigars, cigarettes, packaged crackers, chips, nuts and similar snacks, ice, and nonalcoholic beverages as accessory beverages to alcoholic beverages.

#### **§ 6-32. Limitation to areas covered by license.**

If an establishment possesses a plenary retail license for the distribution of alcoholic beverages for only a portion of its premises, the aforementioned restriction shall be limited to that portion of the establishment specifically covered by the license.

#### **§ 6-33. Violations and penalties.**



All licensees shall conduct their places of business in accordance with all applicable laws, ordinances, and regulations. A violation of any provision of this article shall be punishable, upon conviction thereof, by a fine not exceeding \$1,250, imprisonment in the county jail not exceeding 90 days or 90 days of community service, or any combination thereof, at the discretion of the sentencing court.



## **Endnotes**

### **1 (Popup)**

Editor's Note: See Ch. 1, General Provisions, Article I.

### **2 (Popup)**

Editor's Note: Former § 6-15, When effective, was repealed 12-17-2002 by Ord. No. 23.02.

### **3 (Popup)**

Editor's Note: This ordinance also repealed former Article III, Purchase for Minors, adopted 4-2-1957 by Ord. No. 386.