

ORDINANCE #2003-13

AN ORDINANCE TO AMEND CHAPTER 22 OF THE CODE OF THE BOROUGH OF PROSPECT PARK ENTITLED "ALCOHOLIC BEVERAGES" ADDING NEW SECTIONS ENTITLED "CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON PRIVATE PROPERTY BY PERSONS UNDER THE LEGAL AGE".

WHEREAS, pursuant to N.J.S.A. 40A:48-1.2, 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 Borough Council of the Borough of Prospect Park deem that such an ordinance is in the best interest and welfare of the Borough to preserve public peace and order within the Township;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Prospect Park that new sections be added to Chapter 22 of the Code of the Borough of Prospect Park as follows:

Sections:

§ 22-7	Definitions
§ 22-8	Consumption and Possession of Alcoholic Beverages on Private Property by Persons Under the Legal Age.
§ 22-9	Consumption or Possession Prohibited
§ 22-10	Non-Applicability
§ 22-11	Violation and Penalty
§ 22-12	Severability

§ 22-7 Definitions as used in this section

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

§ 22-8 Alcoholic Beverages on Private Property by Persons Under the Legal Age.

No person shall offer or serve any alcoholic beverages to a person under the legal age within the Borough of Prospect Park. No person who has ownership, control

or supervision of any premises shall permit or allow the consumption of alcoholic beverages by a person under legal age in or upon such premises or at any event within the Borough of Prospect Park.

§ 22-9 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 the legal age and without legal authority is prohibited.

§ 22-10 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 and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.
- b. The provisions 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 education institution.
- c. 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.

§ 22-11 Violation and Penalty.

- a. Any person who shall violate any section of this ordinance shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) for the first offense, and a fine of five hundred dollars (\$500.00) for a second offense, and a fine of one thousand dollars (\$1,000.00) for a third offense, and a fine of one thousand two hundred and fifty dollars (\$1,250.00) for a fourth offense and for each subsequent offense the fine shall be the maximum allowable by law.
- 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 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 the 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 a violation of 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.

§ 22-13 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, 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 of the United States of America enacts a statute which preempts 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

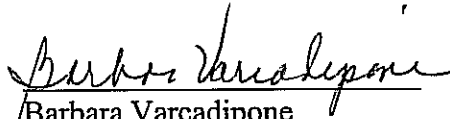
severable and only that portion directly affected shall by such statute be considered to be preempted and invalid.

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NOTICE

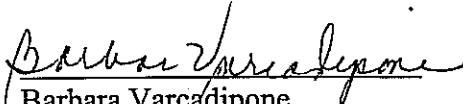
Public notice is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a regular meeting of the Mayor and Borough Council of the Borough of Prospect Park, County of Passaic, State of New Jersey, held on August 11, 2003 at 7:30 p.m.

Further public notice is hereby given that said Ordinance shall be considered for final passage and adoption at a regular meeting of the Mayor and Borough Council of the Borough of Prospect Park, County of Passaic, State of New Jersey, to be held on September 15, 2003 at 7:30 p.m. at the Borough Council Meeting Room at the Borough Building, 106 Brown Avenue, Prospect Park, County of Passaic, State of New Jersey.


Barbara Varcadipone
Deputy Municipal Clerk

CERTIFICATION

I, Barbara Varcadipone, Deputy Municipal Clerk for the Borough of Prospect Park do hereby certify that the foregoing Ordinance # 2003-13 was duly adopted by the Mayor and Borough Council at their meeting held on September 5, 2003.


Barbara Varcadipone
Deputy Municipal Clerk