

**Underage Drinking on Public or Private Property [Adopted 5-11-10 by Ord. No. 2010-18]**

**§ 47-30. Underage drinking prohibited; penalty.**

**[HISTORY: Adopted by the Mayor and Council of the Town of Secaucus: Article I, 8-25-36; Article II, 2-8-77. Section 47-5 added and § 47-20 amended 5-14-74. Other amendments noted where applicable.]**

**GENERAL REFERENCES**

Loitering — See Ch. 87.

Noise — See Ch. 93.

Food and beverage vending machines — See Ch. 142.

Littering — See Ch. 148.

**ARTICLE I Licensing  
[Adopted 8-25-36]**

**§ 47-1. Purpose. [Amended 2-8-38 by Ord. No. 93]**

This Article is for the purpose of fixing license fees and regulating the sale of alcoholic beverages in the Town of Secaucus, County of Hudson, in accordance with the provisions of an act of the legislature entitled "An Act Concerning Alcoholic Beverages," New Jersey Revised Statutes, Title 33, Chapter 1,<sup>1</sup> and in accordance with the rules and regulations promulgated or to be promulgated by the State Commissioner of Alcoholic Beverage Control, applicable thereto, and in accordance with the rules and regulations existing herein or hereafter adopted by competent municipal authority not inconsistent with said Act or said rules and regulations of said State Commissioner.

**§ 47-2. Compliance required, except restaurants. [Amended 2-8-38 by Ord. No. 93; 12-18-12 by Ord. No. 2012-39]**

It shall be unlawful to sell or distribute alcoholic beverages otherwise than as provided by the said statute or this Article.

**§ 47-3. License fees. [Amended 4-9-85 by Ord. No. 85-9; 1-26-86 by Ord. No. 86-4; 2-10-87 by Ord. No. 87-1; 2-27-90; 3-11-98 by Ord. No. 98-6; 3-23-99 by Ord. No. 99-7]**

The fees for licenses shall be as follows:

- A. For a plenary retail consumption license:  
Effective July 1, 1999, the license fee shall be .....\$1,375.
- B. For a plenary retail distribution license:  
Effective July 1, 1999, the license fee shall be .....\$786.
- C. All other license fees shall be in accordance with the fees established by state law.

**§ 47-4. Seasonal retail consumption licenses.**

No seasonal retail consumption licenses shall be issued.

**§ 47-5. Number of licenses issued. [Amended 9-23-86 by Ord. No. 86-25; 2-28-89 by Ord. No. 89-12; 3-28-89 by Ord. No. 89-15; 4-11-95 by Ord. No. 95-8; 10-11-05 by Ord. No. 2005-25]**

The number of licenses in each class to be issued in the Town of Secaucus for the sale of alcoholic beverages at retail shall be limited as follows:

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<sup>1</sup>Editor's Note: See N.J.S.A. 33:1-1 et seq.

- A. Not more than twenty-nine (29) plenary retail consumption licenses.
- B. Not more than the number of plenary retail consumption licenses which are consistent with the number of hotels and motels located within the Town (hotel-motel exception). **[Amended 12-30-97 by Ord. No. 97-38]**
- C. Not more than eight (8) plenary retail distribution licenses.
- D. Not more than five (5) club licenses. **[Amended 9-22-98 by Ord. No. 98-23; 8-26-14 by Ord. No. 2014-26]**

**§ 47-6. Application for license. [Amended 9-10-91 by Ord. No. 91-27]**

- A. Application for a license shall be in such form as shall be prescribed by the statute or any of the rules and regulations adopted, and any license issued shall be in accordance with the provisions of the statute and subject to any rules and regulations now or hereafter in force.
- B. Notwithstanding any provision of the New Jersey Statutes or Administrative Code, all applicants seeking a license or the renewal of an active license shall certify in writing, on a form prescribed by the Secretary, Secaucus Board of Alcoholic Beverage Control, that the list of employees required to be maintained by N.J.A.C. 13:2-23.13 is, in fact, being maintained on the licensed premises. Such certification may require the licensee to provide a true copy of such current list. **[Amended 3-27-01 by Ord. No. 2001-6]**

**§ 47-7. Suspension or revocation of license.**

- A. Any license issued may be suspended or revoked for a violation of any of the provisions of this chapter, or any amendment or supplement thereto, or any of the provisions of An Act Concerning Alcoholic Beverages, or any amendment or supplement thereto,<sup>2</sup> or any of the regulations and rules now or hereafter prescribed by this municipal authority or the State Commissioner of Alcoholic Beverage Control.
- B. Proceedings for the suspension or revocation of a license shall be in accordance with the statute.

<sup>2</sup>Editor's Note: See N.J.S.A. 33:1-1 et seq.

**§ 47-8. Permitted hours of operation. [Amended 2-8-83 by Ord. No. 93; 5-28-40 by Ord. No. 94]**

- A. No licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage or allow the consumption of any alcoholic beverage on licensed premises on weekdays and Saturdays between the hours of 2:00 a.m. and 7:00 a.m. or on Sundays between the hours of 3:00 a.m. and 10:00 a.m., except New Year's Day each year, as hereinafter provided. **[Amended 9-14-93 by Ord. No. 93-52; 10-11-11 by Ord. No. 2011-25]**
- B. No licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage or allow the consumption of any alcoholic beverage on licensed premises on New Year's Day, when it is a weekday or Saturday, between the hours of 5:00 a.m. and 7:00 a.m., or on New Year's Day, when it is a Sunday, between the hours of 5:00 a.m. and 12:00 noon. **[Amended 12-21-10 by Ord. No. 2010-44]**
- C. During the hours when sales of alcoholic beverages are hereinabove prohibited, all holders of plenary retail consumption licenses, except hotels, shall draw aside curtains and screens and such other obstructions as may be present in order that a full view of the interior of the premises may be had from the street or other public place to which the public is freely admitted; provided, however, that this shall not apply to club licenses.

**§ 47-9. Certain patrons prohibited.**

No licensee shall allow, permit or suffer in or upon the licensed premises any known criminals, gangsters, racketeers, pickpockets, swindlers, confidence men, prostitutes, disorderly persons or other persons of ill repute nor permit any female or females to attend or assemble in said licensed premises to solicit or entice customers to purchase drinks or make assignments for improper purposes.

**§ 47-10. Disturbance prohibited.**

No licensee shall allow, permit or suffer in or upon the licensed premises any disturbance, brawl or unnecessary noise nor allow, permit or suffer the licensed place of business to be conducted in such manner as to become a nuisance.

**§ 47-11. Sale to certain persons prohibited.**

No licensee shall sell, serve or deliver nor shall any licensee suffer or permit the sale, service or delivery of any alcoholic beverage directly or indirectly to any mental defective, habitual drunkard or intoxicated person nor permit the same to congregate in or about the licensed premises.

**§ 47-12. Gambling prohibited. [Amended 8-23-94 by Ord. No. 94-26]**

Except lottery activities as may be allowed expressly by the State of New Jersey, Division of the Lottery and the New Jersey Division of Alcoholic Beverage Control on licensed premises, no licensee shall conduct, suffer or permit any lottery, gambling, gambling device, bookmaking, slot machine or the playing for money or other valuables on or about the licensed premises.

**§ 47-13. Reserved.<sup>1</sup> [Repealed 8-23-94 by Ord. No. 94-26]**

**§ 47-14. Reserved.<sup>1</sup> [Repealed 8-23-94 by Ord. No. 94-26]**

**§ 47-15. Service in back rooms restricted.**

No person shall be served in any back room or side room which is not open at all times for the use of the public generally, except that in hotels, guests may be served in their rooms or in **private** dining rooms.

**§ 47-16. Discrimination in employment prohibited. [Amended 2-11-47; 12-8-70]**

No plenary retail consumption licensee shall be restricted or limited in employing persons to sell or serve alcoholic beverages upon licensed premises on the basis of the sex of such person.

**§ 47-17. Reserved. [Repealed 8-23-94 by Ord. No. 94-26]**

**§ 47-18. Display of license required. [Amended 3-27-01 by Ord. No. 2001-6]**

The holder of each license issued by the Board of Alcoholic Beverage Control shall display the license certificate conspicuously in the place where intoxicating beverages are sold.

**§ 47-19. Issuance of license. [Amended 8-23-94 by Ord. No. 94-26; 3-27-01 by Ord. No. 2001-6]**

All licenses shall be issued by the Board of Alcoholic Beverage Control of the Town of Secaucus in the County of Hudson and shall bear the signature of the Secretary acting on behalf and at the direction of the Board of Alcoholic Beverage Control, who is designated to sign and deliver such licenses on its behalf, and the Secretary shall affix the seal of the Board of Alcoholic Beverage Control of the Town of Secaucus to each license as the same is issued.

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<sup>1</sup>Editor's Note: Former Sections 47-13, Lottery sales prohibited and 47-14, Slot machines prohibited, previously codified herein were repealed in their entirety by Ord. No. 94-26.

**§ 47-20. Violations and penalties.**

Any person violating or failing to comply with any of the provisions of this Article shall, upon conviction thereof, be punishable by a fine of not more than five hundred dollars (\$500.) or by imprisonment for a term not to exceed ninety (90) days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

**ARTICLE II Consumption in Public Places  
[Adopted 2-8-77]**

**§ 47-21. Consumption of alcoholic beverages in certain places prohibited. [Amended 5-12-92 by Ord. No. 92-15]**

No person shall consume alcoholic beverages:

- A. While in or on a public or quasi-public street or a public or quasi-public park, roadway or sidewalk, a public or quasi-public parking area or lot or other public or quasi-public place other than a place licensed to sell and dispense alcoholic beverages for consumption on the licensed premises. Notwithstanding the foregoing, the Mayor and Council of the Town of Secaucus may provide authorization to the Secaucus Volunteer Fire Department, by resolution, to have an event including the consumption of alcoholic beverages and/or beer, subject to the approval of the New Jersey Division of Alcoholic Beverage Control. **[Amended 10-11-94 by Ord. No. 94-36]**
- B. While in a motor vehicle when such vehicle is parked or otherwise located in or on any of the places specified in Subsection A. of this section, and in any way prohibited by the New Jersey Statutes, including but not limited to Title 39 (Motor Vehicle and Traffic Regulations).
- C. While upon any **private property** not owned by such person without the express permission of the owner thereof or other person having authority to grant such permission.

**§ 47-22. Consumption of alcoholic beverages prohibited in unlicensed premises, except restaurants. [Added 12-18-12 by Ord. No. 2012-39]**

A. Definitions.

RESTAURANT – An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for preparing, cooking and serving of food to its customers for on-site consumption, where customers are provided an individual menu and served at tables by a restaurant employee, and in which no other business, except such as is incidental to such establishment, is conducted.

- B. Consumption prohibited in unlicensed commercial establishment. Except as otherwise provided in Section 47.22D, no person shall drink or otherwise consume any alcoholic beverage, or offer an alcoholic beverage to another person for the purpose of consumption, in any commercial establishment where persons congregate for any purpose whatsoever, unless such establishment holds a valid retail consumption license issued by the Town of Secaucus or the New Jersey Division of Alcoholic Beverage Control.
- C. Owner or operator of establishment shall not permit consumption in unlicensed commercial establishment. Except as otherwise provided in Section 47.22D, no person owning or operating any commercial establishment, whether or not food or beverages are sold or served on the premises, shall serve or permit or allow the consumption of alcoholic beverages on the premises, unless such establishment holds a valid retail consumption license issued by the Town of Secaucus or the New Jersey Division of Alcoholic Beverage Control.
- D. Exception for restaurants. The provisions contained in subsections B. and C. of this section shall not apply to a restaurant, as defined in this section, provided that the following conditions are met:
  - (1) The restaurant must comply with all applicable state, federal and municipal rules, regulations, statutes and ordinances pertaining to the consumption of wine or malt alcoholic beverages on

premises not licensed or permitted to sell or serve alcoholic beverages, including without limitation, N.J.S.A. 2C:33-27.

- (2) The consumption of alcoholic beverages other than wine or malt alcoholic beverages shall not be permitted in the restaurant.
  - (3) Only patrons who are seated for meal service at a restaurant table may consume or possess an open container of wine or malt alcoholic beverage. No person may consume or possess an open container of wine or malt alcoholic beverage while waiting to be seated for service. There shall be no consumption of wine or malt alcoholic beverage by employees of the restaurant.
  - (4) No outdoor consumption of alcoholic beverages shall be permitted, except as otherwise allowed herein. The consumption of wine or malt alcoholic beverages by patrons may be permitted only in fully enclosed indoor dining areas of the restaurant, except that a restaurant that has zoning approval to operate an outdoor dining area may permit the consumption of wine or malt alcoholic beverages by patrons in such outdoor dining area, if allowed by ordinances of the Town of Secaucus regulating outdoor cafes.
  - (5) The consumption of wine or malt alcoholic beverages shall be permitted only during the hours of 12:00 noon prevailing time to 11:00 p.m. prevailing time.
  - (6) The restaurant shall not charge any admission fee, membership fee, or cover, corkage or service charge.
  - (7) No owner, operator, or employee of the restaurant shall be permitted to serve or distribute wine or malt alcoholic beverages in the restaurant.
  - (8) There shall be no storage of alcoholic beverages on the premises. Patrons shall not be permitted to deliver wine or malt alcoholic beverages to the premises in advance or to leave wine or malt alcoholic beverages on the premises to be consumed or to be picked up at a later time.
  - (9) Patrons who desire to consume wine or malt alcoholic beverages on the premises shall bring such beverages with them to the restaurant for personal consumption. No delivery of alcoholic beverages by any person, including a licensed alcoholic beverage establishment, shall be permitted.
  - (10) A patron shall only be permitted to bring wine or malt alcoholic beverages to the restaurant for personal consumption and consumption by up to seven (7) guests at the same table.
  - (11) Wine or malt alcoholic beverages shall not be permitted to be stored, displayed or maintained on a service bar or service table. Wine or malt alcoholic beverages must be kept by the patron at the table at which the patron is seated.
  - (12) The owner or operator of the restaurant shall not allow, permit or suffer any alcoholic beverages to be consumed by any intoxicated person or by any person under the age of twenty-one (21) years.
  - (13) The restaurant must have windows that allow visibility to the inside of said restaurant from the street and may not place any obstructions on said windows that would prevent such visibility.
  - (14) The restaurant must have an equal amount of table seating to the amount allowed occupancy by Secaucus.
  - (15) The restaurant shall first obtain a permit to operate as such an establishment. The permit fee shall be twenty-five dollars (\$25.)
- E. Penalty. Any person who violates the provisions of this section shall be subject to the general penalty provisions of this Ordinance.

#### **§ 47-23. Violations and penalties.**

Any person, firm, association or corporation violating or failing to comply with any of the provisions of this Article shall, upon conviction thereof, be subject to a penalty or fine not to exceed five hundred dollars (\$500.) and/or imprisonment in jail for a period not to exceed ninety (90) days, or both, in the discretion of the Judge imposing such fine or penalty. Each and every day that a violation shall be found to exist shall constitute a separate violation of this Article.

ARTICLE III **Establishment of an Alcoholic Beverage Control Board**  
**[Adopted 3-27-01 as Ord. No. 2001-6]**

**§ 47-24. Board to be established.**

A Board of Alcoholic Beverage Control shall be created and established in the Town of Secaucus in accordance with procedures and policies set forth herein.

**§ 47-25. Creation of Board.**

There is hereby created a Board of Alcoholic Beverage Control, which Board shall exercise and perform all of the functions, powers and duties and rights to administer the provisions of Title 33 of the Revised Statutes of New Jersey in respect to the Town of Secaucus and those applicable sections of the Code of the Town of Secaucus. The Board of Alcoholic Beverage Control shall be assigned to the Mayor and Council.

**§ 47-26. Members; terms; vacancies.**

The Board shall consist of three (3) persons, no more than two (2) of whom shall be of the same political party, who shall be chosen and appointed by the Mayor with the advice and consent of the Council; for terms of three (3) years. The respective terms of the initial appointments shall be one (1), two (2) and three (3) years. Thereafter the term of each shall be three (3) years. In the case of any vacancy occurring before the expiration of any term, the appointment to fill such vacancy shall be for the unexpired term. Each member of the Board, upon his or her appointment, shall file with the Municipal Clerk, in duplicate, an acceptance of his appointment, one of which shall be retained by the Municipal Clerk and the other of which shall be transmitted by the Municipal Clerk to the Director of the Division of Alcoholic Beverage Control as hereinafter provided.

**§ 47-27. Appointment and duties of Secretary.**

- A. The Board shall, with the approval of the Mayor and Council appoint a Secretary who shall serve for a term of three (3) years from the date of his or her appointment and qualification and who shall receive a salary as other town salaries are now being paid.
- B. The Secretary shall attend all meetings of the Board, keep the minutes thereof and perform such other clerical duties as shall be assigned.
- C. He/she shall enter in a book to be provided for that purpose the names of all persons from whom he may receive moneys for the city, the date when received and the amount so received and shall render a faithful and distinct account of such moneys to the Council monthly, which moneys he shall pay over to the City Treasurer immediately upon receiving the same, taking his receipt therefor.

**§ 47-28. Appointment of other employees.**

The Board shall, with the approval of the Mayor and Council, appoint other employees and professionals as needed to carry out its statutory and administrative duties, and said individuals shall serve for such terms and upon such conditions as shall be established by the Mayor and Council.

**§ 47-29. Notice of appointments.**

The Municipal Clerk shall, upon the appointment of the members of the Board, transmit to the Director of the Division of Alcoholic Beverage Control a certified copy of this section and of the resolutions appointing the members of the Board and a duplicate original certificate of acceptance by each of the members filed with said Municipal Clerk.

ARTICLE IV Prohibited Underage Drinking on Public or **Private Property**  
[Adopted 5-11-10 by Ord. No. 2010-18;  
amended 4-12-11 by Ord. No. 2011-8]

§ 47-30. Underage drinking prohibited; penalty.

- A. Prohibited conduct. Any person under the legal age to purchase alcoholic beverages who knowingly possesses or consumes any alcoholic beverage in or on any school **property**, public conveyance, public place or public assembly or on **private property** shall be in violation of this Article. Upon conviction, such underage person shall be subject to a fine of two hundred fifty dollars (\$250.) for a first offense and three hundred fifty dollars (\$350.) for any subsequent offense; perform community service for a period not to exceed one hundred eighty (180) days; at the discretion of the court, have a New Jersey driving privilege suspended or postponed for up to six (6) months; and, if considered necessary by the court, be referred to an alcohol treatment program at the defendant's expense.

In the case of a person who at the time of the imposition of sentence is less than seventeen (17) years of age, the period of any suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period as fixed by the court of not more than six (6) months after the day the person reaches the age of seventeen (17).

Any revocation, suspension or postponement period imposed under this subsection shall commence as of the date of termination of any existing renovation, suspension, or postponement. **[Amended 4-12-11 by Ord. No. 2011-8]**

- B. Exceptions. This Article shall not apply to persons under the legal age to purchase alcoholic beverages who possess or consume alcoholic beverages on **private property** in the presence of and with the permission of the parent or legal guardian of said person, provided that said guardian is of legal age to purchase alcoholic beverages, or if alcoholic beverage is being consumed in any religious observance, ceremony, or rite. The Article shall not apply to possession of an alcoholic beverage by an underage person employed by an alcoholic beverage licensee in the course of performing employment duties.

Ch. 47 ALCOHOLIC BEVERAGES

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