

ORDINANCE 2003-026

Revised 10/20/03

AN ORDINANCE PROHIBITING THE POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES ON PRIVATE PROPERTY BY UNDERAGE PERSONS AND AMENDING AND SUPPLEMENTING ARTICLE II OF SECTION 36 OF THE CODE OF WEST WINDSOR TOWNSHIP

WHEREAS, the West Windsor Township Police Department is charged with enforcing the state Criminal Code, including the laws concerning the underage possession of alcohol, within West Windsor Township; and

WHEREAS, the Criminal Code makes the underage possession or consumption of alcohol in public a disorderly persons offense, punishable by up to six months in prison, a \$1,000 fine and other penalties, and any such violation would appear in a criminal history background check of the convicted individual; and

WHEREAS, P.L. 2000, c.33 authorizes a municipality to enact an ordinance making it a violation of a local ordinance for any person under the legal age to possess or consume an alcoholic beverage on private property; and

WHEREAS, such an ordinance would give the police a new tool for dealing with the problem of underage drinking while observing constitutional principals of probable cause, and would also allow the municipal court to adjudicate such matters without creating a criminal record for a convicted individual; and

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of West Windsor, as follows:

Section I

The Township Code shall be supplemented to add a new **Article II**, entitled "**Public Consumption or Possession by Minors**," to read as follows:

§ 36-14. Alcoholic beverage consumption by minors.

It is hereby unlawful for any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage on private property.

§ 36-15. Exemptions to prohibition on alcohol possession and consumption by minors.

A person under the legal age shall not be prohibited from (a) possessing or consuming an alcoholic beverage in connection with a religious observance, ceremony, or rite, (b) possession or consuming an alcoholic beverage in the presence of, or with the written permission of such person's parent or guardian who has attained the legal age to purchase or consume alcoholic beverages; or (c) the possession of an alcoholic beverage 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.

§ 36-16. Definitions. As used in this Article:

"Guardian" means a person who has qualified as a guardian of the underage person pursuant to testamentary or court appointment.

§ 36-17. Penalties for possession or consumption of alcohol by minors.

A violation of this Article shall be punished by a fine of \$250 for a first offense, and \$350 for any subsequent offense. In addition to any other penalties set forth herein, the court may, in its discretion, sentence the defendant to a period of community service not exceeding 90 days.

§ 36-18. Driving privilege suspension of minors for violation of Article.

(a) The court may, in addition to the penalty authorized for this offense, suspend or postpone for six months the driving privileges 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 ("Division") stating the first and last day of the suspension or postponement period imposed by the court pursuant to this Article. 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 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 months after the person reached the age of 17 years.

(b) If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court may 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.

(c) The court may 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.

(d) If the person convicted under this Article 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 II

All articles or sections thereof in conflict with this Ordinance are hereby repealed.

Section III

This Ordinance shall become effective twenty (20) days after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Township Council, whichever is applicable for a period of one year, at which time the Police Division shall provide a report as to the enforcement of this Ordinance. Publication shall be in accordance with law.

INTRODUCTION: October 20, 2003

PUBLIC HEARING: November 10, 2003

ADOPTION: November 10, 2003 (as amended)

MAYOR'S APPROVAL: November 13, 2003

EFFECTIVE DATE: December 3, 2003