

BOROUGH OF WILDWOOD CREST
COUNTY OF CAPE MAY

ORDINANCE NO. 873

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 48, PEACE AND GOOD ORDER, OF THE CODE OF THE BOROUGH OF WILDWOOD CREST, MAKING IT UNLAWFUL FOR ANY PERSON UNDER THE LEGAL AGE TO KNOWINGLY POSSESS OR KNOWINGLY CONSUME AN ALCOHOLIC BEVERAGE ON PRIVATE PROPERTY WITHOUT LEGAL AUTHORITY AND PROVIDING PENALTIES FOR THE VIOLATION HEREOF

WHEREAS, Senate Bill No. 692 was duly passed by both houses of the New Jersey Legislature and signed into law by the Governor on June 28, 2000, to become effective immediately; and

WHEREAS, this legislation amends New Jersey Statute 40:48-1 to provide a new section authorizing a municipality to 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 provides for the assessment of penalties, including the suspension, revocation or postponement of certain driving privileges; and

WHEREAS, the Borough of Wildwood Crest intends to adopt an ordinance in accordance with the aforesaid enabling legislation; and

WHEREAS the Board of Commissioners of the Borough of Wildwood Crest is of the opinion that such an ordinance is in the public interest and will promote public safety and will contribute to the overall public health, safety and welfare of the community at large; and

WHEREAS, Senate Bill No. 692 became effective immediately, as of June 28, 2000, and the Board of Commissioners has determined that an immediate effective date locally, as authorized by N.J.S.A. 40:74-4, is likewise necessary upon the adoption of this ordinance in order to enable proper enforcement thereof, by members of the Wildwood Crest Police Department, and for the immediate and urgent preservation of the public peace in order to prevent vice, drunkenness and immorality; to preserve the public peace and order; to prevent and quell riots, disturbances and disorderly assemblages; to prohibit the consumption of alcoholic beverages by underage persons on private property.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Borough of Wildwood Crest, in the County of Cape May and State of New Jersey, as follows:

Section 1. Chapter 48, Peace and Good Order, of the Code of the Borough of Wildwood Crest shall be amended to provide a new section 48-12 as follows:

SECTION 48-12.1: UNDERAGE CONSUMPTION. It shall be unlawful for any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage on private property.

SECTION 48-12.2: PENALTY. Any person violating the provisions of this Ordinance shall, in accordance with the provisions of N.J.S. 40:48-1 as amended, be punished by a fine of \$250.00 for a first offense and \$350.00 for any subsequent offense.

SECTION 48-12.3: ADDITIONAL PENALTIES.

3.1 In addition to the fine authorized for this offense, the Court may suspend or postpone for six (6) 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 N.J.S.A. 40:48-1, as amended. If a person at the time of the imposition of 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 (6) months after the person reaches the age of 17 years.

3.2 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 of Motor Vehicles 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.

3.3 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 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 or failure to acknowledge in writing the

receipt of 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 R.S. 39:3-40.

3.4 If a 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 it to the Division of Motor Vehicles on the required report. The Court shall not collect the license of a non-resident convicted under this Ordinance. Upon receipt of a report from the Court, the Division of Motor Vehicles shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

SECTION 48-12.4: EXCEPTIONS.

4.1 Nothing contained in this Ordinance is intended, nor shall it be construed, as prohibiting 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.

4.2 As used in the preceding Section (Section 4.1 hereof), the following terms shall have the meaning set forth:

“Guardian” means a person who has qualified as a guardian of the underaged person pursuant to testamentary or court appointment.

“Relative” means the underaged person’s grandparent, aunt, uncle, sibling, or any other person related by blood or affinity.

4.3 Nothing contained in this Ordinance is intended nor shall it be construed as prohibiting 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 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 educational institution; provided, however, that this Ordinance shall not be construed to preclude the imposition of a penalty under this Ordinance, 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 licenses for the sale of alcoholic beverages.

Section 2. **REPEALER.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

Section 3. SEVERABILITY. If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effects to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered, and all other provisions of this Ordinance shall remain in full force and effect.

Section 4. EFFECTIVE DATE. Pursuant to N.J.S.A. 40:74-4, this Ordinance shall take effect immediately upon final adoption for the immediate preservation of the public peace in order to prevent vice, drunkenness and immorality; to preserve the public peace and order; to prevent and quell riots, disturbances and disorderly assemblages; to prohibit the consumption of alcoholic beverages by underage persons on private property, all of which conditions as specifically set forth in Senate Bill No. 692, necessitate "urgent" and immediate enforcement by the duly authorized officers and employees of the Borough of Wildwood Crest for the aforesaid stated purposes.

Dated: July 12, 2000

Kevin M. Yecco
Kevin M. Yecco, Municipal Clerk

John J. Pantalone
John J. Pantalone

Matthew R. Tomlin
Matthew R. Tomlin

Joyce P. Gould
Joyce P. Gould

COMMISSIONERS

INTRODUCED: 7-12-00

ADOPTED: 7-26-00