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Final

ORDINANCE PROHIBITING CONSUMPTION OR POSSESSION OF AN ALCOHOLIC BEVERAGE BY AN UNDERAGE PERSON ON PRIVATE PROPERTY IN THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY

4226 09

BE IT ORDAINED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

Section 1. Alcoholic beverage consumption by minors.

No person under the age of 21 years ("underage person") shall, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property. A person shall not be considered to knowingly possess an alcoholic beverage merely because he or she is present where alcoholic beverages are being consumed.

Section 2. Exemption to prohibition on alcohol possession and consumption by minors.

A person under the age of 21 years shall not be prohibited from: (a) possessing or consuming an alcoholic beverage in connection with a religious observance, ceremony, or rite or possessing or consuming 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 or consume alcoholic beverages; or (b) possessing an alcoholic beverage while engaged in the performance of employment by a person who is licensed under Title 33 of the Revised Statutes of New Jersey 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.

Section 3. Good Samaritan Exemption.

A person who affirmatively requests assistance from authorities (such as via a 911 call) or from an off-site adult (such as a parent, guardian, or neighboring resident) for the purpose of seeking aid for a person who is suffering from the effects of alcohol or otherwise is in need of medical assistance, shall not be charged with underage possession or consumption of alcohol on private property, as long as assistance is provided as a result of such request. In an instance where such an affirmative request for assistance is made, and the person to whom assistance is

J. Mark Mutter
TOWNSHIP CLERK, RMC

provided is under the age of twenty-one, that person also shall be not charged with underage possession or consumption of alcohol on private property.

Section 4. Call for Aid Exemption.

A person who is a resident of a dwelling on private property who affirmatively requests assistance from authorities (such as via a 911 call) or from an off-site adult (such as a parent, guardian, or neighboring resident) for the purpose of controlling or removing non-residents who are on that property, shall not be charged with underage possession or consumption of alcohol on private property, as long as assistance is provided as a result of such request.

Section 5. Definitions. As used in this Section:

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

"Relative" means the underage person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

Section 6. Penalties for possession or consumption of alcohol by minors.

A violation of the Ordinance by an underage person shall be punished by a fine of \$250 for a first offense, and \$350 for any subsequent offense. In addition, the Court may, in its discretion, require the performance of community-related service.

Section 7. Driving privilege suspension of minors for violations of this Ordinance.

(a) The court may, in addition to the penalty authorized for a violation of this Ordinance, suspend or postpone for six months the driving privileges of a convicted underage person. Upon the conviction of any underage 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. 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 attains the age of 17 years.

(b) If an underage person at the time of the imposition of a sentence has a valid driver's license issued by the 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 shall inform the underage 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.

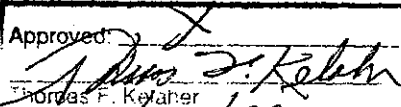
(d) If a convicted underage person is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a convicted underage non-resident. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the convicted underage person of the suspension or postponement.

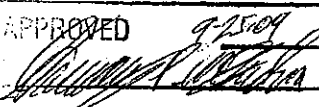
Section 8. All ordinances and parts of ordinances inconsistent herewith are repealed.

Section 9. If any part or parts of this Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

Section 10. This Ordinance shall take effect following its final passage by the Township Council, approval by the Mayor, and twenty days after publication as required by law.

L9060908

Approved: 
Thomas F. Kelaher
Date: 9/24/09
Not Approved: _____
Thomas F. Kelaher
Date: _____

APPROVED 
NOT APPROVED _____
COUNCIL PRESIDENT

TOMS RIVER TOWNSHIP NOTICE

ORDINANCE PROHIBITING CONSUMPTION OR POSSESSION OF AN ALCOHOLIC BEVERAGE BY AN UNDERAGE PERSON ON PRIVATE PROPERTY IN THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY

- PURPOSE:** (1) TO PROHIBIT ANY UNDERAGE PERSON, WITHOUT LEGAL AUTHORITY, TO POSSESS OR CONSUME AN ALCOHOLIC BEVERAGE ON PRIVATE PROPERTY.
- (2) TO ESTABLISH A FINE OF \$250 FOR A FIRST OFFENSE AND \$350 FOR ANY SUBSEQUENT OFFENSE.

NOTICE IS HEREBY GIVEN that the ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, held on September 8, 2009, at 6:00 p.m. It will be further considered for final passage at a public meeting to be held in the L. Manuel Hirshblond Meeting Room of the Municipal Building in said Township on September 22, 2009, at 6:00 p.m., or as soon thereafter as this matter can be reached, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Prior to the second reading, a copy of this ordinance shall be posted on the bulletin board in the Municipal Building and copies shall be made available at the Township Clerk's Office in said Municipal Building to members of the general public who shall request such copies.

J. MARK MUTTER
TOWNSHIP CLERK

APPROVED AS TO FORM:



KENNETH B. FITZSIMMONS
TOWNSHIP ATTORNEY
MUNICIPAL BUILDING
33 WASHINGTON STREET
TOMS RIVER, N.J. 08753