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CHAPTER IV ALCOHOLIC BEVERAGE CONTROL[1]

4-1 Purpose.

This chapter is enacted to regulate the sale and transportation of alcoholic beverages in the Borough of Point Pleasant Beach in accordance with the provisions of an Act of the Legislature of the State of New Jersey entitled "An Act Concerning Alcoholic Beverages," comprising Chapter 436 of the Laws of 1933, its supplements and amendments, and also comprising N.J.R.S. 33:1-2 to 33:1-96, and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control.

4-2 Licenses.

4-2.1 *Laws Applicable.*

All applications for licenses, all licenses issued, and all proceedings under this chapter shall be in accordance with the Act, rules and regulations referred to in section 4-1, and all other applicable laws of the State of New Jersey or of the United States.

4-2.2 *Issuing Authority.*

All licenses required by this chapter shall be issued by the governing body of the borough, which shall also administer the provisions of this chapter.

4-2.3 *License Required.*

No person shall sell or distribute alcoholic beverages within the Borough of Point Pleasant Beach without having obtained a license in accordance with the Act referred to in section 4-1 and the provisions of this chapter.

4-2.4 *Publication.*

Proof of publication of notice of application for a license or the renewal or transfer of a license shall be furnished the borough clerk immediately after the second publication of the notice and shall be in the form prescribed by state rules and regulations.

4-2.5 *Petitions.*

All written objections and petitions protesting the issuance or transfer of any alcoholic beverage license shall be dated and signed after the first notice of the application has been published.

4-3 Types of Licenses.

4-3.1 *Type and Number of Licenses; Fees.*

The classes of license, annual license fees and maximum number of licenses for the sale or distribution of alcoholic beverages in the Borough of Point Pleasant Beach shall be as follows:

a. For the licensing year from July 1st, 2004 through June 30th of the following year, the following fees shall be applicable:

Class of License	License Year	Annual License Fee	Number of Licenses
1. Plenary Retail Consumption License	2004/2005	$2,400.00	16
	2004/2005	2,500.00	16
2. Plenary Retail Distribution License	2004/2005	$2,400.00	1
	2004/2005	2,500.00	1
3. Club License	2004/2004	$100.00	2

All license fees shall continue in effect until such time as they are changed by an appropriate ordinance.

4-3.2 *Hotels and Motels.*

The limitations on the number of licenses set forth in subsection 4-3.1 shall not prevent the issuing of a plenary retail consumption license to a person operating a hotel or motel containing 50 sleeping rooms or more under the following conditions:

a. With each original application or application for a transfer of a license issued under this subsection, the applicant shall furnish the governing body with seven detailed sketches of the hotel or motel of sufficient size to plainly show the designated sleeping rooms, the size of each room, entrances, exits, fire protectionary devices and the location and designation of all other rooms in the hotel. Each sketch shall be certified to by a licensed architect.

b. The sleeping rooms area shall strictly conform to the requirements of all applicable ordinances of the Borough of Point Pleasant Beach and laws of the State of New Jersey.

c. A license issued pursuant to the provisions of this section shall not be transferred except to another hotel or motel containing 50 sleeping rooms or more.

4-3.3 *Location Restrictions.*

No alcoholic beverage license shall be issued for or transferred to premises lying east of Ocean Avenue. This subsection shall not apply to the renewal of the licenses presently outstanding.

a. From and after the date of adoption of this subsection 4-3 shall be unlawful for any alcoholic beverage license to be relocated a within 500 feet of another premises holding an alcoholic beverage license.

b. In the event that any alcoholic beverage license is located within 500 feet of another alcoholic beverage license, then said license may be relocated as long as the distance between it and the nearest alcoholic beverage license is increased.

c. The method of measurement of the distance between any of the above referenced alcoholic beverage licenses shall be determined in accordance with the provisions of N.J.S.A. 33:1-76.

4-4 Regulations.

4-4.1 *Hours of Operation.*

No alcoholic beverages shall be sold, served, delivered to, or consumed in any licensed premises between the hours of 2:00 a.m. and 6:00 a.m. of any day, except as hereinafter provided.

4-4.2 *New Year's Day.*

The provisions of subsection 4-4.1 shall not apply on January 1. On that day alcoholic beverages may be sold, served, delivered to or consumed in a licensed premises at any time, except when January 1 is a Sunday, in which case no alcoholic beverages may be sold, served, delivered to or consumed on a licensed premises between the hours of 5:00 a.m. and 7:00 a.m.

4-4.3 *Access to Premises.*

No person shall be served alcoholic beverages in any room which is not open to the public, except that hotel or motel guests may be served in their rooms or in private dining rooms. This subsection shall not apply to club licenses.

4-4.4 *Notice.*

All seats, staging, and entertainment in licensed premises, including hotels and motels, shall cease during the hours that the sale and service of alcoholic beverages is prohibited.

4-5 Minors.

4-5.1 *Presence.*

No minor shall be allowed in any premises where alcoholic beverages are sold or served for consumption on the premises unless accompanied by his, parent or guardian.

4-5.2 *Attaining Age.*

No person shall misrepresent his, age or the age of another person for the purpose of inducing any licensee or its employee to sell, serve or deliver any alcoholic beverage to a person under the age of 21 years as except as provided by State Statute, or to permit a person under legal age to remain on any premises in violation of subsection 4-5.1.

4-5.3 *Presumption.*

Any person or guardian who accompanies a minor into a premises in which alcoholic beverages are served and who permits the minor to possess, or consume alcoholic beverages, shall be presumed to have misrepresented the age of the minor.

4-5.4 *Possession.*

No minor shall possess, transport, deliver, serve, sell or consume any alcoholic beverage in a public place within the Borough of Point Pleasant Beach. This subsection shall not apply to individuals under the age of 21 working in alcoholic beverage establishments and serving alcoholic beverages in accordance with the rules and regulations established by the New Jersey Division of Alcoholic Beverage Control.

4-5.5 *Notice.*

All licensees operating premises where alcoholic beverages are sold or served for consumption on the premises shall keep permanently displayed within clear view of each entrance to the room in which the alcoholic beverages are served a sign not less than 32" x 17" in size stating "No minor permitted in bar room unaccompanied by parent or guardian."

4-5.6 *Violations and Penalties.*

For violation of any provision of this section, the fine shall not exceed two thousand ($2,000.00) dollars nor be less than two hundred fifty ($250.00) dollars.

Where a summons is issued to an individual for violating this section, the hearing officer may, at the hearing officer's discretion and at the time the summons is issued, classify the summons as a payable offense. Should the issuing officer designate the summons as a payable offense, no mandatory court appearance shall be required for the violator.

In designating the violation of this section as a payable offense, the municipal court is hereby authorized to include a violation of this section on the "Local Supplemental Violations Bureau Schedule" pursuant to R. 7:11-4(c) of the New Jersey Court Rules.

4-6 Sale to Certain Persons.

No licensee or employee of a licensee shall sell, serve or deliver, directly or indirectly, any alcoholic beverages to any mentally defective, habitual drunkard, or apparently or actually intoxicated person or minor, nor permit the consumption of alcoholic beverages on any licensed premises by any of the above-named classes of persons, or permit any such persons to congregate in or about the licensed premises.

4-7 Revocation of Licenses.

Any license issued under this chapter may be suspended or revoked for violation of any of the provisions of this chapter, any provisions of any applicable statute, or any of the rules and regulations of the State Director of Alcoholic Beverage Control.

Proceedings for suspension or revocation shall be in accordance with the provisions of R.S. 33:1-31 to 33:1-96 by service of a five day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing. Any suspension or revocation shall carry the penalties and prohibitions provided in the statutes referred to.

Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this chapter.

4-8 Consumption by Underaged Persons on Private Property.

4-8.1 *Definitions.*

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

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

4-8.2 *Consumption of Alcoholic Beverages by Underage Persons on Private Property Prohibited.*

It is unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property.

4-8.3 *Violations and Penalties.*

a. Any person found guilty of violating the terms of this section shall be subject to a fine of two hundred fifty ($250.00)dollars for a first offense and a fine of three hundred fifty ($350.00) dollars for any subsequent offense. In addition, the court may, upon a finding of guilt, in addition to the fine 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 drivers 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 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 reaches the age of 17 years. If the defendant at the time of the imposition of the sentence has a valid drivers license issued by this State, the court shall immediately

b. 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 N.J.S.A. 39:3-40. The defendant 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 the written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.

c. If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident 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 nonresident 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.

4-8.4 *Exceptions.*

a. This section shall not prohibit an underage 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.

b. This section shall not prohibit the possession of alcoholic beverages by any underage person while actually engaged in the performance of employment by a person who was 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. however, this ordinance shall not be construed to preclude the imposition of a penalty under this Section, N.J.S.A. 33:1-81, or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or on premises licensed for the sale of alcoholic beverages.

4-9 Reserved.

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[1]Laws concerning alcoholic beverage control are contained in Title 33 of the Revised Statutes. All ordinances must be in conformity with these provisions and approved by the Director of Alcoholic Beverage Control, R.S. 33:1-40. State law prescribes the types of licenses that may be issued, their number, license fees and the permissible regulations of licensed premises, R.S. 33:1-40.

*Editor's Note: The ordinance from which this subsection derives became effective March 19, 1996.

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