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Township of South Orange Village, NJ

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[§ 113-6. Intoxication: possession and use of alcoholic beverages.](#)

[Amended 9-25-1996 by Ord. No. 96-35; 6-25-2001 by Ord. No. 12-2001; 10-23-2006 by Ord. No. 06-20]

A. Definitions. For the purpose of this section:

(1) A container shall be regarded as "unsealed" when:

- (a) Its top or cork has been removed;
- (b) Any of its contents have been removed;
- (c) The government tax stamp has been removed or broken;
- (d) In the case of a metal container, the container has been opened in any fashion;
- (e) In the case of a twist-top container, the original seal has been broken; or
- (f) When the container is a glass or cup.

(2) Guardian shall mean a person who has qualified as a guardian of the underaged person pursuant to testamentary or court appointment.

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

B. Consumption or possession of unsealed alcoholic beverage container. No person shall consume any alcoholic beverage or have in his possession any unsealed alcoholic beverage container with alcoholic beverages therein within the Township limits:

- (1) In the parking area adjacent to any licensed premises for the sale of alcoholic beverages;
- (2) While in or on a public street, sidewalk, public parking place, playground, recreational area;
- (3) Upon any land or in any building owned or occupied by any federal, state, county or municipal government; or
- (4) While in or about any other public or quasi-public place, or place to which the public is invited, including, but not limited to, any business, banking, church, institutional, commercial or professional premises; provided, however, that such consumption or possession shall be permitted with the express permission of the owner or other body, board or person having the authority to grant such permission.

C. Exceptions.

(1) Permit from Board of Trustees required. None of the foregoing provisions shall apply to any park, public picnic area, or land or building owned or occupied by any federal, state, county or municipal government, where the consumption of alcoholic beverages at occasions or events held by bona fide nonprofit organizations or other groups is specifically permitted by resolution of the Board of Trustees.

(2) Temporary licenses. None of the provisions of this section shall in any way interfere with the authority of the New Jersey Division of Alcoholic Beverage Control and/or the Township Alcoholic Beverage Control Board to issue temporary licenses for the consumption of alcoholic beverages, pursuant to law.

D. Distribution of alcoholic beverages to a minor in public or private premises.

(1) Unlawful distribution.

(a) Any person, directly or indirectly, to distribute or possess or to have under his control with intent to distribute an alcoholic beverage to a minor.

(b) Any person who has ownership or control of any premises, public or private, or supervision of any event, public or private, to permit, suffer or allow the consumption of an alcoholic beverage by a minor.

(c) However, it shall not be unlawful for a parent, guardian or relative of such minor who has attained the legal age to purchase and consume alcoholic beverages, to distribute, or to possess or have under his control with intent to distribute to such minor child an alcoholic beverage on private property within the Township of South Orange Village.

(2) For purposes of this section, "distribute" means the actual, constructive, or attempted transfer of an alcoholic beverage from one person to a minor whether or not there is agency relationship.

E. Possession, consumption of alcoholic beverages by person under legal age on private property; penalty.

(1) Any person under the legal age to purchase alcoholic beverages who, without legal authority, knowingly possesses or who knowingly consumes any alcoholic beverage on private property shall be punished by a minimum fine of \$250 for a first offense and a minimum fine of \$350 for any subsequent offense. The court may, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privilege of the defendant.

(2) 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 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.

(3) If a person at the time of the imposition of a sentence has a valid driver's license issued by the state, the court shall 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.

(4) 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. 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.

(5) The court may, of any person convicted under this section who is not a New Jersey resident, 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.

(6) This section does not prohibit an underaged person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony, or rite or consuming or possession 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.

(7) This section does not prohibit 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 postsecondary educational institution; however, no ordinance enacted pursuant to this section shall 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 at premises licensed for the sale of alcoholic beverages.

F. Prohibiting possession, distribution, transportation or consumption of alcoholic beverages by persons under the legal age in public places.

(1) It shall be unlawful for any person under the legal age to have, possess, carry, distribute, transport or consume any alcoholic beverages in any public or quasi-public place, or on any street, highway, avenue, road or alley within the Township of South

Orange Village.

(2) The provisions of Subsection [F\(1\)](#) shall not apply to any person who has obtained an employment permit from the State Director of Alcoholic Beverage Control, if such person is actually engaged in the performance of his employment.

G. Any person or corporation who or which rents any private premises or dwelling places to persons who are under the age of 25 years or which private premises or dwelling shall be occupied by persons under the age of 25 years shall be required to take all reasonable steps to prevent the furnishing or serving of alcoholic beverages by such persons to others for the use of alcoholic beverages by the tenants themselves during the period of the tenancy. A person or corporation who or which rents such private premises or dwelling places to such persons or for occupancy by such persons and who or which fails to take such reasonable steps shall be deemed for the purposes of this section of the Code to be the person who furnished, served or allowed the furnishing or serving of alcoholic beverages to any minor who shall use or serve alcoholic beverages in said premises.

H. Intoxication in public. No person shall be drunk or be in a state of intoxication in any street or sidewalk or any other public, private or open place within the Township to the annoyance of any other person; nor shall any person drink, use, sell, give or otherwise dispose of any intoxicating liquor in the open street or any public or partially public place in the Township.

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