Browse

West Orange, NJ
Municipal Ordinances
Title Page
ADOPTING ORDINANCE
CHAPTER I LICENSING
CHAPTER II ADMINISTRATION
CHAPTER III RULES OF COUNCIL
CHAPTER IV POLICE REGULATION
1-1 LITTER AND HAZARDOUS W
1-2 REMOVAL OF DRAKE, WEED
1-3 DAMAGING OR DIFFACING T
1-4 NOISE.
1-5 DRUG PARAPHERNALIA AN
1-6 DRUG-FREE SCHOOL ZONE
1-7 DRUG-FREE PUBLIC PARKS
1-8 CONSUMPTION OF ALCOHO
1-9 BUSINESS HOURS OF OPER
1-10 RESTAURANTS AND DRIVE
1-11 SHOPPING CARTS.
1-12 LOITERING.
1-13 INTERFERENCE WITH COUN
1-14 FIREARMS.
1-15 ABANDONED MOTOR VEHI
1-16 REPAIR OF MOTOR VEHICL
1-17 IMPROPER DRESS ON PUB
1-18 REPAIR OF MOTOR VEHICL
1-19 USE AND PROTECTION OF
1-20 INSUFFICIENT FUNDS.
1-21 REIMBURSEMENT OF COS
1-22 DOMESTIC LAUNDRY DETE
1-23 USE OF PUBLIC PARKS AND
1-24 OBSCENE MATERIAL.
1-25 PARADES AND ASSEMBLIE
1-26 HELMETS REQUIRED FOR
1-27 USE OF REAL PROPERTY
1-28 ILLEGALLY OBTAINING C
1-29 USE OF SUMMER BUS SHE
1-30 PROHIBITION ON PARKING
1-30 CURFEW FOR JUVENILES.
1-31 DISCHARGE OF FIREW
1-32 ENFORCEMENT.
1-33 SMOKE FREE KIDS ZONES
1-34 ACTIVE DUTY EMPLOYEES
1-35 WILDLIFE FEEDING.
CHAPTER V GENERAL LICENSING
CHAPTER VI RESERVED
CHAPTER VII TRAFFIC
CHAPTER VIII RESERVED
CHAPTER IX GENERAL POLICE
CHAPTER X ANIMALS
CHAPTER XI ALCOHOLIC BEVERA
11-1 PURPOSE.
11-2 DEFINITIONS.
11-3 LICENSES.
11-4 REGULATION OF LICENSE
11-5 VIEW OF PREMISES.
11-6 REVOCATION OF LICENSE
11-7 UNLAWFUL ACTS BY PERS
CHAPTER XII GENERAL TO INSTALLATIO
CHAPTER XIII BUILDING
CHAPTER XIV HOUSING
CHAPTER XV RENT CONTROL
CHAPTER XVI SWIMMING POOLS
CHAPTER XVII SOLID WASTE MANA
CHAPTER XVIII FIRE PROTECTION
CHAPTER XIX SEWERS
CHAPTER XX STREETS AND SIDEW
CHAPTER XXI ENVIRONMENTAL RE
CHAPTER XXII TAXATION
CHAPTER XXIII PARKS AND RECRE
CHAPTER XXIVA CABLE TELEVISIO
CHAPTER XXIV FLOOD DAMAGE P
CHAPTER XXV Land Use Regulation
CHAPTERS XXVI - XXXI RESERVED
CHAPTER XXX SOIL REMOVAL
CHAPTER XXXI TRASH
CHAPTER XXXII LAND SUBDIVISIO

CHAPTER XI ALCOHOLIC BEVERAGE CONTROL[1]

11-1 PURPOSE.

This chapter is enacted to regulate the sale and transportation of alcoholic beverages in the Township of West Orange 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 Law of 1933, its supplement and amendments, and also comprising N.J.S.A. 33:1-1 et seq., and in accordance with the rules and regulations of the Director of the Division of Alcoholic Beverage Control. (1972 Code § II-1)

11-2 DEFINITIONS.

For the purposes of this chapter, words and phrases herein shall have the same meanings as they have in N.J.S.A. 33:1-1 et seq., and the rules and regulations of the Director of the Division of Alcoholic Beverage Control. (1972 Code § II-2)

11-3 LICENSES.

11-3.1 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 the previous section and all other applicable laws of the State of New Jersey or of the United States. (1972 Code § II-3.1)

11-3.2 Issuing Authority.

All licenses required by this chapter shall be issued by the Township Council, which shall also administer the provisions of this chapter. (1972 Code § II-3.2)

11-3.3 License Required.

No person shall sell or distribute alcoholic beverages within the Township without having obtained a license in accordance with the Act referred to in Sections 11-1 and the provisions of this chapter. (1972 Code § II-3.3)

11-3.4 License Fees; Maximum Number.

Effective July 1, 1990, the annual license fees and maximum number of licenses for the sale or distribution of alcoholic beverages within the Township shall be as follows:

Class of License	*Annual License Fee*	*No. of Licenses*
Plenary Retail Consumption	$1,135.20	54
Seasonal Retail Consumption	$ 855.40	0
Plenary Retail Distribution	$ 823.62	16
Club License	$ 150.00	1

(1972 Code § II-3.4; Ord. No. 335-74 § 1; Ord. No. 539-80 § 1; Ord. No. 1139-93 § 1; Ord. No. 1254-94 § 1; Ord. No. 1428-97; Ord. No. 1551-98§ 1)

11-4 REGULATION OF LICENSES.

11-4.1 Hours of Sale; Consumption.

a. *Hours of Operation.* No alcoholic beverage shall be sold, delivered, served or consumed in any licensed premises on any day between the hours of 2 a.m. and 7 a.m., excepting certain days in each year as specifically hereinafter provided.

b. No holder of any plenary retail distribution license shall sell any wine or beer for off-premises consumption on any day between the hours of 10:00 p.m. and 7:00 a.m. the following day except as hereinafter provided.

c. No holder of any plenary retail distribution license shall sell distilled spirits for off-premises consumption on any day between the hours of 10:00 p.m. and 9:00 a.m. the following day except as hereinafter provided.

d. The holder of any plenary retail consumption license may sell wine and beer for off-premises consumption during all hours in which alcoholic beverages may be legally sold, consumed, delivered for consumption or served on the licensed premises.

(1972 Code § II-4.1; Ord. No. 1003-1 § 1; Ord. No. 1078-1 § 1; Ord. No. 1078-2; Ord. No. 1702-00 § 2)

11-4.2 Sundays.

a. No holder of any plenary retail consumption license, seasonal retail consumption license or club license shall sell, delivery for consumption, serve or permit or allow the consumption of alcoholic beverages on the licensed premises between the hours of 2:00 a.m. on Sunday and 12:00 noon on Sunday.

b. No holder of any plenary retail distribution license shall sell alcoholic beverages for off-premises consumption between the hours of 10:00 p.m. on Saturday and 12:00 noon on Sunday except the last three (3) Sundays in December, when such sale shall not be allowed between the hours of 10:00 p.m. on Saturday and 9:00 a.m. on Sunday.

(1972 Code § II-4.2; Ord. No. 334-74 § 1; Ord. No. 987-88 § 1; Ord. No. 1043-90§ 1; Ord. No. 1003-91§ 1; Ord. No. 1078-91 § 1; Ord. No. 1078-91 § 1; Ord. No. 1708-00§ 2)

11-4.3 Christmas Eve and Day; New Year's Eve and Day.

Except as otherwise provided herein, no alcoholic beverages may be sold, served, delivered for consumption either in or off the licensed premises or consumed in the licensed premises between the hours of 9:00 p.m. on Christmas Eve and 7:00 a.m. on Christmas Day or on New Year's Day between 5:00 a.m. and 7:00 a.m. (1972 Code § II-4.3; Ord. No. 1003-91 § 1; Ord. No. 1078-91 § 1)

11-4.4 Licenses in Certain Premises.

a. Any licensed premises, which are within the confines of a commercial establishment which may legally remain open for business during hours when it is not permissible to sell, deliver for consumption, serve, distribute, permit or allow the consumption of any alcoholic beverages, including wine and beer, must adopt the following procedures to ensure compliance with these regulations:

1. Notice must be conspicuously posted throughout the commercial establishment advising those on the premises of the hours during which alcoholic beverages may be sold and/or consumed.
2. If the establishment sells food for consumption on or off the premises any food menu provided to patrons must advise of the hours during which alcoholic beverages may be sold and so consumed.
3. Any bar area must be closed to all patrons and/or employees during those hours when alcoholic beverages may not legally be sold, consumed or distributed.

b. Adoption of the procedures set forth above shall not constitute a defense to a charge against the licensee of illegal sale and/or consumption of alcoholic beverages.

(Ord. No. 1138-94 § 1)

11-4.5 Reserved.[2]

11-4.6 Exposure and or Attire of Entertainers or Personnel.

a. *Entertainers.* No licensee shall engage in, allow, permit or suffer any person to appear on the premises of any establishment licensed to sell or distribute alcoholic beverages in any act, scene, sketch or other form of entertainment, including dancing for the benefit of patrons, with breasts or the lower part of the torso uncovered or so thinly covered or draped so as to appear uncovered.

b. *Personnel.* No licensee shall hire, allow, permit or suffer any employee or any other person who comes in contact with, or is likely to come in contact with, the patrons of any establishment licensed to sell or distribute alcoholic beverages, to appear in the presence of such patrons with breasts or the lower part of the torso uncovered or so thinly covered or draped so as to appear uncovered.

c. *Penalties.* A violation of any of the provisions of this section shall be punishable by a fine not less than of this section shall be punishable by a fine not less than two hundred ($200.00) dollars nor more than five hundred ($500.00) dollars or imprisonment not exceeding ninety (90) days or both. Each and every day such violation exists shall constitute a separate offense.

(1972 Code § II-4; Ord. No. 1103-93 §§ 1, 2)

11-5 VIEW OF PREMISES.

The interior of any premises licensed to sell or distribute alcoholic beverages shall, when not open for business, be exposed to an unobstructed view from the exterior of the premises and an unobstructed view of the interior thereof shall not be obscured by the use of nontransparent glass or of a shade, blind, shutter, screen, merchandise or any other article placed within or without the building in which the room or rooms are located. (Ord. No. 1127-92 § 1)

11-6 REVOCATION OF LICENSES.

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

Proceedings for suspension or revocation shall be in accordance with the provisions of N.J.S.A. 33:1-1 to 33:1-50 by service of a fine (5) 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. (1972 Code § II-.6)

11-7 UNLAWFUL ACTS BY PERSONS UNDER LEGAL AGE FOR PURCHASE OF ALCOHOLIC BEVERAGES; INDORRIBLY PERSONS.

11-7.1 Entry Unlawful for Certain Purposes.

It shall be unlawful for a person under the legal age for purchasing alcoholic beverages to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage. (1972 Code § II-6.1)

11-7.2 Consumption; Purchase; Possession.

It shall be unlawful for any person under the legal age for purchasing alcoholic beverages to consume or possess any alcoholic beverage in a motor vehicle, on a street or in another public place. It shall also be unlawful for such persons to consume or possess an alcoholic beverage on private property, unless that possession or consumption is in connection with a religious observance, ceremony, or rite, or the underage person possesses or consumes that beverage in the presence of and with the permission of a parent, legal guardian, or relative who is of legal age and who has in their possession written permission from the underage person's parent or legal guardian.

It shall be lawful, however, for an underage person employed by an alcohol beverage licensee to legally possess an alcoholic beverage for the purpose of delivering it to a customer or placing it on display for sale. (1972 Code § II-6.2; Ord. 1732-01 § 10)

11-7.3 Unlawful to Purchase Alcoholic Beverages for Persons Under the Legal Age.

It shall be unlawful for any person to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or to purchase alcoholic beverages, for another person who does not because of his or her age have the right to purchase and consume alcoholic beverages. (New)

11-7.4 Proof of Age; Misstating Age.

It shall be unlawful for a person to misrepresent or misstate his or her age or the age of any other person for the purpose of inducing any retail licensee to sell, serve or deliver any alcoholic beverage to a person under the legal age to purchase alcoholic beverages. (1972 Code § II-6.3; Ord. No. 521-70 §§ 1, 2)

11-7.5 Attendance by Parent or Guardian at Hearing.

A parent or guardian of any person under the legal age to purchase alcoholic beverages charged with a violation of any provision of this section may be required to attend the hearing of the complaint. For the purpose of compelling such attendance, the Municipal Judge or a court of competent jurisdiction is hereby authorized to issue appropriate subpoenas. (1972 Code § II-6.4)

11-7.6 Violations; Penalties.

Any person who shall violate any of the provisions of this section, excluding an underage person caught possessing or consuming an alcoholic beverage on private property, shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than five hundred ($500.00) dollars. Further, the Court shall suspend the person's license to operate a motor vehicle for six (6) months or prohibit the person from obtaining a license to operate a motor vehicle in this State for six (6) months beginning on the date he or she becomes eligible to obtain a license or on the date of conviction, whichever is later. In addition to the general penalty prescribed for this offense, the Court shall require any person violating these provisions to participate in an alcohol education or treatment program authorized by the Departments of Health for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

If an underage person is convicted of possessing or consuming an alcoholic beverage on private property in violation of this law, he/she will be subject to a two hundred fifty ($250.00) dollar fine for the first offense and a three hundred fifty ($350.00) dollar fine for any subsequent offenses. The Court also has the discretion to suspend the person's license to operate a motor vehicle in this State for six (6) months or prohibit the person from obtaining a license to operate a motor vehicle in this State for six (6) months beginning on the date he or she becomes eligible to obtain a license or on the date of conviction, whichever is later. (N.J.S.A. 33:1-81; New; Ord. No. 1732-01 § 10)

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[1]**Editor's Note:** Laws concerning alcoholic beverage control are contained in Title 33 of the New Jersey Statutes. All ordinances shall be in conformity with these provisions and approved by the Director of Alcoholic Beverage Control. N.J.S.A. 33:1-40. State law prescribes the types of license that may be issued, their number, permissible license fees and the regulation of licensed premises, N.J.S.A. 33:1-40.

[2]**Editor's Note:** Former subsection 11-4.5, Transfer of Plenary Retail License Within Four Hundred (400) Feet Prohibited, Measurement and containing portions of 1972 Code § II-7 and Ordinance No. 815-87, was repealed in its entirety by Ordinance No. 1898-05.

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