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“30 years dedicated to building healthy communities...one person at a time.”

Proposed Municipal Ordinance Prohibiting Possession or Consumption of Alcoholic Beverages on Private Property by Underage Persons - QUESTIONS & ANSWERS

- 1. Why should a community have such an ordinance?** Underage drinking is a problem in Sussex County. Enacting this ordinance would prohibit drinking by underage persons on private property just as it is prohibited on public property or in a motor vehicle. Having such an ordinance in a community would support the efforts of the police and many community groups to address this issue.
- 2. Will the police have any more authority to enter private property than they do now?** No. Their authority is unchanged. As before, an investigation is initiated by a complaint from a concerned citizen or an officer's observation that underage drinking is taking place on private or public property. The police respond and ***if they see probable cause*** (such as intoxicated teens and/or evidence of alcohol consumption on the property) or a situation involving a medical/safety issues, they act.
- 3. What are the penalties for violating this ordinance?** A fine of \$250 for a first offense and \$350 for subsequent offenses. In addition, driving privileges may be suspended or postponed for 6 months.
- 4. Does a violation of this ordinance constitute an “arrest” on one’s record?** No. An individual found to be in violation of this ordinance would be issued a municipal ordinance violation ticket, similar to that issued for a parking violation. This does not constitute an arrest.
- 5. How should an individual found to be in violation of this ordinance answer if asked whether he/she has ever been arrested or convicted of a crime?** No to both questions. The conviction of a municipal ordinance violation does not constitute a criminal conviction or an arrest.
- 6. Will the individual’s name be published in the police report in the newspaper?** No, if the individual is under 18 years of age. Yes, if the individual is 18 or older.
- 7. May I serve alcohol to my son/daughter at a special event?** Yes. The ordinance does not apply if a child under the legal age consumes alcohol in the presence of and with the permission of a parent/guardian or in connection with a religious observance.
- 8. Have other communities enacted this ordinance.** Yes. Other towns in Sussex County that have enacted the ordinance include Andover Borough, Andover Township, Branchville Borough, Byram Township, Frankford Township, Franklin Borough, Fredon Township, Green Township, Hamburg Borough, Hampton Township, Hardyston Township, Hopatcong Borough, Montague Township, Newton, Ogdensburg Borough, Sandyston Township, Sparta Township, Stillwater Township, Vernon Township, Wantage Township
- 9. Will this ordinance change things?** Yes. This ordinance holds all underage drinkers responsible for their actions, not just the individual hosting the party. Hopefully, the knowledge that they could be fined or lose their driving privilege for 6 months, will give teens an additional reason to resist peer pressure to drink.

The NJ State Law vs. Town Ordinance

(Comparison of NJ State Law prohibiting possession or consumption of alcoholic beverages on private property by underage persons)

NJ State Law New Jersey Statute 2C:33-17	Township Ordinance
<ul style="list-style-type: none"> • <i>It is a criminal disorderly persons offense to offer, serve or make alcohol available to minors; also a criminal offense to entice or encourage a minor to drink alcohol. Penalty: fine of up to \$1000 and up to 180 days in jail.</i> • <i>Child endangerment (such as cases where the underage drinker harms himself or another) which can result in a State prison sentence of up to 10 years and a fine up to \$150,000</i> • <i>It is a criminal disorderly persons offense for any person to make their real property (such as their house, apartment, business, motel room or any other place owned, leased or managed) available to, or in the care of, another person with the purpose that alcoholic beverages will be consumed there by minors. Penalty - fine up to \$1000 and up to 180 days in jail.</i> • <i>Criminal disorderly persons offense to sell an alcoholic beverage to a minor, or to purchase an alcoholic beverage for an underage person. Penalty – fine up to \$1000 and up to 180 days in jail.</i> • <i>Any person who serves alcohol resulting in intoxication is also civilly liable for injuries caused by the intoxicated person’s negligence.</i> • <i>Police respond if notified, or they see probable cause – on public or private property (such as seeing intoxicated teens/evidence of alcohol consumption)</i> • <i>Currently – an underage person would not be penalized should they be drinking at a friend’s home; rather it would be the owner of the property who would be liable.</i> 	<ul style="list-style-type: none"> • <i>Police respond if notified or they see probable cause – on public or private property (such as seeing intoxicated teens/evidence of alcohol consumption)</i> • <i>Forces young people to take on personal responsibility for their underage drinking</i> • <i>Provides a fine of \$250 for first offense; \$350 for any subsequent offense</i> • <i>The Court may suspend or postpone for 6 months the driving privileges of the defendant (NSA 40:48-1.2)</i> • <i>Does not constitute an arrest</i> • <i>Does not prohibit use for religious observation, ceremony or rite</i> • <i>Does not prohibit use when in presence of, and with permission of a parent/guardian</i> • <i>Does not supercede the State Law</i> <p>QUESTIONS:</p> <p>Is this ordinance necessary? Yes. Underage drinking and unsupervised parties have occurred in Sussex County. This ordinance supports the efforts of the whole community to provide a safe and healthy environment for citizens, especially our youth.</p> <p>Does this ordinance give the police more authority to enter private property? No. The police authority is unchanged. The police respond to a complaint, or if an officer observes that underage drinking is taking place. If the police see probable cause, such as intoxicated teens and /or evidence of alcohol consumption, or a situation involving a medical safety issue, they act.</p> <p>Does this ordinance change things? Yes. This ordinance will hold all underage drinkers responsible for their actions, not just the individual hosting the party.</p>

Underage Drinking Ordinance:

§1 - C.40:48-1.2 P.L. 2000, CHAPTER 33, *approved June 28, 2000*
Senate Committee Substitute for Senate, No. 692

AN ACT concerning possession and consumption of alcoholic beverages by underaged persons, supplementing Title 40 of the Revised Statutes and amending R.S.40:48-1.

1. a. A municipality may 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. The ordinance shall provide that a violation shall be punished by a fine of \$250 for a first offense and \$350 for any subsequent offense.

b. The ordinance shall provide that the court may, in addition to that authorized for this offense, suspend or postpone for six 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 this section. If a person at the time of the imposition of a sentence is less than 18 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 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 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. 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 shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. If the person convicted under such an ordinance is not a New Jersey resident, the court shall suspend or postpone, as appropriate, SCS for S692 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 non-resident 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.

c. (1) No ordinance shall prohibit 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.

(2) As used in this section: "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 or uncle, sibling, or any other person related by blood or affinity.

d. No ordinance shall 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 post secondary educational institution; however, no ordinance enacted pursuant to this section shall be construed to preclude the imposition of a penalty under this section, 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 licensed for the sale of alcoholic beverages.