

ORDINANCE 8-2013

ORDINANCE PROHIBITING THE POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSONS ON PRIVATE PROPERTY AND SUPPLEMENTING THE MADISON BOROUGH ORDINANCE CODE WITH NEW SECTION CHAPTER 233

WHEREAS, the Madison Borough Council deems it advisable to regulate the possession or consumption of alcoholic beverages by underage persons on private property in order to preserve the public health, safety and general welfare of the residents of the Borough.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MADISON, IN THE COUNTY OF MORRIS, NEW JERSEY as follows:

SECTION 1. Part III entitled Board of Health Legislation, of the Code of the Borough of Madison is hereby supplemented with a new Chapter 233 to read in its entirety as follows:

233-1. Possession or Consumption of Alcoholic Beverages by Persons Under Legal Age on Private Property Prohibited; Penalties; Suspension of Driving Privileges.

- A. Any person under the legal age to purchase alcoholic beverages who knowingly possesses, without legal authority, or who knowingly consumes any alcoholic beverage on private property, shall be subject upon conviction, to a fine of \$250 for the first offense and \$350 for any subsequent offense.
- B. The Municipal Judge may, in addition to any other sentence imposed for the offense, suspend or postpone, for up to six (6) months, the driving privilege of the defendant. Upon the conviction of any person under this Section, Chapter 233, the Municipal Judge shall forward a report to the Division of Motor Vehicles (the "Division") stating the first and last day of the suspension or postponement period imposed by the Municipal Judge pursuant to this Section, Chapter 233. If a person is less than 17 years of age at the time of the imposition of a sentence, 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 (6) months after the person reaches the age of 17 years.
- C. If a person, at the time of the imposition of a sentence, has a valid New Jersey driver's license, the Municipal Judge 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 Municipal Judge 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 Municipal Judge.
- D. The Municipal Judge 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 written notice shall not be a defense to a subsequent charge of violation of N.J.S.A. 39:3-40.

E. If the person convicted under this Section, Chapter 233 is not a New Jersey resident, the Municipal Judge shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit the required report to the Division. The Municipal Judge shall not collect the license of a non-resident convicted under this Section, Chapter 233. Upon receipt of a report from the Municipal Judge, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

F. Exceptions:

(1) Religious Observance, Presence of a Parent or Guardian. Nothing in Chapter 233 shall 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 or consume alcoholic beverages. As used in this Section, Chapter 233, "Guardian" means a person who has qualified as a guardian of the underage person pursuant to testamentary court appointment, or other applicable laws, as determined by the Municipal Judge; and "Relative" means an underage person's grandparent, aunt, uncle, sibling, or any other person related by blood or affinity.

(2) Performance of Employment. Nothing in Chapter 233 shall prohibit possession of alcoholic beverages by any person while engaged in the performance of employment pursuant to an employment permit issued by the Director of the Division of the Alcoholic Beverage Commission, or for a bona fide hotel or restaurant, in accordance with the provisions of R.S. 33:1-26, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocation school or post secondary educational institution; however, nothing in Chapter 233 shall be construed to preclude the imposition of a penalty under these Sections, 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.

SECTION 2. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be judged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 3. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistency.

SECTION 4. This Ordinance shall take effect May 20, 2013, in accordance with law.

ADOPTED AND APPROVED
April 22, 2013

ROBERT H. CONLEY, Mayor

Attest:

ELIZABETH OSBORNE, Borough Clerk

Introduced and passed: April 8, 2013

Published, Madison Eagle: April 11, 2013

Hearing and consideration for final adoption: April 22, 2013

Published upon final adoption, Madison Eagle: April 25, 2013