

CHAPTER 3

ALCOHOL BEVERAGES

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ARTICLE 1. IN GENERAL

Sec. 3.1-1. PURPOSE

This Chapter is enacted to regulate the sale and transportation of alcoholic beverages in the Township of Pennsville in accordance with the provisions of an Act of Legislature of the State of New Jersey entitled “An Act Concerning Alcoholic Beverages” (Chapter 436 of the Laws of 1933), its supplements and amendments, and also comprising NJSA 33:1-1 et seq., and in accordance with the Rules and Regulations of the State Director of the Division of Alcoholic Beverage Control.

Sec. 3.1-2 DEFINITIONS

For the purpose of this Chapter, the words and phrases herein shall have the same meaning as NJSA 33:1-1 et seq., and the Rules and Regulations of the Director of the Division of Alcoholic Beverage Control.

ARTICLE 2. LICENSES

Sec. 3.2-1 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 3.1-1, and all other applicable laws of the State of New Jersey or of the United States.

Sec. 3.2-2 ISSUING AUTHORITY

All licenses required by this chapter shall be issued by the Township Committee, which shall also administer the provisions of this Chapter

Sec. 3.2-3 LICENSES 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 Section 3.1-1 and the provisions of this chapter.

Sec. 3.2-4. LICENSE CLASSIFICATIONS; FEES.

All annual licenses in the Township shall be classified as follows, and shall be issued hereunder only upon the payment of the fees of the class, as hereby established:

1. **PLENARY RETAIL CONSUMPTION LICENSE.** The fee for each of such licenses granted shall be \$2,500.00.

- 2 **SEASONAL RETAIL CONSUMPTION LICENSE.** No seasonal retail consumption licenses shall be granted with the Township.

3. **PLENARY RETAIL DISTRIBUTION LICENSE.** The fee for each of such licenses granted shall be \$1,339.00.

4. **LIMITED RETAIL DISTRIBUTION LICENSE.** No limited retail distribution licenses shall be granted within the Township

- 5 **CLUB LICENSE.** The fee for each of such licenses granted shall be \$188.00.

- 6. HOTEL, MOTEL LICENSE** – The fee for each of such licenses granted in accordance with the provisions of NJS 33:1-12.20 shall be \$2,500.00

For the State Law containing the authority of the municipality to establish licenses fees and limitations thereof, see NJS 33:1-12

Sec. 3.2-5. LIMITATION ON NUMBER OF LICENSES.

No new plenary retail consumption licenses (except renewals) shall be hereafter issued, unless and until the total number of such licenses issued shall be less than five (5). No new plenary retail distribution licenses (except renewals) shall be hereafter issued, unless and until the total number of such licenses issued shall be less than two (2). No new club licenses (except renewals) shall be hereafter issued, unless and until the total number of such licenses issued shall be less than four (4). Nothing herein contained shall prevent the transfer of a license, according to law, and said transfer shall not be affected by the limitations established hereby. Nothing herein contained shall apply to the issuance of renewals of licenses already issued as outstanding at the passage of this

Sec. 3.2-6. TERM OF LICENSE.

All Licenses issued hereunder shall be for the term of one (1) year from the first day of July in each year to the 30th day of June of the succeeding year, and shall be subject to and controlled by the provisions of the act of the legislature, and such rules and regulations as the State Commissioner of Alcoholic Beverage Control has now established or may hereafter promulgate.

ARTICLE 3 **REGULATION OF LICENSES**

Sec. 3.3-1 **HOURS OF SALE**

Subject to and limited by the relevant provisions of Title 33 of New Jersey Statutes and, more specifically, NJSA 33:1-40, and the relevant provisions of New Jersey Administrative Code and, more specifically NJAC 13:3-38.1, all alcoholic beverage licenses, when granted, shall permit sales of alcoholic beverages from Monday through Sunday between the hours of 7:00 am and 2:00 am of the following day, prevailing time, and on Sundays between the hours of 11:00 am until midnight of the same day, prevailing time, except that when New Year's Eve falls on a Sunday, the sale of alcoholic beverages shall be permitted until 2:00 am on January 1st.

Except as set forth below (the restaurant exception), other than during the days and hours mentioned above, all licensed premises shall be closed to patrons, no alcoholic beverages shall be sold, and all entertainment of every type shall cease.

Except as set forth below (the restaurant exception), the holder of an alcoholic beverage license ("licensee") shall insure that all alcoholic drinks, or the remnants thereof, are removed from the premises of the bar or tables and that all patrons have vacated the premises not later than thirty minutes after the time set forth above.

Nothing in this section shall prohibit the licensee to remain open and conduct the sale of alcoholic beverages on a Saturday which falls upon the date December 31 between the hours of 7:00 am and 2:00 am of Sunday immediately thereafter.

EXCEPTION: Nothing in this section, however, shall prohibit the licensee from operating a restaurant, as defined in NJSA 33:1-1, and selling and serving food and nonalcoholic beverages 24 hours per day, 7 days per week, provided, however, that any such licensee who remains open in accordance with the provisions of this section shall cause a sufficient number of signs to be posted to adequately warn customers that no alcoholic beverages shall be sold or served except during the times as set forth above; and, in addition, any such licensee shall insure that during the times when alcoholic beverages may not be sold, such substances are kept in a separate room or area, or kept under lock and key and/or removed from the premises. A licensee shall insure that prior to the sale of food on a 24-hour basis the licensee shall submit to an inspection by the Township Zoning Officer, which inspection will be for the purpose of determining that the signs and the storage of alcoholic beverages comply with the provisions of this exception.

Sec. 3.3-2 **SALES TO CERTAIN PERSONS**

No licensee or employee of a licensee shall sell, serve or deliver, directly or indirectly, any alcoholic beverages to any intoxicated person or person under the legal age, or permit the consumption of alcoholic beverages on any licensee premises by any of the above-named persons

Sec. 3.3-3 ACCESS TO PREMISES; INSPECTIONS

All licensed premises shall be open to inspections by or on behalf of the Township Committee at any and all hours.

Sec. 3.3-4. SLOT MACHINES PROHIBITED ON LICENSES PREMISES

No licensee shall possess, allow and permit or suffer, on or about the licensed premises, any slot machine device, in the nature of a slot machine, which may be used for the purpose of playing for money or other valuable things.

Sec. 3.3-5. INSPECTION; HEARINGS.

The members of the Township Committee shall investigate applicants and inspect premises sought to be licensed, as well as to conduct public hearings on applications and revocations. The said members of the Township Committee shall not be entitled to extra or special compensation for the discharge of these duties.

Sec. 3.3-6. CHANGE IN PREMISES PROHIBITED.

No changes shall be made in the premises without the authority of said Township Committee after the issuance of said license, and if such change is made without procuring the aforesaid consent, the same will be reason for revocation.

Sec. 3.3-7. CONDUCT OF LICENSED PREMISES.

Any licensee hereunder who harbors any criminal, gangster, swindler or other person of ill repute upon the licensed premises; or permits fights, brawls or disturbances upon the licensed premises; or who conducts or permits lotteries to be conducted on the premises; or who engages in or permits bookmaking and gambling, or gambling devices in or about the licensed premises; shall be guilty of violation of this Article.

Sec. 3.3-8. SALE OF ALCOHOLIC BEVERAGE WITHOUT LICENSE PROHIBITED.

Any person who shall dispose of or sell any alcoholic beverage within the Township without the license required by law; or any person who shall knowingly receive a purchase from such person; and any person who shall knowingly purchase, sell or procure any illicit alcoholic beverage within this Township shall be guilty of a violation of this Article, provided, however, that this section shall not apply to any person who has been designated by legal authority to aid in the enforcement of this Article, or of the Alcoholic Beverage Act.

Sec. 3.3-9. PENALTY - FIRST VIOLATION.

Any person who shall violate any of the provisions of Article 1, 2 and 3 of this Chapter shall, upon conviction thereof before the Municipal Court, be subject to a fine not to exceed Fifty (\$50.00) Dollars or imprisonment not to exceed thirty (30) days, or both, in the discretion of the Court before which such person is convicted.

Sec. 3.3-10. PENALTY - SECOND VIOLATION.

Any person who shall violate any of the provisions of Article 1, 2 and 3 of this Chapter, upon conviction of another or subsequent violation of the same, being the second conviction thereunder, shall be subject to a fine of One Hundred (\$100.00) Dollars or imprisonment for not more than sixty (60) days, or both, not exceeding the foregoing limitation, within the discretion of the Court before which such person is convicted.

Sec. 3.3-11. PENALTY - THIRD VIOLATION.

Any person who shall violate any of the provisions of Article 1, 2 and 3 of this Chapter, upon conviction of another or subsequent violation of the same, being the third conviction thereunder, shall be subject to a fine of Two Hundred (\$200.00) Dollars or imprisonment for not more than ninety (90) days, or both, not exceeding the foregoing limitation, within the discretion of the Court before which such person is convicted.

Sec. 3.3-12. REVOCATION.

A. After said third conviction, as hereinbefore mentioned, the license of said licensee so convicted shall be revoked forthwith and said licensee shall not thereafter be eligible for license issued under this Chapter.

B. 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 and regulations of the State Director of Alcoholic Beverage Control.

Proceedings for suspension or revocation shall be in accordance with the provisions of NJSA 33:1-31 by service of a five (5) day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing.

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

Sec. 3.3-13 NONPAYMENT OF PROPERTY TAXES OR ASSESSMENTS.

A. The Township Committee may, by Resolution, refuse to renew any liquor license or permit issued by it until the owner thereof pays all delinquent property taxes or assessments.

B. The Township Committee may revoke or suspend a liquor license permit when the owner of the property effected by the license, or upon which the licensed business or activity is conducted, has failed to pay the taxes due on the property for at least three consecutive quarters. Upon payment of the delinquent taxes or assessments, the license or permit shall be restored.

ARTICLE 4.

MINORS.

Sec. 3.4-1. PROHIBITS SALE.

No licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person under the age of twenty-one (21) years or allow, permit, or suffer the consumption of any alcoholic beverage by any such person on or upon the licensed premises.

Sec. 3.4-2. ENTERING PREMISES.

It shall be unlawful for a minor to enter any premises licensed for the sale of alcoholic beverage for the purpose of purchasing or having served or delivered to him or her any alcoholic beverage.

Sec. 3.4-3. PROHIBITS PURCHASE OR CONSUMPTION BY A PERSON UNDER THE LEGAL AGE

It shall be unlawful for a minor to consume any alcoholic beverage on premises licensed for the retail sale of alcoholic beverages, or to purchase, attempt to purchase or have another purchase for him or her any alcoholic beverage.

Sec. 3.4-4 PROHIBITS THE PURCHASE FOR A PERSON UNDER THE LEGAL AGE

No person shall purchase or attempt to purchase alcoholic beverages for a person under the legal age. It shall be unlawful for a person to induce or attempt to induce any licensee or any employee of a licensee to sell, serve or deliver alcoholic beverages to a person under the legal age.

Sec. 3.4-5. MISREPRESENTATION OF AGE.

No person shall misrepresent their age or the age of another person for the purpose of inducing any licensee or their employee to sell, serve or deliver any alcoholic beverage to a person under the legal age or to permit a person under the legal age to remain on any premises in violation of subsection 3.4-2.

Sec. 3.4-6.

PENALTY.

Any person who shall violate any of the provisions of this Article shall, upon conviction thereof before the Municipal Court, be subject to a fine of not less than \$500.00. In addition, 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/she becomes eligible to obtain a license or on the date of conviction, whichever is later. In addition to the general penalty prescribed for an offense, the court may require any person under the legal age to purchase alcoholic beverages who violates this act to participate in an alcohol education or treatment program authorized by the Department 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. (NJSA 33:1-81)

Sec. 3.4-7.

POSTING OF THIS ARTICLE.

A copy of this Article shall be displayed at all times in every establishment in the Township which is the holder of plenary retail consumption license, a plenary retail distribution license or a club license.

ARTICLE 5

UNLAWFUL ACT

Sec. 3.5-1

UNLAWFUL ACTS

Any person shall be deemed a disorderly person who consumes any alcoholic beverages of any kind or description as defined and regulated by the Alcoholic Beverage Control Commission on any of the public sidewalks, public streets or public parking lots, parking lots construction by business establishments or institutions for the convenience of their employees and their customers or the public, any public playgrounds or playing fields or upon any other Township-owned property or vacant lots within the Township, unless with the written permission of the Mayor and Township Committee, or other privately owned property where the consumption of alcohol by trespassers is without the permission of owners or renters. A person shall be deemed to intend to consume an alcoholic beverage in violation of this article if that person is in physical custody of an alcoholic beverage in a container, such as a glass or cup or in an unsealed or open bottle or can or other such beverage container which has been partially consumed. Consumption while in a motor vehicle, either in motion or motionless, on the above areas shall be considered a violation of this article.

Sec. 3.5-2

POSSESSION

- A. No person shall have in his or her possession any alcoholic beverage (as defined and regulated by the Alcoholic Beverage Control Commission) in any of the places where consumption of it is prohibited by this article, except in the process of transporting it within the original closed container to a place where consumption is lawfully permitted. Possession of any intoxicating beverage in other than the original container or in an original container which has been opened or on which the seal has been broken shall raise the presumption that such beverage was intended for consumption.
- B. A person shall be deemed to be in possession of an alcoholic beverage within the meaning of this article if he intends to or does exercise custody, control or dominion over such alcoholic beverage, provided however that actual physical or manual possession is not required if the intention to exercise such custody, control or dominion over such alcoholic beverage is manifested from the direct or circumstantial evidence where it is reasonable to infer that the capacity to do so exists.
- C. Possession, custody or control need not be exclusive but may be jointly exercised by two or more persons. A person shall be presumed to be jointly in possession, custody or control of the alcoholic beverage if the owner or person in physical control of the alcoholic beverage is in close proximity to him and the alcoholic beverage is not sealed or has been partially consumed.

Sec. 3.5-3 VIOLATIONS AND PENALTIES

Any person violating the provision of this section upon conviction, shall be subject to the penalty as prescribed by General Penalty, Sec. 1.1-6 of this Code.