

MOORESTOWN TOWNSHIP

ORDINANCE NO. 1-2012

**AMENDING CHAPTER 46 OF THE MOORESTOWN TOWNSHIP CODE
GOVERNING THE CONSUMPTION AND SALE OF ALCOHOLIC BEVERAGES**

WHEREAS, the voters of the Township of Moorestown approved the following two (2) public questions at the general election held on November 8, 2011:

1. "Shall the sale of all alcoholic beverages at retail, except for consumption on railroad trains, airplanes and boats, and the issuance of any retail licenses, except as aforesaid, pursuant to chapter one of Title Intoxicating Liquors of the Revised Statutes (Sec. 33:1-1 et seq.) be permitted in this municipality?"
2. "Shall the ordinance submitted by initiative petition providing for the following conditions be adopted?"

Any resolution of the municipal governing body authorizing the issuance of a license to sell alcohol shall contain the conditions that:

- a. The license is not available for the sale of package goods anywhere in Moorestown.
- b. The license shall be available only to bidders for the operation of a full-service restaurant located on the same tax lot as an indoor shopping mall in the SRC zoning district; and
- c. The license, upon issuance, is valid for use only in such a full-service restaurant, and shall not be transferred to any other use, either within the SRC zoning district or in any other zoning district."; and

WHEREAS, the Council of the Township of Moorestown is through this Ordinance prepared to authorize and regulate the sale, and utilization of liquor licenses within the Township of Moorestown in accordance with the wishes of its resident voters:

NOW, THEREFORE, it is hereby enacted and ordained by the Township of Moorestown, in the County of Burlington, State of New Jersey, that Chapter 46 of the Township Code is hereby amended as follows:

Chapter 46. ALCOHOLIC BEVERAGES

Article I. Licensing and Regulations

§ 46-1. Purpose.

This Article is enacted for the purpose of limiting the number of licenses to be issued, fixing license fees and regulating the sale of alcoholic beverages in the Township of Moorestown (“Township”), in the County of Burlington and State of New Jersey, in accordance with the provisions of the Alcoholic Beverage Law, being Revised Statutes, Title 33, Chapter 1, as amended and supplemented (the “Act”), and in accordance with the rules and regulations promulgated or to be promulgated by the New Jersey Division of Alcoholic Beverage Control applicable hereto, and in accordance with the rules and regulations existing herein or hereafter adopted by competent municipal authority not inconsistent with the said Act or said rules and regulations of said Division.

§ 46-2. Compliance required.

It shall be unlawful to sell or distribute alcoholic beverages otherwise than as provided in this Article and/or said Act.

- A. Definitions. For purpose of this Article, words, and phrases herein shall have the same meanings as 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.

§ 46-3. (Reserved)

[Editor's Note: Former § 46-3, Violations and penalties, as amended, was repealed 3-20-2006 by Ord. No. 5-2006. See now Ch. 66, Penalties for Code Violations.]

§ 46-4. Licensing authority.

The Township Council of the Township of Moorestown, in the County of Burlington and State of New Jersey, being the governing body of said Township, shall constitute the authority for the administration and issuance of licenses hereunder and for the suspension or revocation of any license issued by the said governing body.

46-5 Plenary retail consumption licenses limited.

A. Pursuant to the Act, no more than one plenary retail consumption license shall be issued for every 3,000 of population of the Township of Moorestown, as shown by the last preceding Federal Census. At the enactment of this Article, not more than six (6) plenary retail consumption licenses for the sale of alcoholic beverages shall or may be issued and outstanding at any one time in the Township.

B. The provisions of Act, as the same may be hereafter amended, shall control the number of and issuance of plenary retail consumption licenses.

C. No licenses shall be issued for the sale of alcoholic beverages by the Township Council of the Township unless the same has been approved by the majority of the members of the Council of the Township.

46-6 Plenary retail consumption license; fees.

A. The annual fee for a plenary retail consumption license shall be \$2,500.00.

B. All license fees shall be paid in cash or by certified check, made to the order of the Township of Moorestown, in the County of Burlington, State of New Jersey, and shall be deposited with the Clerk of the Township at the time of the filing of the written application, and all such receipts shall be turned over by the Township Clerk, when and as received, to the Township Chief Financial Officer.

C. All such fees shall be paid in full prior to the granting of such license and shall be based upon a full term of 12 calendar months and licenses shall expire at 12:00 midnight June 30 next then succeeding.

46-7 Application required; procedure

A. In the event the Township Council shall decide, in its discretion, to award an available license, it shall do so in accordance with the Alcoholic Beverage Control Act, the rules and the regulations promulgated thereunder, in the method set forth in the resolution authorizing such sale. If the Township Council elects to issue such license after a public sale, it may set requirements for prequalifications, special conditions and set a minimum bid as permitted by the Alcoholic Beverage Control Act, the rules and the regulations promulgated thereunder and as shall be set forth in the authorizing resolution. No license shall be issued except upon written application therefor, signed by the applicant, setting forth the information as required by statute, together with any and all other information which may be deemed necessary by the Township Council in accordance with said act and deemed necessary for a proper consideration of said application. Such application is to be made in the form as supplied by the Alcoholic Beverage Commission, and same is to be verified by the oath or affirmation of the applicant and advertised according to law.

B. Auction of Licenses.

(i) When the Township Council determines, in its discretion, to award an available license, it shall sell said license at auction in accordance with the provisions of the Act, and the regulations of the New Jersey Division of Alcoholic Beverage Control, and upon such terms and conditions as the Township Council deems to be lawful, reasonable and in the best interests of the Township.

(ii) The Township Council reserves the right to set and determine the appropriate number of licenses to be auctioned, and establish a minimum bid amount and shall further reserve the right to reject all bids for any reasons it determines to be in the best interests of the municipality.

(iii) Notice of Auction of Licenses.

(a) A notice of auction shall be issued which specifies the time and place at which bids shall be received and opened, and that all prospective bidders shall be

notified of the required qualifications no less than twenty (20) days prior to the bid opening.

(b) The notice shall further specify at what time, place and manner in which the prequalification and bid applications may be obtained, and the date on which they are to be submitted.

C. In the event the Act is modified or amended in such a way as to impact these provisions, the appropriate State statute and administrative regulations shall control where inconsistent with this ordinance.

D. All licenses issued under this Article and proceedings in connection herewith shall be subject to the Act, as amended and supplemented from time to time. All applications for licenses under this Article and all licenses issued hereunder and proceedings in connection therewith shall be also subject to all of the rules and regulations properly issued by the Division of Alcoholic Beverage Control of the State of New Jersey and to any other statute or regulation of the State of New Jersey or of the United States of America now existing or hereinafter enacted affecting the within subject matter.

§ 46-8. Issuance of license.

The Township Clerk is hereby authorized and directed, after the approval of issuance of any licenses by the Township Council, to prepare, issue and sign such license on behalf of the Township Council, and every license shall bear the Seal of the Township of Moorestown, and said Township Clerk shall keep a complete and full record of all applications and licenses granted by said Township Council.

§ 46-9. Display of license.

Every license which shall hereafter be issued shall be exposed to public view in a conspicuous place in the premises licensed, and any omission to do so shall be presumptive evidence that the premises where alcoholic beverages are being sold is unlicensed.

§ 46-10. Hours of sale.

A. No licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverages on the licensed premises between the hours of 2:00 a.m. and 10:00 a.m. on any day of the week; except and provided, however, that on the first day of January, no alcoholic beverage shall be sold in the said Township between the hours of 3:00 a.m. and 10:00 a.m. of said day; or permit any consumption of any alcoholic beverages on the licensed premises between the hours of 2:00 a.m. and 10:00 a.m. on any day of the week; except and provided, however, that on the first day of January, no alcoholic beverage shall be consumed on licensed premises between the hours of 3:00 a.m. and 10:00 a.m. on said day.

B. Closing Provisions.

During the hours in which sales of alcoholic beverages are hereinabove prohibited, the entire licensed premises shall also be closed and no person shall be admitted or permitted to remain therein except that this provision shall not be construed to preclude licensed premises from remaining open during other hours for the purpose of providing other services and accommodations to guests, provided, however, adequate facilities and equipment exist for such services and accommodations, such services and accommodations are regularly provided, and any bars on the premises are securely closed.

C. Sale to certain persons prohibited.

No licensee or employee of a licensee, shall sell, serve or deliver, directly or indirectly, any alcoholic beverages to any intoxicated person, nor permit the consumption of alcoholic beverages on any licensed premises by any of the above persons, or permit any such persons to congregate in or about the licensed premises.

D. Prohibited sale or consumption by underage person

No licensee shall sell, serve or deliver, or allow, permit or suffer the service or delivery of, any alcoholic beverage, directly or indirectly, to any persons under the age prescribed by law or allow, permit or suffer the consumption of alcoholic beverages by any such persons upon the licensed premises.

§ 46-11. Suspension or revocation of license.

Any license issued pursuant to this chapter may be suspended or revoked for violation of any of the provisions of this Article or for violation of any of the provisions of the Act, as amended and supplemented, or any of the rules or regulations promulgated by the Director of the New Jersey Division of Alcoholic Beverage Control.

§ 46-12. Renewal of licenses.

Applications for renewal of licenses must be filed with the Township Clerk not later than June 1 of the licensed year for which the renewal is sought. All applications filed after said date by holders of licenses which have expired at the close of the previous license year shall be classified as applications for new licenses.

Article II. Consumption in Public

[Adopted 7-28-1975 by Ord. No. 801]

§ 46-17. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ALCOHOLIC BEVERAGE

Any fluid or solid capable of being converted into a fluid, suitable for human consumption and having an alcoholic content of more than 1/2 of 1% by volume, including alcohol, beer, lager beer, ale, porter, naturally fermented wine, treated wine, blended wine, fortified wine, sparkling wine, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors fit for use for beverage purposes or any mixture of the same and fruit juices.

PRIVATE PLACE

Any place which is not a public place as defined below.

PUBLIC PLACE

Any place, either publicly or privately owned, which is or may be frequented by the public.

§ 46-18. Consumption restricted.

No person shall consume alcoholic beverages:

A. While in a public place, a private place of which he is not an owner, tenant or lawful occupant or in any public conveyance, without the permission of any owner, tenant, lawful occupant or any person having the authority to grant such permission.

B. While in or on any property owned by the Township of Moorestown, with the exception of certain real property located at 395 Kings Highway, Moorestown, New Jersey 08057, commonly known as the "Perkins Center" and as further identified on the official tax map of the Township as Block 2001, Lots 7, 8, and 9.

C. While in a private motor vehicle in motion on or parked in any public place or upon any private place of which he is not an owner, tenant or lawful occupant, without the express permission of the property owner, tenant, lawful occupant or other person having authority to grant such permission.

Article III. Consumption or Possession by Minors

[Adopted 3-10-1997 by Ord. No. 1815-97]

§ 46-19. Findings.

A. Underage drinking is an extremely serious problem in our society which results in motor vehicle deaths and injuries, alcohol poisonings, violence and significant property damage;

B. Underage drinking by minors often occurs at private house parties or gatherings where responsible adults or parents are not present;

C. Underage drinking parties in private homes are occurring at an alarming frequency;

D. Underage drinking parties in private homes often attract scores of minors who converge without the permission of the property owner, parent or responsible adult; and

E. These minors believe they are innocent of wrongdoing by virtue of not physically possessing any alcoholic beverage when stopped or questioned by police officers.

§ 46-20. Consumption, access and possession prohibited.

No individual under 21 years of age shall consume any liquor, wine, beer or other alcoholic beverage or have access to or have in his or her possession any open bottle, can, glass or any other container with liquor, wine, beer or other alcoholic beverage in it:

A. While in or upon any public street, road, sidewalk, parking lot or other public place;

B. In any private vehicle while such vehicle is in motion, stopped or parked in or on any public street, road or parking lot; or

C. While in or upon any private home or property not his or her own.

§ 46-21. Assistance, promotion and permitting of unlawful conduct prohibited.

A. Any person, firm, corporation or other entity, who or which aids, supports, promotes, assists, encourages or permits any individual under 21 years of age to violate any provision of this article shall also be deemed in violation of this article.

B. Presumptions. Any property owner or tenant who is either physically present in the owned or rented structure or physically present on the land owned or rented at the time of violation of § 46-5 of this article shall be prima facie presumed to be aiding, supporting, promoting, assisting and encouraging or permitting any individual under 21 years of age to violate any provision of this article and shall prima facie presumptively be deemed in violation of this article.

[Added 7-28-1997 by Ord. No. 1830-97]

§ 46-22. Violations and penalties.

[Amended 7-28-1997 by Ord. No. 1830-97; 10-5-2009 by Ord. No. 25-2009]

A. Any person who violates this article, shall, upon conviction thereof, in a proceeding before a court of competent jurisdiction, be subject to a fine not less than \$100 and shall be required to perform a period of community service not to exceed five days.

B. For a second offense, persons shall be subject to a fine of not less than \$300 and a period of community service not to exceed 10 days.

C. For a third and subsequent offense, persons shall be subject to a fine of not less than \$500 and a period of community service not to exceed 30 days.

§ 46-23. Effective date.

This ordinance shall become effective upon final adoption and publication in the manner prescribed by law.

NOTICE

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey, held on January 23, 2012. This ordinance will be further considered for final passage by the Township Council at a meeting to be held at the William Allen Middle School, 801 North Stanwick Road, NJ on February 13, 2012 at 7:30 pm or at any time and place to which such meeting may be adjourned. All persons interested will be given the opportunity to be heard concerning such ordinance. During the week prior to and including the date of such further consideration, copies will be made available at the Municipal Clerk's Office in said Municipal Building to any member of the general public who shall request such copies.

Patricia L. Hunt, RMC

Township Clerk