

**MOORESTOWN TOWNSHIP**

**ORDINANCE NO. 26-2012**

**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.”.

**WHEREAS**, on August 22, 2012, the Honorable Ronald E. Bookbinder, A.J.S.C. in the case captioned as East Gate EGS TIC V, LLC, et al. vs. Township Council of the Township of Moorestown, et al., Docket No.: BUR-L-1176-12 ruled that question number 2 set forth above was illegal and invalid in that it constituted a spot zoning condition which was contrary to the provisions of New Jersey law and most importantly the New Jersey Municipal Land Use Law;

**WHEREAS**, the Council of the Township of Moorestown through this ordinance is prepared to amend Chapter 46 of the Moorestown Township Code governing the consumption and sale of alcoholic beverages and Ordinance No. 1-2012 to establish certain conditions associated with the ultimate sale of plenary retail consumption licenses within the Township borders and most importantly to capture the spirit and intent of the voters of the Township of Moorestown in adopting question number 2 set forth above so as to not violate any provision of the Court’s ruling on August 22, 2012;

**WHEREAS**, Title 33 of the statutes of the State of New Jersey also permits New Jersey municipalities to regulate the use and location of any liquor license issued under and pursuant to Title 33 of the statutes of the State of New Jersey;

**WHEREAS**, the Council of the Township of Moorestown believes that it is within its authorized police powers to regulate the sale, location and use of liquor licenses within the Township of Moorestown provided the rational set forth for such regulations is reasonable and fair;

**WHEREAS**, the economic plan element of the Moorestown Township Master Plan “Moorestown Mall/East Gate” clearly sets forth the provision that the Township of Moorestown believes that it is in the best economic interest of the Township to foster growth in the Township’s SRC zoning district south of State Highway Route 38 to the Mt. Laurel and Maple Shade Township borders so to protect the economic interest of those taxpayers that significantly contribute to the Township’s tax revenue base on a yearly basis and so that new restaurants that may serve liquor do not in any way impact the quality of life of Moorestown residents north of State Highway Route 38;

**WHEREAS**, the Township’s Planner, Brian Slaugh, provided credible testimony that the economic plan element of the Township’s Master Plan provided that, of the Township’s five economic centers, the Moorestown Mall/Eastgate Center is the only appropriate location for the sale of alcoholic beverages and recommended that recommendations for alcoholic beverage sales in the future be limited to this geographic area;

**WHEREAS**, the Council of the Township of Moorestown through this Ordinance is prepared to authorize the sale, and issuance of liquor licenses within the Township of Moorestown in accordance with the intended wishes of its resident voters and the Superior Court ruling on August 22, 2012.

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

**Section 1.** §46-5 of the Code of the Township of Moorestown is hereby revised to read as follows:

**46-5 Plenary retail consumption licenses, location of license, transfer of licenses and the sale of package goods.**

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.

D. A plenary retail consumption liquor license shall only be available to bidders for the operation of a full-service restaurant located in the Township's SRC zoning district south of State Highway Route 38 to the Mount Laurel and Maple Shade Township borders.

E. Any plenary retail consumption liquor license upon issuance, shall only be valid for use in a full service restaurant and shall not be transferred to any other use, either within the Township SRC zoning district south of State Highway Route 38 to the Mount Laurel and Maple Shade Township borders or in any other zoning districts of the Township.

F. Any liquor license issued pursuant to the provision of this chapter shall contain a condition that it may not be utilized for the sale of package goods anywhere in the Township of Moorestown.

Section 2. Unless amended, modified or revised herein all of the provisions of Chapter 46 of the Code of the Township of Moorestown as amended shall remain in full force and effect.

Section 3. This ordinance shall become effective upon final adoption and publication in the manner prescribed by law.

CERTIFICATION

I hereby certify that Ordinance No. 26-2012 was introduced and adopted on first reading by the Township Council at a meeting held on September 10, 2012. This ordinance was duly adopted by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey at a meeting of the Township Council held on September 24, 2012.

	VOTE
JORDAN	YES
GALLO	YES
TESTA	ABSENT
CHIACCHIO	ABSENT
BUTTON	YES

\_\_\_\_\_  
Patricia L. Hunt, RMC  
Township Clerk