

ORDINANCE #1046

AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING CHAPTER 115 "ALCOHOLIC BEVERAGES", LAST REVISED MARCH 18, 2021 FOR THE ESTABLISHMENT OF INVESTIGATIVE PROCEDURES

WHEREAS, the Oceanport Police Department has recommended that the Borough implement by ordinance various procedures for the processing of license applications regarding fingerprinting and investigations, establish service permit requirements for individuals pursuant with law and issuance of service ID cards; and

WHEREAS, the Governing Body having considered same finds the additional ordinance language to be beneficial and useful for the intended purpose,

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Oceanport, in the County of Monmouth, in the State of New Jersey, that the following amendments be made to Chapter 115 entitled "Alcoholic Beverages":

NOTE: Additions are underlined and deletions are marked by strike through.

SECTION 1: Chapter 115 Alcoholic Beverages

Article I. Purpose

This chapter is enacted to regulate the sale and transportation of alcoholic beverages in the Borough of Oceanport in accordance with the provisions of an act of the legislature of the State of New Jersey entitled "An Act Concerning Alcoholic Beverages," comprising Chapter 436 of the Laws of 1933, its supplements and amendments, and also comprising N.J.S.A. 33:1-1 et seq., and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control.

Article II. Definitions

§ 115-3. Definitions.

As used herein, the following terms shall have the meanings indicated:

LICENSEE

Includes any person, firm, association or corporation who shall be the holder of any license to sell alcoholic beverages issued by the Borough of Oceanport.

GUARDIAN

A person who has qualified as a guardian of the underage person pursuant to testamentary or court appointment.

RELATIVE

The underage person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

Article III. Licensing

115-1. Fingerprinting Required.

All applications for, and transferees of, plenary retail consumption licenses, club licenses, plenary retail distribution licenses, and limited retail distribution licenses shall be fingerprinted at a place designated by the Police Department, who shall forward to the Borough Police Department the prints, together with a certification that the fingerprints are the prints of the applicant.

115-2. Investigation.

The Chief of Police shall cause an investigation to be made of each applicant, which investigation shall include the records on file with the Borough, the New Jersey State Police and the Federal Bureau of Investigation, to determine whether or not said applicant has ever been convicted of a crime and shall thereafter file a report with the Borough Administrator containing the name of each person fingerprinted and investigated and reveal therein any police or criminal record of the applicant.

115-3. Corporate License.

In the event that the applicant or licensee referred to in subsection 115-2 above is a corporation, then every officer and director of the corporation shall, for the purposes of this chapter, be considered an applicant or licensee. The same requirements shall apply with respect to an unincorporated association or organization. Shareholders having more than a 5% interest in the corporation shall be considered officers for the purposes of this chapter. If any corporation, association or organization holds 5% or more of the stock of an applicant corporation, then the officers and directors of such other corporation, association or organization shall be disclosed and shall submit to fingerprinting as provided in subsection 115-5.

115-4. Suspension or revocation of licenses.

A. 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 or regulations of the State Director of Alcoholic Beverage Control.

B. Proceedings for suspension or revocation shall be in accordance with the provisions of N.J.S.A. 33:1-31 by service of a five-day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing.

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

Article IV. BOROUGH ALCOHOLIC BEVERAGE SERVICE PERMITS.

115-5. Purpose.

This section is enacted to regulate the sale of alcoholic beverages in the Borough of Oceanport in accordance with the provisions of an act of the Legislature of the State of New Jersey entitled "An Act Concerning Alcoholic Beverages," comprising Chapter 436 of the Laws of 1983, its supplements and amendments, and also comprising N.J.S.A. 33:1-1 et seq., and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control.

115-6. Required.

No licensee shall employ in the conduct of his licensed business any person who shall not have first obtained a Borough alcoholic beverage service permit from the Borough Chief of Police. No person shall permit or suffer himself to be so employed without having first obtained such a permit from the Chief of Police.

115-7. Requirements of Applicants for a Borough Alcoholic Beverage Service Permit.

No Borough alcoholic beverage service permit shall be issued to any person who:

A. Is under the age of 18 unless said person shall first have obtained a permit from the Director of the State Division of Alcoholic Beverage Control;

B. Has been convicted of a crime (with certain limited exceptions) unless the disqualification has been removed or a rehabilitation employment permit (or temporary work letter) has been issued by the State Alcoholic Beverage Control Director;

C. Is a full-time law enforcement officer in the community in which the license is located;

D. Has had an interest in any manufacturer or wholesaler of alcoholic beverages (N.J.S.A. 33-1-43) or is employed as a solicitor (N.J.A.C. 13-2-16.7; see "Tied-House Statute");

E. Has a disqualification resulting from having had an interest in a revoked license (N.J.S.A. 33-1-31).

115-8. Issuance of Borough Alcoholic Beverage Service ID Cards to Applicants.

A. Each applicant for a Borough alcoholic beverage service permit shall be photographed and fingerprinted, under the supervision of the Chief of Police, such time and place shall be designated by the Chief of Police. The fingerprints shall be done at a place designated by the Police Department and checked by State and Federal authorities. The applicant will be required to pay the appropriate fingerprinting charge. A Criminal History Check will also be completed by the Police Department under the supervision of the Chief of Police.

B. The Chief of Police is hereby authorized to issue a Borough alcoholic beverage service permit to any person making such application therefor who is not disqualified under subsection 115-11, or is not otherwise disqualified from such employment. The Borough alcoholic beverage service permit shall state: the name of the applicant, address, date of birth, Social Security

number, height, weight, hair color, eye color, and any distinguishing marks or physical characteristics. Upon approval of the application, the applicant shall be issued an ID card. The ID card shall have an expiration date and a front facing photograph. The applicant will be required to pay the Borough of Oceanport a fee of \$25 for the initial ID card and any renewal cards.

C. Identification cards shall be valid for two years from the date of issue thereof.

D. The applicant shall be required to have the Borough alcoholic beverage service ID card on their person at all times while working.

E. The requirement for the Borough alcoholic beverage service permit for all servers shall be put in place on -----. All servers must complete the process and have their ID cards prior to the renewal of the establishments' liquor license on -----.

Article I V. Operation Restrictions for Licensees

§115-4.9. Compliance required.

Hereafter it shall be unlawful for any person, firm, association or corporation to permit, allow or suffer the sale, delivery or consumption of any alcoholic beverage on the licensed premises except as hereinafter set forth.

§ 115-2-10. Hours of operation.

A. No licensee shall sell, serve, deliver or permit, allow or suffer the sale, service or delivery of any alcoholic beverage or allow the consumption of any alcoholic beverage on the licensed premises except as follows:

- (1) On weekdays and Saturdays between the hours of 8:00 a.m. and 2:00 a.m. of the following day.
- (2) On Sundays between the hours of 10:00 a.m. and 2:00 a.m. of the following day.
- (3) On the last day of the calendar year between the hours of 8:00 a.m. and 4:00 a.m. of the following day; except when the last day of the year falls on a Sunday, then between the hours of 10:00 a.m. and 4:00 a.m. of the following day.

B. No licensee shall sell or deliver or allow, permit or suffer the sale or delivery of any alcoholic beverage at retail in its original container for consumption off the licensed premises or allow, permit or suffer the removal of any alcoholic beverage in its original or opened container from retail licensed premises on or before 9:00 a.m. or after 10:00 p.m. on any day of the week; except that on Sunday the sale of malt alcoholic beverages for consumption off the premises shall be permitted from 12:00 noon to 6:00 p.m.

C. The above hours shall be in accordance with the prevailing time then existing.

D. During the hours for which the sale of alcoholic beverages is hereinafter prohibited, the entire licensed premises shall also be closed, and no person shall be admitted or permitted to remain therein except the licensee or bona fide employees of the licensee.

E. Nothing herein contained, however, shall be construed to permit the sale of alcoholic beverages on any day when otherwise prohibited by law.

§ 115-4 11. Violations and penalties.

Any person, firm, association, or corporation who shall violate this article shall, upon conviction, be subject to the provisions of Chapter 1, § 1-15, General penalty, at the discretion of the Judge before whom said matter shall be heard.

Article II VI. Licensing ~~LICENSE FEES~~

§ 115-5-12. Number of retail consumption licenses.

The number of plenary retail consumption licenses outstanding in the Borough at the same time shall not exceed seven.

§ 115-6.13. Number of retail distribution licenses.

The number of plenary retail distribution licenses outstanding in the Borough at the same time shall not exceed one.

§ 115-7-14. Fee for retail consumption license.

The annual license fee for plenary retail consumption licenses shall be and is hereby fixed at \$1,789.

§ 115-8-15. Fee for retail distribution license.

The annual license fee for plenary retail distribution licenses shall be and is hereby fixed at \$1,072.

Article III.VII Consumption or Possession by Minors

§ 115-9-16. Prohibition in public or private places; definitions.

It shall be unlawful for any person under the age of 21 years to purchase, sell, consume or have in his or her possession any alcoholic beverage in or upon any public or private street, highway, park, footway or other public or quasi-public place or in a private residence or upon any private property within the Borough of Oceanport, except as hereinafter provided or as may be permitted by state statute.

Nothing contained in this article shall prohibit an underage person from consuming or possessing an alcoholic beverage on private property 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.

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

GUARDIAN

~~A person who has qualified as a guardian of the underage person pursuant to testamentary or court appointment.~~

RELATIVE

~~The underage person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.~~

§ 115-10-17. Prohibition in vehicles.

It shall be unlawful for any person under the age of 21 years to consume or to have in his or her possession any alcoholic beverage while in a motor vehicle on any public street or highway or while in a motor vehicle in any public or quasi-public place in the Borough of Oceanport.

§ 115-44-18. Violations and penalties; suspension or postponement of driving privileges.

A. Any person violating any of the provisions of this article shall, upon conviction, be punished as set forth in Chapter 1, § 1-15, General penalty.

B. In addition to the fine authorized herein, the court may suspend or postpone for six months the driving privilege of any defendant convicted of violating the provisions of this article and may take such other action regarding the driving privileges of such defendant as shall be provided in N.J.S.A. 40:48-1, as amended.

Article IV-.VIII. Permits for Sale or Possession in Public Places

§ 115-42-19. Permit required for sale or consumption in public places.

No person shall serve, sell, dispense, drink or consume any alcoholic beverages on a public or quasi-public street, alley or road of the Borough of Oceanport, or upon any public or quasi-public grounds, parks or sidewalks, or in any automobile or other vehicle, or any other means of transportation, while on the public or quasi-public streets, highways, alleys, avenues, public grounds, parks or sidewalks, unless a license or permit has been issued for the same.

§ 115-43-20. Permit required for possession in public places.

No person shall possess any open bottle, can or other container which contains alcoholic beverages on any public or quasi-public street, alley or road of the Borough of Oceanport or upon any public or quasi-public grounds, parks or sidewalks, or in any automobile or other vehicle, or any other means of transportation, while on the public or quasi-public streets, highways, alleys, avenues, public grounds, parks or sidewalks, unless a license or permit has been issued for the same.

§ 115-44-21. Violations and penalties.

~~Any person violating this article shall be liable, upon conviction, to a penalty as set forth in Chapter 1, § 1-15, General penalty, together with court costs.~~

Any person(s), firm(s) or corporation(s) who violates or neglects to comply with any provisions of this section or any rule or regulation promulgated pursuant thereto, shall be subject to the penalty as stated in Chapter 1, § 1-15, General Penalty, together with court costs. Failure of the establishment to provide proof of all servers having permits prior to each annual renewal or at any time requested may result in the revocation of their liquor license.

SECTION 2. All ordinances and resolutions or parts of ordinances and resolutions, inconsistent with this amending ordinance be and the same are hereby repealed.

SECTION 3. This amending ordinance shall become effective upon due passage and publication according to law.

APPROVED ON FIRST READING

DATED: October 21, 2021

JEANNE SMITH

Clerk of the Borough of Oceanport

ADOPTED ON SECOND READING

DATED: November 4, 2021

JEANNE SMITH

Clerk of the Borough of Oceanport

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____.

JOHN F. COFFEY, II

Mayor