

STOP YOUTH ALCOHOL USE

**ON PRIVATE PROPERTY:
ENACTING AN ORDINANCE
TO SAVE YOUNG LIVES**

*Promoting Addiction Treatment,
Prevention, and Recovery
through **Advocacy and Education***

-
- ↪ *Public Policy and Information*
 - ↪ *Friends of Addiction Recovery-NJ*
 - ↪ *Care Coordination*



ENACTING AN ORDINANCE TO SAVE YOUNG LIVES

NCADD-NJ- Promoting Addiction Treatment, Prevention and Recovery Through Advocacy and Education

INTRODUCTION

Raising children is a great challenge. There is no textbook or website for parents to refer to for the right answers. There are probably more questions than there are answers when it comes to youth use of alcohol. Do you serve alcohol to minor children? Are you better off having that teen party at your house where you can monitor behavior? How do you stop other parents from allowing your children to drink alcohol at their home or holding a teen party with alcohol? How do you stop your own child from drinking? The questions go on and on.

There are statutes, ordinances, and cases that try to establish some parameters for behavior by minors as it relates to their use of alcohol. In New Jersey, one state law that has caused confusion with regard to this issue authorizes municipalities to enact an ordinance to prohibit youth use of alcohol on private property.

Youth use of alcohol is a serious issue faced by municipalities throughout New Jersey. Municipalities face multiple problems resulting from the use of alcohol by youth, including alcohol related youth: violence, traffic crashes, high risk sex, criminal behavior, injury, medical care, work loss, pain and suffering, poisoning, psychosis, FAS, and youth suicide.

Despite these deeply troubling consequences, alcohol continues to be New Jersey youths' number one drug of choice. The 2003 New Jersey Middle School Substance Use Survey conducted by the Department of Health and Senior Services (DHSS), Division of Addiction Services found that youth use of alcohol had increased from 2001, with 46.4% of New Jersey's 7th and 8th graders having used alcohol, and that the average age students reported first engaging in regular use of alcohol was 12.5 years old.

The statistics regarding high school students are even more alarming. The 2001 New Jersey Youth Risk Behavior Survey (NJYRBS) results reported that 83% of 12th grade students have used alcohol, 56% drank at least once in previous 30 days, and 33% engaged in binge drinking in the past 30 days. All three categories were higher than the 1999 NJYRBS results.

Reasons for this increase include the ease with which these young people can obtain alcohol and the lack of

consequences for youth use of alcohol on private property. The most common source of alcohol was the home, and the majority of 8th graders (68%), 10th graders (85%) and 12th graders (95%) say that it is fairly easy or very easy to get alcohol.

The effects on young drinkers can be devastating when the physical effects of alcohol are coupled with emotional immaturity and inexperience. Alcohol alters and kills brain cells and can adversely affect an individual's ability to form new memories. Some intoxicated youth injure or kill themselves in fires, falls, boating accidents, or other tragedies that might well have been avoided if they were sober. Drinking can cause individuals to lose their inhibitions and be willing to engage in behavior they might not embrace if they were sober, such as violence, vandalism, sex, date rape, other criminal behavior, or drug use.

Many young people do not realize that consuming too much alcohol can be fatal. Binge drinking (consuming five or more drinks on one occasion) is a particularly dangerous form of drinking. Forty percent of the youth who begin drinking before age 13 will develop alcohol abuse or dependence at some point in their lives. Preventing young people from drinking may not only save them from harm in their youth, it may prevent a lifetime of alcohol-related problems.

With this disturbing information, there are many state campaigns in existence to increase awareness of the issue. However, given public attitudes that perpetuate alcohol use as a rite of passage and that portray drinking as inherent to socializing and fun, underage drinkers get messages that reinforce alcohol consumption as behavior that is socially acceptable. Additionally, many underage drinkers obtain alcohol from their parents, in their homes, or from other adults who would rather their children and children's friends drink at their home than somewhere more dangerous. In New Jersey, when this activity takes place on private property, these underage drinkers do not face any consequences and are not held accountable.

What can you do to stop youth use of alcohol on private property?

While there are state laws to prevent minors from purchasing alcohol and drinking in public and to prohibit adults from serving or permitting the consumption of alcohol by minors on property the adult owns or controls, state laws do not prohibit underage persons from consuming or possessing any alcoholic beverage in a private residence or upon any private property. Underage drinkers are given the message that their age shields them from any legal responsibility or consequences and drinking is acceptable.

A state law passed in 2000 (*N.J.S.A. 40:48-1.2*) permits municipalities in New Jersey to enact an ordinance making it unlawful for any underage person to possess or consume an alcoholic beverage on private property. Few municipalities, however, currently restrict the activities of minors on private premises.

This ordinance is an effective tool to combat youth use of alcohol on private property while at the same time retaining common sense exceptions such as allowing a minor to consume an alcoholic beverage in connection with a religious observance, ceremony or rite, or with permission of their parent or guardian at a family function or celebration.

The ordinance is meant as a tool to protect the quality of life for those residents affected by youth use of alcohol and to protect our youth from the dangers of binge drinking and underage use. It must be kept in mind that youth who drink on private property often leave by way of a motor vehicle, so this is also an effective tool for combating drunk driving among the municipality's youth.

As for concerns of municipal officials that the penalties for the youth use of alcohol ordinance are too severe, minors arrested under the ordinance would be found guilty of a violation (not a crime), and the penalties pale in comparison to existing youth use of alcohol on public property.

Current youth use of alcohol on public property is subject to a fine of between \$500 and \$1,000, a maximum of six months in prison, and a mandatory loss of driver's license for six months. The proposed youth use of alcohol on private property limits the fine to the juvenile for a first offense to \$250, and fines for subsequent offenses to \$300. Judges also may decide to postpone the driving privileges of a juvenile for six months.

When comparing the two, the potential punishment for a violation of this ordinance is reasonable and proportionate, and considerably less than the punishment for a similar violation on public property.

FREQUENTLY ASKED QUESTIONS

Will enactment of the ordinance increase the server's liability?

No. The enactment of an ordinance prohibiting possession or consumption of alcoholic beverages by underage persons on private property pursuant to NJS 40:48-1.2 will not increase a person's liability under Social Host Laws.

The penalties listed in NJS 40:48-1.2 are against the underage person, not the adult who served the alcohol. NJS 40:48-1.2 does not apply when a minor's own parent, guardian, or relative is supervising and gives permission for the consumption of alcohol.

NJS 2C: 33-17 and NJS 2A: 15-5.6, which are already in existence, address the criminal and civil liability of the adult who provides the alcohol. The youth use of alcohol on private property ordinance does not enhance or detract from laws regarding the adult server.

What is the server's civil liability under current law?

Parents can be civilly liable on a variety of bases if this action results in injury to third parties, the minor, or causes damage to property, including



ENACTING AN ORDINANCE TO SAVE YOUNG LIVES

NCADD-NJ- Promoting Addiction Treatment, Prevention and Recovery Through Advocacy and Education

negligence reckless misconduct and social host liability. Currently social host liability prohibits a suit by a served person if he or she attained the legal age. It does not, however, prohibit an underage drinker or third party from bringing a suit against a social host. Thus, social host laws protect the server from civil liability if the person drinking is of legal age and injures himself or herself (the server is still civilly liable for injuries to a third party or property damage), but does not protect the server if the person drinking is not of legal age to drink. Underage drinkers may sue the parent server for injuries to themselves, third parties, or property damage. A parent who is found legally responsible under a social host, negligence or reckless misconduct theories of liability may be accountable for large money damages. The ordinance as authorized under state law to prohibit youth use of alcohol on private property has no effect on this liability.

Will police officers have more access to my private property?

No. As for concerns related to the abuse of police power and private property rights, the Fourth Amendment of United States Constitution provides that individuals are free from “unreasonable search and seizure” by the police. This means that police must have what is called “probable cause” to suspect that a crime is happening before they can intervene.

Enacting an ordinance does not change the underlying requirement that police must have “probable cause” to suspect a crime is happening before they can act and enter private property.

Serving alcohol to minors without the permission or presence of a parent is already a disorderly person’s offense. What is changed by the ordinance is that it also becomes a violation for youth to possess or consume alcohol on private property if their parent has not given permission and is not present.

Police are often called to respond to incidents of underage drinking at “house parties” due to fights, sexual assaults, noise disturbances, etc. However, once at the residence, police currently are unable to respond to youth use of alcohol since the law does not specifically

prohibit minors to be in possession of alcohol on private property.

This law does not give police increased access to private property. It is another tool to allow police to address youth use of alcohol when they encounter it at these house parties.

What if I’m on vacation and my child invites his/her friends over and they are drinking?

Enacting this ordinance does not provide additional liability to the parent. It merely enables the police to take action to intervene and hold the children who are in possession and consuming alcohol responsible.

For a parent to be found guilty of a disorderly offense, the standard is that the adult has “reasonable” control over the private property and makes the property available or leaves the property in the care of another for the purpose of making alcohol available to underage drinkers.

Should we enact an ordinance that prohibits adults from serving alcohol to underage persons on private property?

There is no reason to enact such an ordinance. State law (NJS 2C: 33-17) already makes it a disorderly persons offense for an adult to serve or allow an unrelated minor to consume alcohol on property that is within their control. An adult who has been convicted of such an offense may be fined up to \$1,000 and imprisoned for a time not to exceed 6 months. The ordinance, as is authorized under state law, to prohibit youth use of alcohol on private property has no effect on these penalties.

I don’t want the town telling me what to do with my own kids. Will the ordinance give the town authority to tell me what I can do with my own kids?

No. This ordinance specifically does not change the law regarding parents’ authority over their own children. Based upon state law, the ordinance will provide an exception to allow parents or legal guardians to allow their own minor children to possess alcohol if the parent/guardian is present and that parent/guardian or spouse is over 21 years old. This exception would be

extended to house party situations.

The concern under this ordinance is about youth obtaining liquor without their parents' permission or outside the presence of their parent. All parents and guardians have the right to expect that when their child goes to another adult's home, that adult does not have the right to allow an unrelated youth access to alcohol.

How do I get my town to enact a local ordinance prohibiting youth use of alcohol on private property?

All municipalities have a policymaking body (council, committee, commission or board of trustees) and a mayor as formal executive. The relationship between mayor and the policy-making body varies with the form of municipal government. The council, committee, commission or board is the legislative branch of the municipal government charged with approving the municipal budget and enacting the ordinances (laws) of the municipality.

First, you should talk to other parents who may also want to see an ordinance prohibiting youth use of alcohol enacted. Develop a unified message regarding youth use of alcohol and the need for an ordinance prohibiting such use. Next, talk with your elected officials on the council, committee, commission or board of trustees, the police chief or police commission, and the town attorney. Explain the need for this ordinance, the consequences of underage drinking, and the loopholes in the current law. Have one of them write the ordinance or write your own using the example provided in this primer.

Next a hearing is held where the public can comment about the proposed ordinance. Be prepared to testify and have facts to support the need and benefits of enacting the proposed ordinance. Following the hearing, the governing body votes whether to adopt, deny, or amend the proposed ordinance. If they vote to adopt the ordinance, it becomes the law in your municipality.





ENACTING AN ORDINANCE TO SAVE YOUNG LIVES

NCADD-NJ- Promoting Addiction Treatment, Prevention and Recovery Through Advocacy and Education

There are probably more questions than there are answers when it comes to youth use of alcohol:

Do you serve alcohol to minor children?

Are you better off having a teen party at your house where you can monitor behavior?

How do you stop other parents from allowing your children to drink alcohol at their home or holding a teen party with alcohol?

How do you stop your own child from drinking?

IN CONCLUSION

There is no one answer to these questions. There is no single strategy to prevent youth use of alcohol. But enacting an ordinance to prevent youth use of alcohol in your municipality will help to answer some questions and address the problems related to youth use of alcohol. Prevention programs are more effective when they are combined with laws that sanction youth use of alcohol and create norms that let young people know that underage drinking is not acceptable and will not be condoned. It is one tool that may help to prevent young people from hurting themselves or others with alcohol or from enduring a lifetime of alcohol-related problems.



GET THE FACTS. THEY'RE SOBERING.

- FACT:** 46.4% of New Jersey's 7th and 8th graders have used alcohol.
- FACT:** 40% of youth who begin drinking before age 13 will develop alcohol abuse or dependence.
- FACT:** 10% of 7th graders and 17.8% of 8th graders have reported using alcohol in the past 30 days.
- FACT:** 39% of high school boys said it was acceptable to force sex with a girl who was drunk or high.



Help Prevent Youth Use of Alcohol - Their #1 Drug of Choice.

NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE - NJ | Visit www.soberingfacts.org



GET THE FACTS. THEY'RE SOBERING.

- FACT:** 46.4% of New Jersey's 7th and 8th graders have used alcohol.
- FACT:** 40% of youth who begin drinking before age 13 will develop alcohol abuse or dependence.
- FACT:** Of NJ's 7th graders who used alcohol, they reported first use at age 11.3; 8th graders at 12.
- FACT:** 28% of suicides ages 9 - 15 can be attributed to alcohol.



Help Prevent Youth Use of Alcohol - Their #1 Drug of Choice.

NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE - NJ | Visit www.soberingfacts.org



GET THE FACTS. THEY'RE SOBERING.

- FACT:** 46.4% of NJ's 7th and 8th graders have used alcohol.
- FACT:** 27.9% of NJ's 7th and 8th graders who used alcohol in the past 30 days got 1%.
- FACT:** Of NJ's 7th graders who used alcohol they reported regular use of alcohol began at age 11.9; 8th graders at 12.8.
- FACT:** 28% of suicides ages 9 - 15 can be attributed to alcohol.



Help Prevent Youth Use of Alcohol - Their #1 Drug of Choice.

NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE - NJ | Visit www.soberingfacts.org



GET THE FACTS. THEY'RE SOBERING.

- FACT:** 67% of NJ's 8th graders reported that it is easy to get alcohol.
- FACT:** 39% of high school boys said it was acceptable to force sex with a girl who was drunk or high.
- FACT:** 40% of youth who begin drinking before age 13 will develop alcohol abuse or dependence.
- FACT:** 9,400 youth in NJ cannot access treatment for addiction due to limited treatment capacity.



Help Prevent Youth Use of Alcohol - Their #1 Drug of Choice.

NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE - NJ | Visit www.soberingfacts.org

Visit our online store to order these posters:
GET THE FACTS: THEY'RE SOBERING
www.ncaddnj.org/about/support.htm

Printing of this primer was made possible through contributions from:



NEW JERSEY DEPARTMENT OF HUMAN SERVICES
DIVISION OF ADDICTION SERVICES
www.state.nj.us/humanservices



SAMPLE DOCUMENT TO CRAFT YOUR OWN MUNICIPAL ORDINANCE

(From Seaside Heights-Chapter 17)

ALCOHOLIC BEVERAGES

ARTICLE IX

Consumption by Underage Persons on Private Property

[Added 7-19-2000 by Ord. No. 2000-14]

§ 17-37. Consumption of alcoholic beverages by underage person on private property prohibited.

It is hereby unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property.

§ 17-38. Violations and Penalties.

V. Any person found guilty of violating the terms of this article shall be subject to a fine of \$250 for a first offense and a fine of \$350 for any subsequent offense. In addition, the court may, upon a finding of guilty, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privileges of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, 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 months after the person reaches the age of 17 years. If the defendant at the time of the imposition of the sentence has a valid driver's license issued by this state, the court shall immediately collect the license and forward it to the Division of Motor Vehicles along with the report. If for any reason the license cannot be collected, the court 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 court.

B. The court 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. The defendant 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 the written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.

C. If the person convicted under this article is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this article. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

§ 17-39. Exceptions.

V. This article shall not 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 and consume alcoholic beverages.

B. This article shall not prohibit the possession of alcoholic beverages by any underage person while actually engaged in the performance of employment by a person who was licensed under Title 33 of the revised statutes or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; however, this article shall not be construed to preclude the imposition of a penalty under this section, 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.

§ 17-40. Definitions.

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 a testamentary or court appointment. RELATIVE -- The underage person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.



360 Corporate Boulevard, Robbinsville, NJ 08691
POLICY@NCADDNJ.ORG

Public Policy & Information | Friends of Addiction Recovery-NJ | Care Coordination

NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE - NEW JERSEY | www.ncaddnj.org