

## Chapter 5

### ALCOHOLIC BEVERAGES

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HISTORY: Article I adopted by the Mayor and Borough Council of the Borough of Seaside Park 5-17-1940 as Ordinance No. 404. Amended 5-16-1941 by Ord. No. 411; 2-21-1947 by Ord. No. 459; 5-28-1970 by Ord. No. 668; 10-22-1970 by resolution; 6-10-1971 by Ord. No. 681; 12-16-1982 by Ord. No. 855; 7-5-1984 by Ord. 916; 7-10-1986 by Ord. No. 973; 4-21-1994 by Ord. No. 1164; 4-27-1995 by Ord. No. 1183; 11-19-2001 by Ord. No. 1285; 12-20-2001 by Ord. No. 1291; 5-25-2005 by Ord. No. 1368.

Article II adopted 9-2-1949 as Ordinance No. 493. Amended 12-20-2001 by Ord. No. 1291.

Article III adopted 6-8-1978 as Ordinance No. 769. Amended 12-20-2001 by Ord. No. 1291.

Article IV adopted 3-20-1986 as Ordinance No. 960. Amended 12-20-2001 by Ord. No. 1291.

Article V adopted 8-3-2000 as Ordinance 1268.

GENERAL REFERENCES: See Chapter 9 (Beaches); Chapter 19 (Business Hours); Chapter 43 (Mercantile Licenses).

*Be it ordained by the Mayor and Borough Council of the Borough of Seaside Park in the County of Ocean and State of New Jersey, as follows:*

## ARTICLE I Licenses

*Adopted 5-17-1940 as Ord. No. 404*

### §5-1. Plenary retail consumption licenses: number.

Not more than three (3) plenary retail consumption licenses for the sale of alcoholic beverages shall or may be issued and outstanding at any one time in the borough.

### §5-2. Plenary retail distribution licenses: number.

Not more than two (2) plenary retail distribution licenses for the sale of alcoholic beverages shall or may be issued and outstanding at any one time in the borough.

### §5-3. Club license: amount, fee.

*Amended 5-16-1941 by Ord. No. 411  
2-21-1947 by Ord. No. 459; 5-28-1970 by Ord. No. 668  
12-16-1982 by Ord. No. 855; 4-21-1994 by Ord. No. 1164  
5-25-2005 by Ord. No. 1368*

Not more than one (1) club license for the sale of alcoholic beverages shall or may be issued and outstanding at any one (1) time in said borough, and the annual fee for such club license shall be and the same is hereby fixed at the sum of one hundred eighty dollars (\$180.00).

### §5-4. Plenary retail consumption license: fee.

*Amended 2-21-1947 by Ord. No. 459  
5-28-1970 by Ord. No. 668; 12-16-1982 by Ord. No. 855  
4-21-1994 by Ord. No. 1164; 11-19-2001 by Ord. No. 1285  
5-25-2005 by Ord. No. 1368*

The annual fee for each and every plenary retail consumption license that shall hereafter be issued in the Borough shall be in accordance with the following schedule:

2005 - 2006	\$2,400.00
2006 - 2007 and thereafter	\$2,500.00

### §5-5. Plenary retail distribution license: fee.

*Amended 2-21-1947 by Ord. No. 459  
5-28-1970 by Ord. No. 668; 12-16-1982 by Ord. No. 855  
4-21-1994 by Ord. No. 1164; 11-19-2001 by Ord. No. 1285  
5-25-2005 by Ord. No. 1368*

The annual fee for each and every plenary retail distribution license that shall hereafter be issued in the Borough shall be in accordance with the following schedule:

2005 - 2006	\$2,000.00
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### 2006 - 2007 and thereafter \$2,400.00 §5-6. Hours of operation for the sale of plenary retail alcoholic beverage consumption licenses and club alcoholic beverage consumption licenses.

*Amended 6-10-1971 by Ord. No. 681  
7-10-1986 by Ord. No. 973; 4-27-1995 by Ord. No. 1183*

- A. No alcoholic beverages shall be sold or consumed within any establishment holding a plenary retail alcoholic beverage consumption license or a club alcoholic beverage license between the hours of 2:00 a.m. and 7:00 a.m. on any day of the year with the exception of Sundays and the first day of January, as hereinafter provided.
- B. On Sundays (except on the first day of January, as hereinafter provided), all service of alcoholic beverages shall cease at 2:00 a.m. and the alcoholic beverage consumption establishment shall close and have all patrons out of the establishment by 3:00 a.m. This means that no one shall be served an alcoholic beverage after 2:00 a.m. but they may remain on the premises to finish the consumption of any alcoholic beverage sold prior to 2:00 a.m. and for the purposes of consuming food.
- C. On the first day of January of each year, whether the same be a weekday or a Sunday, the holders of licenses for the sale of alcoholic beverages may sell such beverages throughout the entire day.

### §5-7. Hours of operation for the sale of plenary retail alcoholic beverage distribution licenses.

*Amended 4-27-1995 by Ord. No. 1183*

No alcoholic beverage shall be sold within the borough by the holder of a plenary retail distribution license between the hours of 10:00 p.m. and 9:00 a.m. except on the first of January, as hereinabove provided.

### §5-8. (Reserved)<sup>1</sup>

### §5-9. Sale during elections.

*Amended 10-22-1970 by resolution*

Alcoholic beverages may be sold in this borough on election days subject to all of the other provisions of the laws of this state, the rules and regulations of the Division of Alcoholic Beverage Control and the ordinances of this borough.

<sup>1</sup> EDITOR'S NOTE: Former §5-8 (January 1: hours of sale) was repealed 4-27-1995 by Ord. No. 1183.

**§5-10. Change to daylight saving time.**

The hours hereinbefore mentioned shall be Eastern standard time, except from 2:00 a.m. on the last Sunday of April until 2:00 a.m. on the last Sunday of October<sup>2</sup> in each year, when said hours shall be Eastern daylight saving time.

**§5-11. License required for sale or possession.**

No person shall sell or offer for sale, or have in his or her possession for sale, any alcoholic beverage or beverages unless such sale, offer for sale or possession for sale shall be authorized by a license duly issued, outstanding and valid.

**§5-12. Issuance subject to regulations.**

Each and every license for the sale of alcoholic beverages that shall be issued by virtue of the authority of this ordinance, shall be issued subject to the Alcoholic Beverage Law of the State of New Jersey and to the Rules and Regulations established by the Commissioner of Alcoholic Beverage Control of said state, and to the terms and provisions of this ordinance and such other rules and regulations as may hereafter be adopted by the Borough Council of the said borough.

**§5-13. Revocability of license.**

Any license issued under the provisions of this ordinance may be suspended or revoked by the governing body of the said borough upon the conviction, after hearing, of the holder of such license for any violation of the Alcoholic Beverage Law of the State of New Jersey or the Rules and Regulations established by the Commissioner of Alcoholic Beverage Control of said state or the terms and provisions of this ordinance or any rules and regulations that may hereafter be adopted by the governing body of the said borough.

**§5-14.<sup>3</sup> Identification cards for employees.**

*Added 7-5-1984 by Ord. No. 916  
Amended 11-19-2001 by Ord. No. 1285  
5-25-2005 by Ord. No. 1368*

A. No individual, partnership, corporation or other entity holding any type of alcoholic beverage license shall employ any person in or about any licensed premises, except entertainers, who has not been issued an identification card by the Police Department of the Borough of Seaside Park. All persons presently so employed shall report to the Police Department for fingerprint and identification

checks, photographs and the issuance of identification cards within thirty (30) days of the effective date of this ordinance.

- B. All persons employed in or about any licensed premises, except entertainers, shall carry an identification card issued by the Police Department at all times while in the course of their employment and shall exhibit the same upon the request of any authorized borough official.
- C. Any person desiring to obtain an identification card shall report to Police Headquarters where application forms shall be completed and fingerprints submitted and a photograph obtained. The applicant shall pay a fee of thirty (\$30.00) dollars for an identification card in addition to State and federal fingerprint processing fees. The fee for the identification card shall cover a one-year period. Said identification cards may be renewed yearly for a fee of thirty (\$30.00) dollars.
- D. The Police Department shall issue an identification card to each employee, which card shall contain the name, address and a photograph of the employee. A copy of the identification card and photograph shall be maintained on file by the Police Department.
- E. It shall be the duty of any alcoholic beverage licensee to ensure that all of its employees comply with the provisions of this ordinance.

**§5-15.<sup>4</sup> Violations and penalties.**

*Amended 12-20-2001 by Ord. No. 1291*

Any person who shall violate any of the terms or provisions of this ordinance or do any act or thing therein prohibited shall, upon conviction thereof, forfeit and pay such fine not exceeding the sum of one thousand dollars (\$1,000.) or be imprisoned in the County Jail for such term not exceeding ninety (90) days, as shall be determined and imposed by the Municipal Judge before whom such person shall be tried and convicted; provided, however, that such Municipal Judge shall have power, in his discretion, to impose both fine and imprisonment not exceeding the respective maximum limits herein fixed.

## ARTICLE II Use by Minors

*Adopted 9-2-1949 as Ord. No. 493*

**§5-16. Purchase or consumption.**

No minor shall purchase, accept or consume any alcoholic beverage on or upon any premises licensed to sell alcoholic beverages in the Borough of Seaside Park.

<sup>2</sup> EDITOR'S NOTE: Changed from "September," as directed by the Division of Alcoholic Beverage Control.

<sup>3</sup> EDITOR'S NOTE: Former §5-14 (Violations and penalties) was renumbered to become §5-15 pursuant to Ord. No. 916, adopted 7-5-1984.

<sup>4</sup> EDITOR'S NOTE: Former §5-15 (When effective) was repealed 7-5-1984 by Ord. No. 916.

**§5-17. Violations and penalties.***Amended 12-20-2001 by Ord. No. 1291*

Any person convicted of a violation of this ordinance shall, upon conviction, be subject to a fine of not more than one thousand dollars (\$1,000.) or imprisonment in the County Jail for a term not exceeding ninety (90) days, or both, at the discretion of the court or Municipal Judge before whom conviction is had.

**§5-18. When effective.**

This ordinance shall take effect immediately upon its final passage, publication and approval as required by law.

**ARTICLE III****Consumption in Public; Open Containers***Adopted 6-8-1978 as Ord. No. 769***§5-19. Purpose.**

The purpose of this ordinance is to maintain the public health, safety and welfare of this family resort by prohibiting anyone from consuming alcoholic beverages upon any public recreation area, beach, thoroughfare or right-of-way and to prohibit establishments selling alcohol for on-premises consumption from allowing anyone to carry said beverages out of that establishment in an open container.

**§5-20. Consumption of alcohol in public and open containers restricted; exception.**

- A. It shall be unlawful for anyone to consume an alcoholic beverage upon any public recreation area, beach, thoroughfare or right-of-way.
- B. Carrying alcoholic beverages in an open container shall also be considered unlawful within this municipality.
- C. This section shall not apply to any properly licensed public function or activity sanctioned in accordance with the rules and regulations of the Division of Alcoholic Beverages of the State of New Jersey.

**§5-21. Carrying alcohol out of licensed establishments.**

It shall be unlawful and violative of this ordinance for any person, corporation, partnership or other entity holding a plenary retail alcohol consumption license to allow any individual to leave the licensed premises and go upon a public property, place, thoroughfare or right-of-way with any alcoholic beverage, unless said alcoholic beverage is in a sealed, original container. It shall further be unlawful for any licensed establishment to serve alcoholic beverages outside of the enclosed licensed structure.

**§5-22. Violations and penalties.***Amended 12-20-2001 by Ord. No. 1291*

Any person, corporation, partnership or other entity violating this ordinance shall be subject to a fine not to exceed one thousand dollars (\$1,000.) or imprisonment in the County Jail for a term not exceeding ninety (90) days, or both. Said fine or imprisonment shall be in the discretion of the Judge before whom said person shall be tried and convicted. In addition, any licensed establishment shall be subject to any and all penalties invoked in connection with the rules and regulations of the Alcoholic Beverage Control Division.

**§5-23. Severability.**

In the event that any provision of this ordinance shall be found to be invalid by a court of competent jurisdiction, the remaining portions shall continue to have full force and effect. The provisions of this ordinance are severable.

**§5-24. Repealer.**

This ordinance hereby repeals any inconsistent ordinance or ordinances, or part or parts thereof.

**§5-25. When effective.**

This ordinance shall take effect immediately upon its final passage, approval and publication as required by law.

**ARTICLE IV  
Teen Nights***Adopted 3-20-1986 as Ord. No. 960***§5-26. Purpose.**

- A. The purpose of this ordinance is to protect the welfare of our teenage population by prohibiting their congregation upon premises licensed by the borough pursuant to state law to dispense alcoholic beverages.
- B. It is found and determined by this governing body that the atmosphere of a bar, even though not selling alcohol at the times of certain events, is not in the best interest of our teenagers. The borough is therefore, invoking its powers under Title 33 of the New Jersey statutes to protect against said activities.

**§5-27. Definitions.**

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

**TEEN NIGHT** — A scheduled dance or event held on the premises of a licensed plenary retail alcoholic beverage establishment and restricted to those patrons under the legal drinking age established by the State of New Jersey.

**TEEN NIGHT PARTICIPANTS** — Those individuals who are less than the legal drinking age

as established in New Jersey who attend teen nights as hereinabove defined. This shall not apply to individuals employed by the licensed plenary retail alcoholic beverage establishment.

**§5-28. Holding of teen nights prohibited; Violations and penalties.**

*Amended 12-20-2001 by Ord. No. 1291*

The holding of a teen night is hereby prohibited upon any duly licensed plenary retail alcoholic beverage establishment within the Borough of Seaside Park.

Any person who violates any one (1) or more sections of this ordinance shall be subject to a fine of not more than one thousand (\$1,000.) dollars for each separate offense and/or confinement in the Ocean County Jail for a period of not more than ninety (90) days. In addition, any licensed establishment shall be subject to any and all penalties invoked in connection with the rules and regulations of the Alcoholic Beverage Control Division.

**§5-29. Repealer.**

This ordinance repeals any inconsistent ordinance or ordinances, or part or parts thereof.

**§5-30. When effective.**

This ordinance shall become effective immediately upon final passage and publication as required by law.

**ARTICLE V  
Consumption by Underaged  
Persons on Private Property**

*Adopted 8-3-2000 as Ord. No. 1268*

**§5-31. Definitions:**

**GUARDIAN** — means a person who has qualified as a guardian of the underage person pursuant to a testamentary or court appointment.

**RELATIVE** — means the underage person's grandparent, aunt or uncle, sibling or any other person related by blood or affinity.

**§5-32. Consumption of alcoholic beverages by underage person on private property prohibited.**

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

**§5-33. Violations and penalties.**

A. Any person found guilty of violating the terms of this ordinance shall be subject to a fine of two hundred fifty (\$250.) dollars for a first offense and a fine of three hundred fifty (\$350.) dollars for any subsequent offense. In addition, the court may, upon

a finding of guilt, in addition to the fine authorized for this offense, suspend or postpone for six (6) months the driving privileges of the defendant. Upon the conviction of any person and the suspension or postponement of that person's drivers 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 seventeen (17) years. If the defendant at the time of the imposition of the sentence has a valid drivers 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 ordinance is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident 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 non-resident 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.

**§5-34. Exceptions.**

- A. This ordinance 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 ordinance 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 ordinance 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.

**§5-35. Severability.**

If any section, subsection, paragraph, sentence or any part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance but shall be confirmed in its effect to the action, subsection, paragraph, sentence or other part of this ordinance directly involved in the controversy in which such judgment shall have been rendered.

**§5-36. Repealer**

This ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.

**§5-37. When effective.**

This ordinance shall take effect immediately upon its final passage and publication as required by law.