

**BOROUGH OF WEST PATERSON  
ORDINANCE NO. 07-08**

**ALCOHOLIC BEVERAGE CONTROL \***

**AN ORDINANCE TO SUPERSEDE IN ITS ENTIRETY CHAPTER VIII OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF WEST PATERSON, ADOPTED DECEMBER 29, 1972, WHICH IS KNOWN AS “ALCOHOLIC BEVERAGE CONTROL”; ORDINANCE NUMBER 82-7 AN ORDINANCE AMENDING CHAPTER VIII OF THE REVISED GENERAL ORDINANCES; AND ORDINANCE NUMBER 80-1 KNOW AS “AN ORDINANCE RELATING TO THE CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF ADOPTED ON JANUARY 23, 1980.**

**BE IT ORDAINED;** by the Mayor and Municipal Council of the Borough of West Paterson, in the County of Passaic and State of New Jersey as follows:

**Section 1 Purpose.**

This ordinance is enacted to regulate the sale and transportation of alcoholic beverages in the Borough of West Paterson 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 New Jersey Revised Statutes (R.S.) 33:1-1 *et seq.*, and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control, New Jersey Administrative Code (N.J.A.C.) 13:2-1; and to control the consumption of alcoholic beverages in public by persons, or groups of persons, within the Borough of West Paterson.

**Section 2 Definitions.**

As used in this ordinance, words and phrases shall have the same meanings they have in R.S. 33:1-1 *et seq.* and the rules and regulations of the Director of the Division of Alcoholic Beverage Control.

\* Laws concerning alcoholic beverage control are contained in Title 33 of the New Jersey Statutes. All ordinances must be in conformity with these provisions and approved by the Director of Alcoholic Beverage Control, N.J.S.A. 33:1-40. State law prescribes the types of licenses that may be issued, their number, permissible license fees and the regulation of licensed premises, N.J.S.A. 33:1-40.

**Section 3 Licenses.**

3.1 *Laws Applicable.* All applications for licenses, all licenses issued, and all proceedings under this ordinance shall be in accordance with the rules and regulations specified in Section 1 of this ordinance and all other applicable laws of the State of New Jersey or of the United States.

- 3.2 *Issuing Authority.* All licenses specified under this ordinance shall be issued by the governing body, which shall also administer the provisions of this ordinance.
- 3.3 *License Required.* No person shall sell or distribute alcoholic beverages within the municipality without having obtained a license in accordance with the rules and regulations specified in Section 1 of this ordinance, except in those cases provided by law where the licenses in question are issued by the Director of the State Division of Alcoholic Beverage Control.
- 3.4 *Licensee Fees; Classes and Maximum Number of Licenses.* The annual license fees and maximum number of licenses for the sale and distribution of alcoholic beverages in the municipality shall be as follows:

<b>Class of License</b>	<b>Annual License Fee</b>	<b>Number of Licenses *</b>
a) Plenary retail consumption license		
For the year 2006 -2007	\$518.00	3
2007 - 2008	\$621.60	
2008 - 2009	\$745.92	
2009 - 2010	\$895.10	
2010 – 2011	\$1,074.12	
2011 – 2012	\$1,288.95	
2012 – 2013	\$1,546.74	
2013 – 2014	\$1,856.08	
2014 – 2015	\$2,227.30	
2015 - 2016	\$2,500.00	
b) Plenary retail distribution license		
For the year 2006 -2007	\$518.00	1
2007 - 2008	\$621.60	
2008 - 2009	\$745.92	
2009 - 2010	\$895.10	
2010 – 2011	\$1,074.12	
2011 – 2012	\$1,288.95	
2012 – 2013	\$1,546.74	
2013 – 2014	\$1,856.08	
2014 – 2015	\$2,227.30	
2015 - 2016	\$2,500.00	
c) Club licenses 2006 – 2007	\$150.00	No limit
2007 - 2008	\$150.00	

The provisions of this subsection governing the limitation on the number of licenses shall not apply to the renewal or transfer of licenses presently issued.

For State law authorizing the Borough to restrict the number of licenses to sell alcoholic beverages at retail, see N.J.S.A. 33.1-40.

Every club license shall be deemed to be issued conditioned that the licensed club shall continue to be a bona fide club and shall be revocable upon the discontinuance of such status.

#### **Section 4 Regulation of Licenses.**

- 4.1 *Hours of Sale.* No alcoholic beverages shall be sold, served, consumed or delivered to any customer in or from any licensed premises on any day between the hours of 3:00am and 7:00am except Sundays and New Year's Day each year as hereinafter provided.
- 4.2 *Sundays.* Provisions of subsection 4.1 shall not apply on Sundays. On Sundays, no alcoholic beverages shall be sold, served, consumed or delivered to any customer in or from any licensed premises between the hours of 3:00am and 1:00pm, except when New Years Eve (December 31<sup>st</sup> of each year) falls on a Sunday, no alcoholic beverages shall be sold, served, consumed or delivered to any customer in or from any licensed premises between the hours of 3:00am and 9:00am.
- 4.3 *New Year's Day.* Provisions of subsections 4.1 and 4.2 shall not apply on January 1, of each year.
- 4.4 *Sales to Certain Persons.* No licensee or employee of a licensee shall sell, serve or deliver, directly or indirectly, any alcoholic beverages to any intoxicated person or person under the legal age, or permit the consumption of alcoholic beverages on any licensed premises by any of the above named persons.
- 4.5 *Closing of Premises During Prohibited Hours of Sale; Exceptions.* During the hours when sales of alcoholic beverages are prohibited, the entire licensed premises shall be closed and no person shall be admitted to remain thereon except the licensee or bona fide employees of the licensee; provided, however, that such requirement for the closing of the premises shall not apply to bond fide hotels or restaurants as defined in N.J.S.A. 33.1-1(t) and to clubs eligible for a club license under N.J.S.A. 33.1-12(5) and to other establishments where the principle business is other than the sale of alcoholic beverages.
- 4.6 *Access to Premises.* No person shall be served alcoholic beverages in any room which is not open to the public. This section shall not apply to club licenses.
- 4.7 *Outside view of premises.* All licensed premises other than those for which club licenses are issued shall be so located that a normal sized adult can, on inspection from the exterior, view the interior of the premises.

#### **Section 5 Revocation of Licenses.**

Any license issued under this ordinance may be suspended or revoked for violation of any of the provisions of this ordinance or any provision of any applicable statute or any the rules and regulations of the Sate Director of the Division of Alcoholic Beverage Control.

Proceedings for suspension or revocation shall be in accordance with the provisions of R.S. 33:1-31 by service of a five (5) day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing.

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

## **Section 6      Persons under the legal age.**

- 6.1      *Sale of Alcoholic Beverages Prohibited.* No licensee shall sell or serve alcoholic beverages to persons under the legal age.
- 6.2      *Purchase of Alcoholic Beverages for a Minor.* No person shall purchase or attempt to purchase alcoholic beverages for a minor. It shall be unlawful for any person to induce or attempt to induce any licensee or any employee of a licensee to sell, serve or deliver alcoholic beverages to a minor.
- 6.3      *Misstating Age.* No person shall misrepresent his/her age or the age of another person for the purpose of inducing any licensee, or his/her employee, to serve a person under the legal age in violation of this section.
- 6.4      *Presumption.* Any adult who accompanies a minor into premises in which alcoholic beverages are served and who permits the minor to possess or consume alcoholic beverages shall be presumed to have misrepresented the age of the minor.
- 6.5      *Unlawful Acts by Persons Under Legal Age for Purchase of Alcoholic Beverages; Disorderly Persons.*

It shall be unlawful for:

- a. A person under the legal age for purchasing alcoholic beverages to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage; or
- b. A person under the legal age for purchasing alcoholic beverages to consume any alcoholic beverage on premises located for the retail sale of alcoholic beverages, or to purchase, attempt to purchase or have another purchase for him or her any alcoholic beverage; or
- c. Any person to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or to purchase alcoholic beverages, for another person who does not because of his/her age have the right to purchase and consume alcoholic beverages.

Any person who shall violate any of the provision of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, in accordance with N.J.S.A. 33:1-81, as amended, shall be punished by a fine of not less than five hundred (\$500.00) dollars. In addition, the Court shall suspend the person's license to operate a motor vehicle for six (6) months or prohibit the person from obtaining a license to operate a motor vehicle in this State for six (6) months beginning on the date he/she becomes eligible to obtain a license or on the date of conviction, whichever is later. In addition to the general penalty prescribed for an offense, the Court may require any person under the legal age to purchase alcoholic beverages who violates this act to participate in an alcohol education or treatment program authorized by the Department of Health for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted (N.J.S.A. 33:1-81).

**Section 7      Consumption of Alcoholic Beverages in Public.**

No person shall consume alcoholic beverages on any of the public streets, sidewalks, parking lots, roadways, pathways, playgrounds, parks or quasi-public areas, or any other public property whatsoever within the Borough of West Paterson at any hour of the day or night unless a special permit is obtained from the Mayor and Municipal Council of the Borough of West Paterson.

No person shall consume alcoholic beverages while in any automobile, whether in motion or parked, upon any of the public streets, parking lots, roadways, shopping plazas or other thoroughfares open to general vehicular traffic in the Borough of West Paterson.

For this section, alcoholic beverage is defined as any fluid or solid capable of being converted into a fluid, suitable for human consumption, and having an alcoholic content of more than one-half of one percent by volume, including alcoholic 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.

For this section, any person who violates any provision of this section shall, upon conviction thereof, be punished by a fine not exceeding five hundred (\$500.00) dollars or by imprisonment for a term not exceeding ninety (90) days or both.

**Section 8      Validity**

If any section, paragraph, subdivision or provision of the subsection shall be adjudged invalid, such application shall apply only to the paragraph, subdivision clause or provision so adjudged and the remainder of the subsection shall be deemed valid and effective.

**Section 9      Effect**

The adoption of this Ordinance hereby supersedes Chapter VIII Alcoholic Beverage Control of the Revised General Ordinances and Ordinances Nos. 82-7 and 80-01.

**Section 10**      This ordinance shall take effect upon passage and publication as provided by law.

**DATE INTRODUCED:**      May 2, 2007

**DATE ADOPTED:**      May 16, 2007