

AN ORDINANCE AMENDING CHAPTER VIII OF THE 1992 ORDINANCE CODE OF THE CITY OF OWATONNA ENTITLED "LIQUOR AND BEVERAGES" BY ADDING THERETO SECTION 802 ESTABLISHING PENALTIES FOR ANY PERSON HOSTING AN EVENT OR GATHERING WHERE ALCOHOL IS PRESENT AND BEING POSSESSED OR CONSUMED BY PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE.

THE CITY COUNCIL OF THE CITY OF OWATONNA, MINNESOTA, DO ORDAIN:

Section 1. Chapter VIII of the 1992 Ordinance Code of the City of Owatonna, entitled "Liquor and Beverages" is hereby amended by adding thereto Section 802 establishing penalties for any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age, to read as follows:

Section 802 – Social Host Ordinance

Section 802:00. Purpose and Findings. The Owatonna City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Owatonna City Council finds that:

- a. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- b. Prohibiting underage consumption serves to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- c. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- d. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.

- e. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- f. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Section 802:05. Authority. This ordinance is enacted pursuant to Minn. Stat. § 145A.05.

Section 802:10. Definitions. For purposes of this ordinance, the following terms have the following meanings:

- a. **Alcohol**. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- b. **Alcoholic beverage**. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- c. **Event or gathering**. "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- d. **Host**. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
- e. **Parent**. "Parent" means any person having legal or physical custody of a juvenile or parenting time:
 - (1) As natural, adoptive parent, or step-parent;
 - (2) As a legal guardian; or
 - (3) As a person to whom legal custody has been given by order of the court.
- f. **Person**. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- g. **Residence or premises**. "Residence" or "premises" means any home, yard, farm, field, land, apartment, manufactured home, condominium, hotel or motel room, recreational vehicle or camper, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwell-

ling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

- h. **Underage person.** “Underage person” is any individual under twenty-one (21) years of age.

Section 802:15. Prohibited Acts.

- a. It is unlawful for any person(s) to:
 - (1) host or allow an event or gathering;
 - (2) at any residence, premises, or on any other private or public property;
 - (3) where alcohol or alcoholic beverages are present;
 - (4) when the person knows or reasonably should know that an underage person will or does
 - (i) consume any alcohol or alcoholic beverage; or
 - (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and
 - (5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- b. A person is criminally responsible for violating Section 802:15.a. above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- c. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Section 802:20. Exceptions.

- a. This ordinance does not apply to conduct solely between an underage person and his or her parents or guardian while present at the parent or guardian’s household.
- b. This ordinance does not apply to legally protected religious observances.
- c. This ordinance does not apply to retail intoxicating liquor licenses or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. § 340A.503, subd. 1(a)(1).
- d. This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Section 802:25. Enforcement. This ordinance shall be enforced by any law enforcement officer.

Section 802:30. Severability. If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

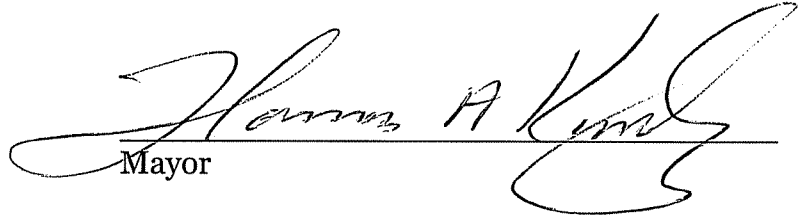
Section 802:35. Penalty. A violation of this ordinance is a penal offense.

Section 2. Effective date. This Ordinance shall be in full force and effect from and after its passage and publication.

Passed and adopted this 6th day of April, 2010, with the following vote:

Aye 6; No 1; Absent 0.

Approved and signed this 6th day of April, 2010.



Mayor

ATTEST:



City Clerk/Treasurer