

CITY OF FARIBAULT

ORDINANCE 2010-19

AN ORDINANCE AMENDING CHAPTER 17 OF THE CITY CODE RELATING TO SOCIAL HOSTS

WHEREAS, the City Council of the City of Faribault wishes to protect the public health, safety and welfare of persons living in and visiting the city by discouraging possession and consumption of alcohol by persons under the age of 21; and

WHEREAS, events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention and abatement;

WHEREAS, therefore, the City Council wishes to hold persons who host events or gatherings where persons under the age of 21 possess or consume alcohol responsible regardless of whether the person hosting supplied the alcohol by enacting a “social host” ordinance; and

WHEREAS, the City has statutory authority to adopt and enforce a social host ordinance pursuant to Minnesota Statutes Section 340A.509; and

NOW, THEREFORE, THE CITY OF FARIBAULT ORDAINS:

Section 1. Chapter 17, Article I of the Faribault Code of Ordinances is amended by adding a new Section 17-17 that reads as follows:

Sec. 17-17. – Social Hosts.

(a) *Purpose.* The Faribault City Council desires to protect the health, safety and welfare of all persons living in and visiting the city. The use of alcohol by persons under the age of 21 is prohibited by State Statute. The Faribault 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 who host events or gatherings where persons under the age of 21 possess or consume alcohol criminally responsible, regardless of whether the person hosting the event supplied the alcohol.

(b) *Findings.* The Faribault City Council finds that:

- (1) Alcohol is an addictive drug that may have negative effects and consequences for those who consume it as well as others who experience and are affected by the actions of those who use it.
- (2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic accidents.

- (3) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention and abatement.
- (4) Events and gatherings involving underage possession and consumption of alcohol frequently occur outside the presence of parents or legal guardians. There are times, however, when a parent, guardian or other responsible person is present thereby condoning the activity and, at times, provides the alcohol to persons under the age of 21.
- (5) Even though giving or furnishing alcohol to a person under the age of 21 is a crime, it is difficult to prove, and an ordinance is necessary as another tool to help further combat underage possession and consumption of alcohol.
- (6) Holding a person criminally responsible for hosting an event or gathering where underage possession or consumption of alcohol occurs will serve as a deterrent.

(c) *Definitions.* For purpose of this Section, the following terms are defined as:

Alcohol: 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.

Alcoholic beverage: 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.

Event or gathering: A group of three or more persons who have assembled or gathered together for a social occasion or other activity.

Host: To aid, conduct, allow, entertain, organize, supervise, control, or permit an event or gathering regardless of whether or not the host is present.

Parent: A person having the following relationship with a person under the age of 21.

- (1) A natural parent, adoptive parent, or step-parent;
- (2) A legal guardian; or
- (3) A person to whom legal custody has been given by order of a court.

Person: An individual, partnership, co-partnership, corporation, or an association of one or more individuals. "Person" does not include a city, county or state agency.

Reasonable steps: Steps taken by a person hosting an event or gathering in order to prevent underage possession or consumption of alcohol or alcoholic beverages. Reasonable steps may include, but are not limited to:

- (1) Controlling access to alcohol and alcoholic beverages in such a manner that no underage person has access to the alcohol or alcoholic beverages at the gathering or event;
- (2) Directly supervising the activities of underage persons at the gathering or event either in person or through a responsible adult;
- (3) Checking the identification of the attendees of the event or gathering in order to determine age; and
- (4) Other actions taken by a person hosting an event or gathering in order to prevent underage possession or consumption of alcohol or alcoholic beverages.

Residence or premises: Any location, including a home, yard, farm, field, land, apartment, condominium, hotel room, 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 dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

Underage person: An individual under 21 years of age.

(d) Prohibited Acts.

- (1) It is unlawful for a person to:
 - (i) Host or allow a gathering or an event;
 - (ii) At any residence or premises;
 - (iii) Where alcohol or alcoholic beverages are present;
 - (iv) When the person knows or should reasonably know that an underage person will or does:
 - (a) Consume any alcohol or alcoholic beverage; or
 - (b) Possess any alcohol or alcoholic beverage with the intent to consume it; and
 - (c) The person fails or has failed to take reasonable steps to prevent possession or consumption by the underage person.

(2) A person is criminally responsible for violating Section 17-17 (d)(1) above if he or she intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(e) *Exceptions.* This Section shall not apply to:

(1) Conduct solely between an underage person who consumes alcohol in the presence of and with the permission of his or her parent in the parent's house.

(2) Legally protected religious observances.

(3) Retail intoxicating liquor or 3.2 percent malt liquor licenses, municipal liquor stores, or bottle club permit holders who are regulated under Minnesota Statutes Section 340A.503, subdivision 1(a)(1).

(4) Situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(f) *Enforcement.* This section can be enforced by any police officer or county sheriff's deputy.

(g) *Penalty.* Any person who violates this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine, imprisonment or both.

Section 2. This Ordinance shall take effect thirty (30) days after its passage and publication.

First Reading: December 28, 2010

Second Reading: January 11, 2011

Publication Date: January 15, 2011

Faribault City Council

John R. Jasinski, Mayor

Attest:

Charles S. Whiting, City Administrator