

ORDINANCE NO. 2011-_____

AN ORDINANCE AMENDING CHAPTER 12, AS IT RELATES TO HOSTING EVENTS AT WHICH ALCOHOL IS PROVIDED TO UNDERAGE PERSONS

The City Council of the City of Bloomington hereby ordains: That Chapter 12 of the City Code is hereby amended to read as follows:

ARTICLE I. GENERAL PROVISIONS

SEC. 12.01.01. DEFINITIONS.

When used in this Chapter, the following words, terms, and phrases shall have the following meanings, unless the context clearly indicates otherwise:

- (i) **Nuisance service call** - public officer response to a verified incident of any activity, conduct or condition occurring on private property that is likely to unreasonably interfere with the quiet enjoyment of neighboring properties or the safety, health, morals, welfare, comfort, or repose of the residents therein,
- (ii) including without limitation:

* * *

(32) Illegal hosting of a social gathering in violation of Division P, Section 12.89.04 of this City Code.

ARTICLE II. PROHIBITED CONDUCT

Division P. Social Host

SEC. 12.89.01. PURPOSE AND FINDINGS.

The purpose of this Division of City Code is to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and to hold persons criminally responsible who host events or gatherings where persons under 21 years of age are allowed to possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Bloomington City Council makes the following findings regarding the need to regulate these private gatherings:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one years are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose, alcohol induced assaultive or combative behavior or alcohol-related traffic accidents.
- (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 of alcohol occur outside the presence of parents. However, there are times when a parent is present, and condones the activity, and in some circumstances provides 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.

SEC. 12.89.02. AUTHORITY.

This ordinance is enacted pursuant to Minnesota Statutes, Section 145A.05, Subdivision 1.

SEC. 12.89.03. DEFINITIONS.

For purposes of this ordinance, the following terms have the following meanings:

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 - any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

Host. "Host" means to facilitate, conduct, allow, entertain, organize, supervise, control, or permit an Event or Gathering.

Parent - any person having legal custody of an Underage Person.

(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.

Person - any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

Residence or Premises - any home, yard, farm, field, land, apartment, condominium, hotel or motel 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 - any individual under twenty-one (21) years of age.

SEC. 12.89.04. PROHIBITED ACTS.

(a) It is unlawful for any person(s) to:

(1) host or allow an Event or Gathering;

(2) at any Residence or Premises;

(3) where Alcohol or Alcoholic Beverages are present;

(4) when the person knows or reasonably should have known that an Underage Person will or does do one of the following

(i) consume any Alcohol or Alcoholic Beverage; or

(ii) possess any Alcohol or Alcoholic Beverage with the intent to consume it.

(b) A person is criminally responsible for violating this subsection 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.

SEC. 12.89.05. EXCEPTIONS.

- (a) This ordinance does not apply to conduct solely between an Underage Person and his or her Parents while present in the Parent's household.
- (b) This ordinance does not apply to legally protected religious observances.
- (c) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minnesota Statutes, Section§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 with no intent to consume the same.
- (e) This ordinance does not apply to a landlord, mortgagee, or college based exclusively upon ownership of the property.

SEC. 12.89.06. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Division is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Division. The City Council hereby declares that it would have adopted the Division and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SEC. 12.89.07. PENALTY.

Violation of this Division is a misdemeanor. Civil penalties may also issue pursuant to Section 12.15. of the City Charter and Section 1.19 of this City Code. However, nothing in this Division shall be construed to limit the City's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.

Passed and adopted this _____ day of _____ 2011.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney