

ORDINANCE NO. 2009-06

AN ORDINANCE ADDING A NEW SECTION 1006
TO THE CITY CODE REGARDING SOCIAL HOSTS

The City of Minnetonka Ordains:

Section 1. A new section 1006 is added to the Minnetonka city code to read as follows:

SECTION 1006. SOCIAL HOSTS.

Section 1006.05. Findings and Purpose.

1. The city council finds that:

a. Consumption of alcohol by persons under the age of 21 is harmful to those persons and constitutes a potential threat to public health from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

b. Alcohol is also 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.

c. As a result, gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 should be prevented as much as possible.

d. Gatherings involving underage possession and consumption often occur outside the presence of parents or other responsible adults. However, there are times when a parent or other adult is present and condones the activity, and in some circumstances provides the alcohol.

e. Although 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 a gathering where underage possession or consumption occurs.

2. The purpose of this section 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 gatherings where persons under 21 years of age possess or consume alcohol, regardless of whether the person hosting the gathering supplied the alcohol or was present.

The ~~stricken~~ language is deleted; the underlined language is inserted.

3. The city council intends that this ordinance should not target parents who may have alcoholic beverages on their premises but who have issued a standing order that alcohol is not to be consumed by underage persons on those premises.

1006.010. Definitions. For purposes of this section, the following terms have the meanings given:

1. “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.

2. “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.

3. “Gathering” means a group of three or more persons who have assembled or gathered together for a social occasion or other activity.

4. “Host” means to aid, conduct, sponsor, organize, supervise, control, or allow a gathering.

5. “Parent” means a person having the following relationship to a juvenile:

a. a natural parent, adoptive parent, or step-parent;

b. a legal guardian; or

c. a person to whom legal custody has been given by order of a court.

6. “Person” means an individual, partnership, co-partnership, corporation, or an association of one or more individuals. “Person” does not include a city, county, or state agency.

7. “Premises” means 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.

7. “Underage person” means an individual under 21 years of age.

1006.015. Prohibited Acts.

1. It is unlawful for a person to host or allow a gathering on any premises if:
 - a. the person knows that alcohol or alcoholic beverages will be present; and
 - b. the person knows that an underage person will attend, or is likely to attend; and
 - c. the person fails to take reasonable steps to prevent the possession or consumption of alcoholic beverages by an underage person; and
 - d. an underage person consumes an alcoholic beverage, or possesses an alcoholic beverage with the intent to consume it, at the gathering.
2. Examples of reasonable steps include:
 - a. directing, on a one-time basis or as a standing order, that no consumption of alcohol and alcoholic beverages is allowed; or
 - b. controlling access to alcohol and alcoholic beverages; or
 - c. checking identification of attendees to determine age; or
 - d. supervising the activities of underage persons at the gathering either in person or through a responsible adult.
3. A person is not criminally responsible under this ordinance if the person does not know that a gathering will occur, or does not know that alcoholic beverages will be present, or does not know that an underage person will be or is likely to be present. However, if a person has the knowledge specified in paragraph 1 above, a person who hosts a gathering does not have to be present at the gathering to be criminally responsible.
4. A person is criminally responsible for violating paragraph 1 above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

1006.020. Exceptions.

1. This section does not apply to conduct of an underage person that is permitted by his or her parent and occurs in the parent's household.

2. This section does not apply to a legally protected religious observance.
3. This section does not apply when an underage person is lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.
4. This section does not apply to the holder of a liquor license issued under section 600 of this code, but it does apply to a person who hosts a gathering at such a liquor establishment.

Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on May 18, 2009.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: May 4, 2009
Date of adoption: May 18, 2009
Motion for adoption: Greves
Seconded by: Allendorf
Voted in favor of: Allendorf, Ellingson, Greves, Hiller, Schneider, Wagner, Wiersum
Voted against:
Abstained:
Absent:

The ~~stricken~~ language is deleted; the underlined language is inserted.

Ordinance adopted.

Date of publication:

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on May 18, 2009.

David E. Maeda, City Clerk