

## ORDINANCE #07-12-10

A WORTH COUNTY ORDINANCE PROHIBITING THE CONSUMPTION OF ALCOHOLIC BEVERAGES BY PERSONS UNDER LEGAL DRINKING AGE ON PRIVATE PREMISES KNOWN AS THE **SOCIAL HOST ORDINANCE**

### Section 1. PURPOSE/INTENT

Consumption of alcoholic beverages by persons under the legal drinking age is harmful to them and a threat to the safety, health and welfare of the public. Therefore, it is the purpose and intent of this ordinance to prohibit the unlawful consumption of alcoholic beverages by persons under the legal drinking age on private premises located in Worth County in that persons who own or are in control of such premises know, or have reason to know, of such service to and/or consumption of alcoholic beverages to minors, regardless of whether the social host supplied the alcohol or is present. This ordinance is necessary to create a deterrent effect to further combat access to and consumption of alcohol by minors and to give law enforcement a viable recourse in holding adult persons responsible who permit underage drinking on property they own or control.

(Underlined items spelled out in DEFINITIONS Section)

### Section 2. DEFINITIONS

**Alcohol:** means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, or any other distilled spirits, from whatever source or by whatever process produced.

**Alcoholic Beverages:** means beverage, patented or not, containing more than one-half of one percent alcohol by volume including liquor, wine, and beer.

**Legal Drinking Age:** means 21 years of age or more, unless changed by law

**Minor:** means any individual under twenty-one years of age, unless changed by law

**Juvenile:** means a person under the age of 18

**Parent:** means any person having legal custody of a juvenile as a biological parent, adoptive or step-parent, legal guardian, or a person to whom legal custody has been given by order of the court

**Person:** means any individual, partnership, corporation or any association of one or more individuals, including juveniles

**Person who has right of possession of the private residence or property:** means the owner of the title to the property, tenant of the private residence, landlord, or social host

**Social Host:** means the person who knowingly organizes, supervises, conducts, controls, aids, allows, permits, or entertains a gathering where alcohol is served or consumed by minors on private property.

This includes 1) the person who owns, rents, leases, receives money for granting access to a private property, or otherwise has control of the private property, OR 2) the person in charge of the premises, OR 3) the person who organized the gathering.

**Gathering:** means one or more underage youth being served or having consumed alcoholic beverages

**Premises:** means any private residence or other private property (such as hotel room, assembly or meeting room, bodies of water on private property, privately owned campground) including commercial or business premises, whether occupied on a temporary basis or permanent basis, or whether owned or leased, rented or used with or without permission or compensation.

**Control of:** means the actual or apparent authority and ability to regulate, direct, or dominate the premises, including but not limited to the control exercised by tenants, lessees, owners and/or landlords who have notice of underage drinking

**Know:** means aware of, or have reason to be aware of

### **Section 3. PROHIBITED ACTS**

A.) It is unlawful for any social host to host a gathering on private premises when the person knows or reasonably should know that a minor has consumed, possessed, or is served an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the underage person, whether or not the social host is present on the premises.

A person is civically responsible for violation of this prohibited act, Section 3, A.

B.) A social host has an affirmative defense if the social host, upon learning of the consumption/possession/serving to minors, took reasonable steps to stop the possession, consumption and/or serving of alcohol to the minor

Reasonable steps include:

- 1-Forfeiture of alcoholic beverages from minors present and/or
- 2-Report to local law enforcement and allow them to enter premises, and/or
- 3-Notify person having legal authority over the minor(s)

C.) Whenever a person having right of possession of a private residence or other private property is present at that private residence or other private property at the time that a minor possesses or consumes or is served alcoholic beverages, it shall be prima facie evidence that such person had the knowledge, or reasonably should have had the knowledge, that the minor possessed or consumed alcohol.

### **Section 4: EXCEPTIONS**

**This ordinance shall not apply:**

- 1) **To legally protected (church-sanctioned ceremony or practice) religious observances at the parent's residence/household. This exception does not apply if the minor leaves the parent's residence/household.**
- 2) **To situations where underage persons are in external (rather than physically internal) possession of alcoholic beverages during the course and scope of employment.**

### **Section 5. ENFORCEMENT**

The provisions of this ordinance shall apply throughout Worth County, Iowa, and enforced by the Worth County Sheriff's Department and Police Departments throughout Worth County.

## **Section 6. PENALTIES**

Violations of this ordinance are declared to be county or municipal infractions in accordance with Iowa Code Section 331.307.

A five hundred dollar (\$500) **civil penalty** shall be imposed for a social host's first offense. A seven hundred and fifty dollar ((\$750) civil penalty shall be imposed for a social host's second offense. A one thousand dollar (\$1000) civil penalty shall be imposed for a social host's third or subsequent offense of which no part of these penalties shall be suspended. Each incident in violation of this ordinance shall constitute a separate offense.

In determining if a violation charged is a second or subsequent offense, conviction of this ordinance in any city or county in Iowa that substantially corresponds to Iowa Code 123.47, shall be counted as a previous offense.

## **Section 7. EFFECT on OTHER LAWS**

### **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.

### **Repealed**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

## **Section 8. EFFECTIVE DATE**

This county ordinance shall be in full force and in effect in Worth County after its passage, adoption, and publication as required by law.

Passed and approved this 26th day of July 2010.

County Supervisors: *David Huggins*, chairperson

*Dennis May*

*Jeff Wynn*

Attest: *Kay Clark*  
(Worth Co. County Auditor and Secretary to the Bd. of Supervisors)