

## ORDINANCE

An Ordinance to amend Section 14.040 of the Manitowoc Municipal Code regulating Social Host.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

**Section 1.** Section 14.040 is amended to read as follows:

### 14.040 Social Host.

**(1) Purpose and Findings.** The Common Council of the City of Manitowoc intends to discourage underage possession and consumption of alcohol, ~~even if done within the confines of a private residence,~~ and intends to hold persons civilly responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol ~~regardless of whether supplied~~ by the person hosting the event or gathering supplied the alcohol. The Common Council of the City of Manitowoc finds:

- (a) 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 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 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) (d)~~ A deterrent effect will be created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.

**(2) Definitions.** For purposes of this chapter, the following terms have the following meanings:

**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.

**Alcoholic beverage** means ~~aleohol, 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—fermented malt beverages containing 0.5 percent or more of alcohol by volume, and intoxicating liquor.~~

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

**Host or allow** means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.

**In control** means the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

**License or licensee** means an authorization to sell alcohol beverages issued by a municipal governing body under Wis. Stat. Ch. 125 or a person to whom a license was issued.

**Parent** means any person having legal custody of a juvenile:

- 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.

**Permit or permittee** means any permit issued by the Department of Revenue under Wis. Stat. Ch. 125 or a person to whom a permit was issued.

**Person** means a natural person, sole proprietorship, partnership, limited liability company, corporation or association or the owner of a single-owner entity that is disregarded as a separate entity under Wis. Stat. Ch. 71.

**Premises** means the area described in a license or permit.

**Present** means being at hand or in attendance.

**Residence, premises, or public or private property** means 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, 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** is any individual under 21 years of age.

**(3) Prohibited Acts.** ~~It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows 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 the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).~~

~~(a) No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.~~

~~(b) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.~~

~~(c) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.~~

~~(4) No adult may intentionally encourage or contribute to a violation of sub. (4) (a) or (b).~~

~~(a) A person is responsible for violating subsection (3) of this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.~~

~~(b) A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.~~

**(4) Exceptions.** ~~This chapter does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.~~

~~(a) This chapter does not apply to legally protected religious observances.~~

~~(b) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.~~

**(5) Penalties.** ~~A person who violates any provision of this section is subject to a forfeiture of not less than \$1,000 nor more than \$5,000, together with the costs of prosecution. A person who is in default of payment is subject to imprisonment in the County Jail until the forfeiture and costs are paid. A person who violates any provision of this section may be required to forfeit not more than \$500 if the person has not committed a previous violation within 30 months of the violation.~~

**Section 2.** This ordinance shall take effect the day after publication.

Introduced \_\_\_\_\_

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Adopted \_\_\_\_\_

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Approved \_\_\_\_\_

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Justin M. Nickels, Mayor

**Fiscal Impact:**

\$0

**Funding Source:**

n/a

**Finance Director Approval:**

/sc

**Approved as to form:**

/km

Drafted by EMM