

ORDINANCE NO. 13 4th SERIES

AN ORDINANCE OF THE CITY OF EAST GRAND FORKS, MINNESOTA, AMENDING CITY CODE CHAPTER 130 ENTITLED "GENERAL OFFENSES" BY ADDING SECTION 130.08 AND BY ADOPTING BY REFERENCE CITY CODE CHAPTER 1 AND SECTION 10.99 WHICH, AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS.

THE CITY OF EAST GRAND FORKS ORDAINS:

Section 1. That Section 130.08 of the City Code is adopted and added to the City code to read as follows, to-wit:

130.08 Social Host Liability

130.08.A Purpose and Findings:

The East Grand Forks 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 criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The East Grand Forks City Council finds that:

- 1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health and public safety requiring prevention or abatement.
- 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 collisions.
- 3) 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.
- 4) 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.
- 5) A deterrent affect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

130.08.B Authority

This section is enacted pursuant to Minn. Stat. §145A.05 subdivision 1.

130.08.C Definitions

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

ALCOHOL. 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. 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 (.05) or more of alcohol by volume and which is used for beverage purposes either alone or when diluted, mixed, or combined with other substances.

EVENT or GATHERING. Event or gathering means any group of three or more persons who have assembled or gathered together for a social occasion or activity at a residence or premises.

HOST. Host means to permit an event or gathering where one or more minors consume or possess any alcohol or alcoholic beverage on property owned or controlled by the person.

PARENT. Parent means any person having legal custody of a juvenile:

- a) As natural, adoptive parent, or step-parent;
- b) As a legal guardian; or
- c) As a person to whom legal custody has been given by order of the court.

PERSON. Person means any individual(s) responsible for an event or gathering including, but not limited to, the individual(s) who owns, rents, leases, or otherwise has controlled the premises where the event or gathering takes place, the individual(s) in charge of the premises, and/or the individual(s) who organized the event or gathering. If the residence or premises is rented, the landlord is not covered by this ordinance unless landlord otherwise meets this definition.

POSSESS. Possess means care, custody, dominion and control of liquor.

RESIDENCE or PREMISES. Residence or premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, 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. Underage person is any individual under twenty one (21) years of age.

130.08.D Prohibited Acts

130.10.D.1

It is unlawful for any person(s) to:

a) host or allow an event or gathering at any residence or premises 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; and

b) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s). Reasonable steps shall including the following:

- i) controlling access to alcohol and/or alcoholic beverages at the event or gathering; and
- ii) verifying the age of persons attending the event or gathering by inspecting drivers license or other government issued identification cards to ensure that minors do not consume or possess alcohol and/or alcoholic beverages while at the event or gathering; and,
- iii) supervising the activities of minors at the event or gathering.

130.08.D.2

A person is criminally responsible for violating Subsection (D)(1) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

130.08.D.3

A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

130.08.E Exceptions

130.08.E.1

This section does not apply to conduct solely between an underage person and his or her parents while present in the parents household.

130.08.E.2

This section does not apply to legally protected religious Observances.

130.08.E.3

This section 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 Minn. Stat. § 340A.503 Subd. 1(a)(1).

130.08.E.4

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

130.99 Penalty

Every person violates a section, division or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by this chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both. The costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues

Section 2. City Code Chapter 1 entitled "Definitions and General Provisions Applicable to Entire City Code Including Penalty for Violation" and Section 10.99 entitled "Violation a Misdemeanor" are hereby adopted in their entirety, by reference, as though repeated verbatim herein.

Section 3. This ordinance shall take effect and be in force from and after its passage and publication and be given the Number 13, 4th Series.

Voting Aye: Grassel, DeMers, Pokrzywinski, Buckalew, Tweten, and Olstad.

Voting Nay: Vetter.

Absent: None.

The President declared the Ordinance passed.

ATTEST:

PASSED: June 2, 2015

City Administrator

President of Council

I hereby approve the foregoing Ordinance this 2nd day of June, 2015.

Mayor