ORDINANCE No. 702

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HAWARDEN IOWA BY MAKING IT UNLAWFUL TO HOST AN EVENT WHEN THE HOST KNOWS OR REASONABLY SHOULD KNOW UNDERAGE PERSONS HAVE CONSUMED, OR POSSESSED WITH INTENT TO CONSUME, A CONTROLLED SUBSTANCE OR AN ALCOHOLIC BEVERAGE AND ESTABLISHING EXCEPTIONS AND PENALTIES.

Be it enacted by the City Council of Hawarden as follows:

CHAPTER 48

SOCIAL HOST

48.01 Purpose; Findings
48.02 Definitions
48.03 Prohibited Acts
48.04 Exceptions
48.05 Violations

48.01 PURPOSE; FINDINGS:

The purpose of this Chapter is to protect the public interest, welfare, health and safety within the City of Hawarden by prohibiting the services to and consumption of controlled substances and/or alcoholic beverages by persons under the age of twenty-one (21) at premises located in the City. The City Council finds that the occurrence of social gatherings at premises where controlled substances and/or alcoholic beverages are served to or consumed by persons under the age of twenty-one (21) is harmful to such persons themselves and a threat to public welfare, health and safety. The City Council further finds that persons under the age of twenty-one (21) obtain controlled substances and/or alcoholic beverages at such gatherings and that persons who are in control of such premises know or have reason to know of such service and/or consumption and will be more likely to ensure that controlled substances and/or alcoholic beverages are neither served or consumed by persons under the age of twenty-one (21) at these gatherings. Based on these findings, the City Council has deemed it necessary to enact the following regulations in the City of Hawarden.

48.02 DEFINITIONS:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

CONTROLLED SUBSTANCE means a drug, substance or immediate precursor as specified in Iowa Code Chapter 124.

ALCOHOLIC BEVERAGE means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine and beer.

EVENT, GATHERING OR PARTY means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.

PARENT means any person having legal custody of a juvenile: (1) as natural parent, adoptive parent or stepparent; (2) as a legal guardian; (3) as a person to whom legal custody has been given by order of the court.

PREMISES means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting, 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.

SOCIAL HOST means any person, partnership, corporation or association of one or more individuals who aids, conducts, allows, entertains, organizes, supervises, controls or permits an event, gathering or party. This includes but is not limited to (1) the person(s) who owns, rents, leases or otherwise has control of the premises where event, gathering or party takes place; (2) the person(s) in charge of the premises; or (3) the person(s) who organized the event. If the social host is a juvenile, then the parent(s) of that juvenile will be jointly and severally liable for any violation of this Chapter.

UNDERAGE PERSON means any individual under the age of twenty-one (21).

48.03 PROHIBITED ACTS:

It is unlawful for any social host to host an event, gathering or party on premises when the person knows or reasonably should know that an underage person has consumed or possessed a controlled substance and/or 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. A social host who hosts such an event, gathering or party does not have to be present at the time the prohibited act occurs.

48.04 EXCEPTIONS:

This Ordinance does not apply to conduct solely between an underage person and his or her parent while present in the parent's household, to legally protected religious observances and to situation where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

48.05 VIOLATIONS:

Violations of this Chapter are declared to be municipal infractions pursuant to Chapter 3 of this Code. Violations of this Chapter may be considered by the City for purposes of approving licenses applied for by the social host or for any other requirements that are subject to approval by the City.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council on and approved this 11th day of April, 2018.

Ricard R Porter

Ricard R. Porter, Mayor

ATTEST:

Michael DeBruin

Michael DeBruin, City Administrator/City Clerk

First Reading: March 14, 2018

Second Reading: March 28, 2018

Third Reading: April 11, 2018

I certify that the foregoing was published as Ordinance 702 on the 12th day of April, 2018.

Michael DeBruin

Michael DeBruin, City Administrator/City Clerk