

MONONA COUNTY ORDINANCE 44
CHAPTER 44 - SOCIAL HOST ORDINANCE
OF MONONA COUNTY, IOWA

Adopted
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PART 1
INTRODUCTION

- 44-1 **PURPOSE.** The purpose of this ordinance is to prohibit the consumption of alcoholic beverages by persons under the legal drinking age of twenty-one (21) at gatherings where adult persons know or have reason to know or allow or permit underage persons to drink alcoholic beverages on property they own or control. This Ordinance is enacted to protect and preserve the rights, privileges, and property of the residents of Monona County and to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of Monona County.
- 44-2 **DEFINITIONS.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
- 44-2.1 **“Adult Person”** means any person age eighteen (18) or older.
- 44-2.2 **“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.
- 44-2.3 **“Alcoholic beverage”** means any beverage in any form that contains more than one half of one percent of alcohol by volume including alcoholic liquor, wine, or beer.
- 44-2.4 **“Emergency Responders”** means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.

- 44-2.5 **“Enforcement Services”** means the salaries and benefits of emergency responders for the amount of time actually spent responding to or remaining at an event, gathering, or party and administrative costs attributable to the incident; the actual costs for medical treatment for any injured emergency responder, and the costs of repairing any damage to equipment or vehicles.
- 44-2.6 **“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.
- 44-2.7 **“Juvenile”** means a person under the age of eighteen (18).
- 44-2.8 **“Legal age”** means twenty-one (21) years of age or more.
- 44-2.9 **“Parent”** means any person having legal custody of a juvenile: (1) as a natural parent, adoptive parent, or step-parent; (2) as a legal guardian; (3) as a person to whom legal custody has been given by order of the court
- 44-2.10 **“Person”** means any individual, partnership, corporation, or any association of one or more individuals.
- 44-2.11 **“Possession or Control”** means actual possession or constructive possession based on facts, which permit the inference of intent to possess or control alcoholic beverages.
- 44-2.12 **“Premises”** means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, other dwelling unit, hall or meeting room, garage, barn, park, tent, camper/RV, or any other place conducive to assembly, public or private, whether occupied on a permanent or temporary basis, whether occupied as a dwelling or specifically for an event, gathering, or party, and whether owned, leased, rented or used with or without permission or compensation.
- 44-2.13 **“Public place”** means the same as defined in Iowa Code section 123.3(27).
- 44-2.14 **“Social host”**
- a means any person who aids, allows, entertains, organizes, supervises, controls or permits an event, gathering, or party. This includes but is not limited to:
- (1) the person who owns, rents, leases, or otherwise has control of the premises where the event, gathering, or party takes place;
- (2) the person(s) in charge of the premises; or
- (3) the person(s) responsible for organizing the event, gathering, or party.
- b If the social host is a juvenile, and the juvenile’s parent(s) are
- (1) present on the premises, or
- (2) knows or reasonably should know of the event, gathering or party and knows or reasonably should know that the consumption of alcohol is occurring,
- (3) both the juvenile and the parent(s) will be held liable for violations of this chapter.
- 44-2.15 **“Underage person”** means any person under the age of twenty-one (21).

44-3 through 44-10 Reserved.

PART 2

GENERAL PROVISIONS

- 44-11 **AFFIRMATIVE DUTIES.** It is the duty of the social host of an event, gathering, or party to take all reasonable steps to prevent alcoholic beverages from being

possessed or consumed by underage persons on the premises. Reasonable steps include, but are not limited to:

- 44-11.1 Controlling underage persons' access to alcoholic beverages,
 - 44-11.2 Controlling the quantity of alcoholic beverages,
 - 44-11.3 Verifying the age of persons being served, in the possession of, or consuming alcoholic beverages at the event, gathering, or party by inspecting driver's; licenses or other government-issued identification cards,
 - 44-11.4 Supervising the activities of underage persons at the party, and
 - 44-11.5 Notifying law enforcement of underage possession or consumption of alcoholic beverages, and allowing law enforcement to enter the premises for the purpose of stopping the possession or consumption by underage persons.
- 44-12 **PROHIBITED ACTS.**
- 44-12.1 It is unlawful for any social host of an event, gathering, or party on the social host's premises to knowingly permit or allow underage persons to consume alcoholic beverages, or knowingly permit or allow underage persons to possess alcoholic beverages on the premises, whether or not the social host is present on the premises.
 - 44-12.2 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 an alcoholic beverage, or possess 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.
 - 44-12.3 A person or persons under the legal age shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control. (As set out in Iowa Code section 123.47(2)). A person under the legal age who has consumed alcoholic liquor, wine, or beer shall be presumed to have had the same in his or her possession or control prior to its consumption. This Ordinance does not apply to the exceptions enumerated in Iowa Code Section 123.47(2) for persons possessing alcohol while under the legal age or to persons possessing alcohol as part of legally protected religious observances, or to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of their employment.
 - 44-12.4 A social host has an affirmative defense if the social host took reasonable steps to prevent the possession or consumption of alcohol, or notified law enforcement and allowed law enforcement to enter the premises for the purpose of stopping the illegal activities.
- 44-13 **EVIDENCE OF CONSUMPTION.** A specific legislative finding has been made by the Board of Supervisors, supported by expert testimony, that preliminary breath screening tests (PBT's) which have been approved by the Department of Public Safety for use in Public Intoxication cases, are accurate in determining the presence or absence of alcohol in a person's body. Such devices are valuable tools in the investigation of unlawful consumption of alcohol. Therefore, at trial, evidence obtained during the administration of preliminary breath testing, including the test result expressed in terms of alcohol concentration, shall be

admissible on the issue of whether a person under the legal drinking age did or did not consume alcohol.

- 44-14 PENALTIES. A person who violates Section 62-12 shall be punishable by the following penalties:
- 44-14.1 A first offense shall be a simple misdemeanor punishable by a scheduled fine of five hundred dollars (\$500.00) plus applicable surcharges and court costs.
- 44-14.2 A second or subsequent offense shall be a simple misdemeanor punishable by a scheduled fine of seven hundred fifty dollars (\$750.00) plus applicable surcharges and court costs.
- 44-14.3 The court may, in its discretion, order the person to perform community service work under Iowa Code section 909.3A, of an equivalent value to the fine imposed under this section.
- 44-14.4 The County may also seek reimbursement for enforcement services provided by emergency responders related to the event, gathering, or party.
- 44-15 ENFORCEMENT. The Monona County Sheriff's Office shall have primary but not exclusive enforcement responsibility for this Ordinance.
- 44-16 JURISDICTION. The provisions of this ordinance shall apply throughout Monona County, Iowa, including municipalities that have not enacted a municipal ordinance dealing with similar subject matter.
- 44-17 REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
- 44-18 SEVERABILITY. If any section, provision, sentence, clause, phrase 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 provision, section, subsection, clause, phrase, or part hereof not adjudged invalid or unconstitutional.
- 44-19 through 44-20 Reserved.

PART 3
ENACTMENT

- 44-21 EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

/s/John McCall
JOHN MCCALL, CHAIRMAN

/s/James W. Jensen
JAMES JENSEN

/s/Timothy Jessen
TIM JESSEN

ATTEST:

/s/Brooke Kuhlmann
BROOKE KUHLMANN
MONONA COUNTY AUDITOR

SEAL

AUTHENTICATION

Pursuant to Section 331.302(8) of the Code of Iowa, the undersigned Auditor of Monona County, Iowa hereby certifies that Ordinance No. 44 was published once in the Onawa Democrat and Mapleton Press newspapers on the 7th day of November, 2012.

/s/Brooke Kuhlmann
BROOKE KUHLMANN,
MONONA COUNTY AUDITOR

STATE OF IOWA)
)SS:
COUNTY OF MONONA)

On this 20th day of November, 2012, the aforementioned John McCall, Chairman, Monona County Board of Supervisors, and Brooke Kuhlmann, Monona County Auditor, subscribed and sworn to be the same and signed in their official capacity as stated above in my presence on this 20th day of November, 2012.

SEAL:

/s/LeAnn McClure
NOTARY PUBLIC,
MONONA COUNTY, IOWA