

Aitkin County Board of Commissioners  
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners      Date: 2-16-12

Via: Patrick Wussow, County Administrator

From: Patrick Wussow, County Administrator

Title of Item:

Social Host Ordinance

Requested Meeting Date: 2-28-12      Estimated Presentation Time: \_\_\_\_\_

Presenter: Patrick Wussow, County Administrator

**Type of Action Requested** (check all that apply)

- For info only, no action requested       Approve under Consent Agenda
- For discussion only with possible future action       Adopt Ordinance Revision
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion       Approve/adopt proposal by resolution (attach draft resolution)
- Authorize filling vacant staff position
- Request to schedule public hearing or sale       Other (please list) \_\_\_\_\_
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute \_\_\_\_\_

**Fiscal Impact** (check all that apply)

- Is this item in the current approved budget? Yes \_\_\_\_\_ No \_\_\_\_\_ (attach explanation)
- What type of expenditure is this?  Operating  Capital  Other (attach explanation)
- Revenue line account # that funds this item is: \_\_\_\_\_
- Expenditure line account # for this item is: \_\_\_\_\_

**Staffing Impact** (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected.  Yes  No
- Applicable job description(s) may require revision.  Yes  No
- Item may impact a bargaining unit agreement or county work policy.  Yes  No
- Item may change the department's authorized staffing level.  Yes  No



**Supporting Attachment(s)**

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) Memo & Social Host Ordinance information provided by Kinship

**Provide eleven (11) copies of supporting documentation NO LATER THAN Wednesday at Noon to make the Board's agenda for the following Tuesday. Items WILL NOT be placed on the Board agenda unless complete documentation is provided for mailing in the Board packets. (see reverse side for details)**

# AITKIN COUNTY ADMINISTRATION

**Aitkin County Courthouse**  
217 Second Street N.W. Room 130  
Aitkin, MN 56431  
218-927-7276  
Fax: 218-927-7374

**TO: Aitkin County Board of Commissioners**

**FROM: Patrick Wussow, Aitkin County Administrator**

**RE: Request From Kinship of Aitkin County, for the County Board to Consider Adopting a Social Host Ordinance**

**DATE: February 21, 2012**

The Kinship of Aitkin County group is asking the County Board to consider adopting a Social Host Ordinance. The attached letter includes a draft ordinance. I explained to the Executive Director, Kimberly Clement that adopting a new ordinance can take several months because it would have to be referred to the ordinance Committee, possible public hearings, and then publication.

Because this is a request, the County Board has several options available at this time. The Board may wish to pursue adoption, conduct additional studies, take no action, or any other combination thereof.

Please contact me with any questions.



## KINSHIP OF AITKIN COUNTY

**"Giving Youth the Power to Make TeRRiFiCC Choices"**

*Trustworthiness, Respect, Responsibility, Fairness, Caring, Citizenship*

208 2<sup>nd</sup> Ave NW · Aitkin, MN 56431 · (218) 927-4039 · kinshipmentors@yahoo.com  
www.kinshipofaitkincounty.com

January 5, 2012

Patrick Wussow  
Aitkin County Administrator  
217 2nd Street NW Rm 130  
Aitkin, MN 56431

Dear Mr. Wussow:

Kinship Youth Leaders choose a service learning project each year. The theme they chose for this year is "Underage Drinking". In partnership with the Aitkin County Sheriff's Department, our Youth Leaders have investigated a Social Host Ordinance, which other cities and counties in the State of Minnesota have implemented with success.

Kinship Youth Leaders decided to target this specifically because they identified underage drinking as an issue that negatively impacts their peers. They understand that during teen years, their brains are still in momentous significant development and that consuming alcohol during that time has unseen significant consequences.

Enclosed please find a copy of the ordinance they would like to present to that Aitkin County Commissioners along with two facts sheets about Social Host Ordinances in general.

Thank you for your time. Please contact me with any questions or instructions.

Sincerely,

*signature on original*

Kimberly Clement  
Executive Director

Enclosures (3)

cc: Scott Turner, Aitkin County Sheriff

## Understanding the Need For and Use of Social Host Ordinances in Minnesota

Underage alcohol use poses important public health and public safety risks. According to a 2003 report by the National Research Council's Institute of Medicine (NRCIM), underage drinking costs the nation at least \$53 billion a year, mostly because of traffic deaths and violent crime.<sup>1</sup> This should be of concern to professionals, policymakers, parents and others who are attempting to reduce the negative consequences of underage alcohol use. Knowing the locations where this behavior is most likely to occur can help alert parents to times when they need to exercise greater monitoring and supervision, and support the adoption of effective policies to protect children.

Data, from 62,495 persons aged 12 to 20, which was published in the 2008 National Survey on Drug Use and Health conducted by the Substance Abuse and Mental Health Services Administration reported that: of current underage alcohol users aged 12 to 20, 53.4 percent drank at someone else's home the last time they used alcohol, and another 30.3 percent drank in their own home.<sup>2</sup> Statistics like these support the recommendation to hold adults accountable for teen drinking parties. This recommendation was a highlighted suggestion from the previously mentioned NRCIM's 2003 report, which has been a catalyst for many recent social host ordinances.<sup>1</sup>

### **Social Host Ordinances in Minnesota**

In 2006, not a single social host ordinance existed in Minnesota. As of March 30, 2010, 40 cities and four counties have adopted a social host ordinance, and at least ten more are actively considering it.

Cities with social host ordinances have found success in a reduction in the number of underage drinking parties. They have also found that it's predominantly 22 or 23 years olds who are hosting these parties. From a prosecutor's standpoint, enforcement of the ordinance gives them a great tool to help curb underage consumption.

### **Why the Need for Social Host Ordinances?**

For many years, Minnesota laws have made it unlawful for a person to provide alcohol to anyone under age 21. Additionally, Minnesota Statute 340A.801 allows only civil actions against a person over age 21 who knowingly provides alcohol to anyone under age 21. The courts have ruled, however, that owners/parents who allow a party to take place in a home where they know minors will consume alcohol, who do not take the alcoholic beverages away from the minors or who fail to stop the party, cannot be prosecuted because these actions do not fall within the meaning of providing or furnishing alcohol to minors. These failed actions, or loopholes, are the basis of the need for social host ordinances or similar state laws.

### **What Exactly is a Social Host Ordinance?**

Before adopting a social host ordinance, it is essential that each policy maker, police chief, sheriff, city or county attorney and other community leaders, clearly understand what a social host ordinance is—and of equal if not greater importance—understand what it is not.

A social host ordinance makes it unlawful to provide an environment where underage drinking takes place. It addresses how a typical person ought to behave when there is potential harm to those under the legal age to drink. As a misdemeanor, any host found criminally responsible for violating a social host ordinance will face a penalty of time in jail and/or up to \$1,000 in fines.

An ordinance can be written in a number of different ways.

One example is to write the ordinance so that the owners/parents of the home do not meet the definition of a host if they are unaware of illegal alcohol consumption on their property while away from their residence. However, it can be written to consider them a host if they are not present, but it's found that they supported the event by knowing it was going to occur. Additionally, a family member of the property owner who is at the event could be considered a host, regardless of their age. For example, a 16 year old, who does not own the home, could be considered the host if other underage persons were drinking at his or her parents' residence without their knowledge.

Parents cannot be charged under a social host ordinance if, in their presence, they allow their underage child to consume alcohol in their residence. Allowing someone else's child to do so would be illegal. Parents are responsible for the safety and actions of their underage child.

Ordinances can also be written to include a tenant of a rented apartment, townhome, home or other dwelling as a social host if they provide an environment where underage drinking takes place. These ordinances can be written to exclude landlords and property owners as a host while they are away from the property, provided they were unaware that illegal alcohol consumption was going to occur on their property.

## Adopting a Social Host Ordinance in Your Community

Minnesota laws give cities and counties the authority to adopt and enforce this type of ordinance. It is important to note, however, that county ordinances are not enforceable within incorporated areas (i.e. cities). For example, non-incorporated areas such as townships would fall under the county ordinance, whereas cities within the county would need to adopt a similar ordinance for it to be enforceable within their city limits. The County Attorney's Office should be the primary source to obtain an official opinion on this issue.

Engaging law enforcement, health, schools, parents and youth to combat the problems associated with underage drinking and binge drinking such as alcohol poisoning, increased injuries and sexual assaults, lowered school and job performance, traffic crashes and ultimately deaths, through education, outreach, enforcement and policy changes will make your communities safer and healthier. Talk to your local police chief, sheriff and city or county prosecutors about enacting a social host ordinance in your community.

For data on underage drinking in your community visit <http://sumn.org/>.

For additional information regarding Social Host Ordinance's you may contact:

MADD-MN, Youth Program Coordinator, Phone: (651)-523-0802 or

Gordy Pehrson, MN Dept. of Public Safety, Email: [gordy.pehrson@state.mn.us](mailto:gordy.pehrson@state.mn.us), Phone: (651)-201-7072.

1 Ritter, J. (2007, Jan. 4). Laws crash underage drinking parties. *USA Today*. Retrieved December 21, 2009 from [www.usatoday.com](http://www.usatoday.com)  
2 Download the full report at: [www.oas.samhsa.gov/2k8/location/underage.pdf](http://www.oas.samhsa.gov/2k8/location/underage.pdf)

**Source: Prevention With Impact, Vol. 28 No.2, February, 2010**

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(As of 10/05/2010):

### Minnesota cities with social host ordinances: [56]

*Albert Lea, Apple Valley, Austin, Baxter, Belle Plaine, Blooming Prairie, Breckenridge, Cambridge, Chaska, Cloquet, Cottage Grove, Crookston, Crystal, Duluth, Elko/New Market, Elk River, Fairfax, Falcon Heights, Fergus Falls, Forest Lake, Glencoe, Golden Valley, Goodview, Hibbing, Isanti, Jordan, Kenyon, Lakeville, Mankato, Maple Grove, Minneapolis, Minnetonka, Moorhead, Mora, New London, New Prague, New Ulm, Owatonna, Otsego, Pine River, Princeton, Prior Lake, Ramsey, Redwing, Rosemount, Roseville, Savage, St. Paul, Shakopee, Sleepy Eye, South St. Paul, Waseca, West St. Paul, Wilkin Co, Willmar, Winona.*

### Minnesota cities with social host ordinances: [9]

*Cass, Chisago, Isanti, Jackson, Kanabec, Kandiyohi, Mower, Scott, Wilkin*

### Minnesota cities & counties currently considering social host ordinances:[7]

*Brown County, Comfrey, Freeborn County, Hubbard County, Medford, Spicer, Yellow Medicine County*

### Minnesota cities & counties that have discussed, but may not be actively considering an ordinance at this time:

*Albertville, Blue Earth County, Excelsior, Hopkins, Spring Lake Park*

### Minnesota cities & counties that voted down an ordinance:

*Carver County, Greenwood, Winona County*

## What a Social Host Ordinance IS:

Updated July 21, 2010

- Is different from State laws that prohibit adults from providing alcohol to minors.
- Makes it unlawful to provide an environment where underage drinking takes place.
- Can be successful in reducing the number of underage drinking parties.
- Have found that it's predominantly 22 or 23 years olds who are hosting these parties.
- Considers a family member of the property owner who is at the event a host, regardless of their age.
- Includes a tenant of a rented apartment, townhome, home or other dwelling, when they provide an environment where underage drinking takes place.
- Excludes landlords and property owners while they are away from the property, provided they were unaware that illegal alcohol consumption was going to occur on their property.
- Is a misdemeanor offense with a maximum penalty of 90 days in jail and a \$1,000 fine.
- A city ordinance is only enforceable within that city.
- A county ordinance is only enforceable within the unincorporated areas of the county.

## What a Social Host Ordinance ISN'T:

- Doesn't change any other State Laws.
- Isn't the same as State laws that prohibit adults from providing alcohol to minors.
- An ordinance violation alone will not result in a property owner losing their property.
- A city ordinance is not enforceable outside city limits, unless the county also adopts an ordinance.
- A county ordinance is not enforceable within a city, unless the city also adopts an ordinance.
- Doesn't include landlords and property owners while they are away from the property, provided they were unaware that illegal alcohol consumption was going to occur on their property.
- Parents cannot be charged under a social host ordinance if **in their presence** they allow **their own child** to consume alcohol in their residence.

# SOCIAL HOST

YOUR ROLE IN MAKING A DIFFERENCE...

It's the law for a reason.

The earlier drinking starts, the more danger it poses. People reporting first time use of alcohol before age 15 were five times more likely to have alcohol dependence or abuse compared with people who first used alcohol at the age of 21 or older.

Research shows that a teen who gets through age 21 without smoking, abusing alcohol or using illegal drugs is almost certain never to do so.

## Consequences of teenage drinking

- alcohol poisonings
- brain damage
- chronic alcohol addiction
- traffic crashes
- property damage
- community disturbance
- risky sexual behavior and sexual assault
- suspension from school sports or other activities

Please be Responsible  
Keep alcohol out of the hands of youth

Only one half the amount of alcohol needed to damage the brain in adolescence vs. adulthood

In other words, if it's your property, it's your problem.

### Definition of a Social Host Ordinance

A social host ordinance holds adults responsible for hosting, or in other words, knowingly providing a place for underage drinking to occur.

Social host ordinances give communities a practical tool for holding adults accountable. It's often difficult for law enforcement to determine who provided the alcohol at teen parties. With social host liability, the focus is on where the drinking takes place, rather than who provided the alcohol.

Why does this ordinance target parties that occur on private residences and premises?

Parties and gatherings on private property have repeatedly been identified as the primary source by which youth obtain alcohol. Kids obtain alcohol at parties through friends, older siblings or adults.

We've heard the excuses: "*If they are going to drink, they might as well drink at home, where I know they are safe.*" Not necessarily. The data shows there is an increase in youth violence, sexual assaults, teen pregnancy, and in some cases alcohol poisoning, and death when underage youth are allowed to drink at someone's home.

Alcohol kills more kids than all illegal drugs combined.

Source: National Institute on Alcohol Abuse and Alcoholism

...IN PREVENTING UNDERAGE DRINKING.

ORDINANCE NO. \_\_\_\_\_

**SOCIAL HOST ORDINANCE**

This ordinance prohibits, and establishes penalties for, any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age.

Be it enacted by the Aitkin County Board of Commissioners, as follows:

Subd. 1. **Purpose and Findings.** The Aitkin County Board of Commissioners 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 Aitkin County Board of Commissioners finds that:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one may be harmful to those persons and constitute a potential threat to public health.
- (b) Prohibiting underage consumption protects underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic crashes.
- (c) Alcohol is an addictive drug which, if used irresponsibly, could have adverse 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) Even though giving or furnishing alcohol to an underage person is a crime, this ordinance is necessary to help further combat underage consumption.
- (f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Subd. 2. **Authority.** This ordinance is enacted pursuant to Minn. Stat. §145A.05 subdivision 1.

Subd. 3. **Definitions.** For purposes of this ordinance, the following terms have the following meanings:

- (a) 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.
- (b) Alcoholic beverage. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, liquor, 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.
- (c) 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 other activity.
  - (d) Host. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
  - (e) Parent. "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.
  - (f) Person. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
  - (g) 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 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.
  - (h) Underage Person. "Underage person" is any individual under twenty-one (21) years of age.

#### **Subd. 4. Prohibited Acts.**

- (a) It is unlawful for any person(s) to:
  - (1) host or allow an event or gathering;
  - (2) at any residence, premises, or any other private or public property;
  - (3) where alcohol or alcoholic beverages are present;
  - (4) when the person knows or reasonably should know 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
  - (5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- (b) A person is criminally responsible for violating Subdivision 4 (a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- (c) A person who hosts an event or gathering as described in Subdivision 4 (a) above does not have to be present at the event or gathering to be criminally responsible.

#### **Subd. 5. Exceptions.**

- (a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- (b) This ordinance does not apply to legally protected religious observances.

- (c) This ordinance 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).
- (d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of their employment.

Subd. 6. **Enforcement.** This ordinance can be enforced by any police officer or sheriff's deputy in the county.

Subd. 7. **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.

Subd. 8. **Penalty.** Violation of Subdivision 4 is a misdemeanor.

Subd. 9. **Effective Date.** This ordinance shall take effect thirty (30) days following its final passage and adoption.