

ORDINANCE 2009-O-16

**AN ORDINANCE AMENDING THE LIQUOR CODE
OF THE MUNICIPAL CODE OF WINTHROP HARBOR
REGULATING SOCIAL HOST LIABILITY FOR
UNDERAGE DRINKING**

WHEREAS, tragic losses of multiple lives of teenage children have happened in Lake County on far too many occasions within the past few years, and

WHEREAS, many of those deaths have occurred as a direct result of parents, friends or others who have foolishly provided liquor or a place to hang out and drink to underaged minors, and

WHEREAS, there is no provision currently in the Winthrop Harbor Municipal Code regulating the serving of liquor to minors other than by liquor license holders, and

WHEREAS, the Lake County State's Attorney has spearheaded an effort to impose certain responsibility for serving minors upon social hosts who open their homes to minors and allow, or even encourage, them to drink when it is not legal for the minors to do so, and

WHEREAS, the corporate authorities find that the State's Attorney's proposed model ordinance provides an appropriate and fair balance between the rights of people to peaceably gather in their homes for all manner of events with the need to protect our youth and innocent parties out on the roads from the dangers of drunken driving and other intoxicated behavior,

NOW THEREFORE, BE IT ORDAINED by the Village of Winthrop Harbor, Lake County, Illinois, as follows:

SECTION ONE: Chapter 110 of the Winthrop Harbor Municipal Code is hereby amended by the addition of the following Section 110.42, which shall hereafter read as follows:

§ 110.42: SOCIAL HOSTING:

A. Definitions. The following definitions shall apply specifically to this section, provided that the definitions set forth in the Illinois Liquor Control Act of 1935 (235 ILCS 5/1-1 et. seq.) or elsewhere in this Chapter are not intended to be superseded hereby, but supplemented herewith.

ALCOHOL: 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: Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, 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.

CONVEYANCE: Any vehicle, trailer, watercraft or container operated for the transportation of persons or property.

EVENT or GATHERING: Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

HOST: To aid, conduct, allow, entertain, organize, supervise, control, or permit an Event or Gathering.

ILLCIT DRUGS: Any drug, substance, or compound prohibited by law, including drugs prescribed by a physician that are in the possession of or used by someone other than the person to whom the drug was prescribed.

PARENT: Any person having legal custody of a juvenile:

1. As a 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.

PERSON: Any individual, firm, association, partnership, corporation, trust or any other legal entity.

PUBLIC PLACE: any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, parks, businesses or parking lots.

REASONABLE STEPS: controlling access to alcoholic beverages at the Event or Gathering; controlling the quantity of Alcoholic Beverages present at the Event or Gathering; verifying the age of persons attending the Event or Gathering by inspecting drivers licenses or other government-issued identification cards to ensure that minors do not consume Alcoholic Beverages while at the Event or Gathering; and supervising the activities of minors at the Event or Gathering, calling for police assistance in the event people under 21 are in possession of Alcohol at the Event or Gathering or advising law enforcement in advance of departing one's residence that the owner will be away and no Underage Person is authorized to be present and consume alcohol at the owner's residence.

RELIGIOUS CEREMONY: the possession, consumption and dispensation of Alcohol or an Alcoholic Beverage for the purpose of conducting any bona fide rite or religious ceremony.

RESIDENCE or PREMISES: 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.

UNDERAGE PERSON: Any individual less than 21 years of age

B. Certain Events and Gatherings Prohibited.

1. It is unlawful for any Person to host, permit, allow, or fail to take Reasonable Steps to prevent an Event or Gathering at any Residence or Premises, or on any other property whether private or public, or in any Conveyance, over which that Person has control or a reasonable opportunity for control where Illicit Drugs or Alcoholic Beverages are present when that Person knows or reasonably should know that an Underage Person will or does consume or possess any Illicit Drugs or Alcoholic Beverage.

2. It also is unlawful for any Person to fail to take Reasonable Steps to prevent possession or consumption of Illicit Drugs or Alcoholic Beverages by an Underage Person at any such Event or Gathering. A person who hosts an Event or Gathering does not have to be present at the Event or Gathering to be in violation of this Subsection B.

C. Other Responsible Persons.

1. A Person is responsible for violating Subsection B of this Section if that Person intentionally aids, advises, hires, counsels, conspires with, or solicits another Person to commit a violation of Subsection B.

2. A Person is responsible for violating Subsection B of this Section if that Person knows or should have known about the committing of a prohibited act and failed to take Reasonable Steps to prevent the prohibited act.

D. Exceptions.

1. A Person who hosts an Event or Gathering shall not be in violation of this Chapter if he or she undertakes one of the following steps before any other Person makes a complaint about the Event or Gathering;

(a) seeks assistance from the Winthrop Harbor Police Department or other law enforcement agency to remove any person who refuses to abide by the host's performance of the duties imposed by this Chapter, or

(b) terminates the Event or Gathering because the host has been unable to prevent Underage Persons from consuming Illicit Drugs or Alcoholic Beverages despite having taken all Reasonable Steps to do so.

2. This Section does not apply to conduct involving the use of Alcoholic Beverages that occurs at a Religious Ceremony or that is exclusively between an Underage Person and his or her Parent, as permitted by Illinois State Law.

G. Fines; Penalties. Any Person who violates or assists in the violations of any provision of this chapter shall be deemed to have committed a petty offence and shall be fined not more than \$750.00 for each such violation. Each day on which, or during which, a violation occurs shall constitute a separate offense.

1. The first violation of this Section shall be punishable by a fine of no less than \$250.00 nor more than \$750.00.

2. A second violation of this Section by the same person within a 12-month period shall be punishable by a fine of no less than \$500.00 nor more than \$750.00.

3. A third or subsequent violation of this Section by the same person within a 12-month period shall be punishable by a fine of no less than \$750.00.

SECTION TWO: This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WINTHROP HARBOR, ILLINOIS, ON THIS 4TH DAY OF AUGUST, 2009.

APPROVED:

(For a signature copy, please contact the Village Clerk at jlee@winthrop harbor.com)

ROBERT D. LOY, MAYOR

ATTEST:

JANA J. LEE, VILLAGE CLERK

AYES: Braden, Luke, Marabella, Neargarder

NAYS: NONE

ABSENT: Robards, Swindle

FIRST AND SECOND READING: WAIVED 8/4/2009

ORDINANCE PASSED: 8/4/2009