

TOWN OF MIDDLETOWN

AN ORDINANCE IN AMENDMENT OF SECTION 130.01 OF THE TOWN CODE OF THE TOWN OF MIDDLETOWN, RHODE ISLAND ENTITLED "POSSESSION, CONSUMPTION BY MINORS PROHIBITED"

It is ordained by the Town Council of the Town of Middletown that Section 130.01 of the Code of Ordinances entitled "Possession, Consumption by Minors Prohibited" is hereby amended to read as follows:

SECTION 130.01(A)(1) UNLAWFUL POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSONS

A. It shall be unlawful for any person under twenty-one (21) years of age to purchase, possess, consume or be under the influence of any alcoholic beverages within the Town of Middletown, except as permitted in R.I.G.L. 3-8-11.1(c).

B. Any police officer who has reasonable grounds to believe that a person under twenty-one (21) years of age has consumed any alcoholic beverage, to include the odor or presence of alcoholic beverages upon the breath of said person, shall be permitted to require the person to submit to a preliminary chemical breath analysis and/or submit such person to a standardized field sobriety test.

C. The results of any preliminary chemical breath analysis or standardized field sobriety test shall be admissible and shall be used to determine whether the person has consumed alcohol internally or possessed any alcoholic beverage.

D. Any person under the age of twenty-one (21) who refuses to submit to a preliminary chemical breath analysis and/or refuses to submit to a standardized field sobriety test as required in this ordinance, who appears to be under the influence of any alcoholic beverage by a detectable smell of alcohol combined with slurred speech, unsteady gait or bloodshot eyes, shall constitute *prima facie* evidence of internal possession of alcohol and shall be subjected to the sanctions within this ordinance.

SECTION 130.01(A)(2) PENALTIES:

A. Any person found in violation of Section 130.01(A) shall be subject to a \$350.00 fine and/or mandatory completion of a three (3) hour alcohol education and awareness program approved by the Middletown Municipal Court, to be completed within a three (3) month period.

B Any person who commits a second violation of this Section within a twelve (12) month period shall be subject to a \$750.00 fine and undergo a substance abuse assessment by a licensed substance abuse professional and complete all necessary treatment ordered by the Municipal Court.

C. Any person who commits a third violation of this Section within a twenty-four (24) month period shall be subject to a \$1,000.00 fine.

D. Any person who fails to complete the mandatory alcohol awareness program shall be subject to a \$1,000.00.

E. The municipal court, in the exercise of its discretion, can substitute in lieu of the fine imposed for a first violation, the payment of the amount of \$350.00 to be used as the fee for completing the alcohol awareness program.

PARENTAL NOTIFICATION:

ANY POLICE OFFICER, UPON DETERMINATION THAT A PERSON IS UNDER THE AGE OF TWENTY-ONE (21), AND HAS ALLEGEDLY CONSUMED, POSSESSED OR PURCHASED ANY ALCOHOLIC BEVERAGES, OR HAD ANY BODILY ALCOHOL CONTENT IN VIOLATION OF THIS ORDINANCE SHALL NOTIFY THE PARENT, GUARDIAN OR CUSTODIAN WITHIN TWENTY-FOUR (24) HOURS IF REASONABLY ASCERTAINABLE BY THE LAW ENFORCEMENT AGENCY.

SECTION 130.01(B)(1) SOCIAL HOST OFFENSES

A. It shall be unlawful for any person who owns or exercises control over private real property, to allow another person under the age of twenty-one (21) years of age who is not his/her child or minor ward to possess or consume alcoholic beverages on the property.

B. The prohibitions of this Section apply to only a person who is present and in control of the property at the time the possession or consumption occurs. If the owner or person in control of the property is not present, but it can be shown that the owner or person in control of the property had prior knowledge of use of the property by underage persons where alcohol would be consumed and permitted it to occur, the provisions of this section shall apply to such owner or person in control of the property. The prohibitions of this Section do not apply to the owners of rental property or the agent of an owner of rental property, unless the possession or consumption occurs in the individual unit which the owner or agent resides or unless possession or consumption occurs while the owner or agent is present on the property or unless it can be shown that said owner or agent had knowledge of and permitted the consumption of alcohol by an underage person to occur on the property.

SECTION 130.01(B)(2) PENALTIES:

A) Any person found in violation of this section shall be subject to a \$350.00 fine and/or mandatory completion of an alcohol awareness program approved by the Middletown Municipal Court, to be completed within a three (3) month period.

B) Any person who commits a second violation within a twelve (12) month period shall be subject to a \$750.00 fine and mandatory completion of an alcohol awareness program approved by the Town of Middletown Substance Abuse Task Force, to be completed within a three (3) month period. The person shall also be responsible to pay for the cost of said program in the amount of \$350.00.

C) Any person who commits a third violation within a twenty-four (24) month period shall be subject to a \$1,000.00.

D). The municipal court, in the exercise of its discretion, can substitute in lieu of the fine imposed for a first violation, the payment of the amount of \$350.00 to be used as the fee for attending the alcohol educational and awareness course.

This ordinance shall take effect upon its passage, and all other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

MAR 1 2010

READ AND ADOPTED IN COUNCIL

Wendy J.W. Marshall
WENDY J.W. MARSHALL, CMC
TOWN CLERK