

APPANOOSE COUNTY ORDINANCE NO. 39

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF APPANOOSE COUNTY, IOWA
ORDINANCE

BY ADDING A "SOCIAL HOST"

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF APPANOOSE COUNTY, IOWA

PURPOSE:

Pursuant to the authority granted under Chapter 331, 2013 Iowa Code, this Ordinance is enacted to protect and preserve the rights, privileges and property of the County and its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of Appanoose County. The purpose of the ordinance is to prohibit the consumption of alcoholic beverages by persons under the age of twenty-one (21) and to prohibit gatherings where persons knowingly allow or permit the consumption of underage drinking of alcoholic beverages to occur on property they own or control.

The Appanoose County Board of Supervisors finds that the occurrence of social gatherings at premises where 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 Surgeon General's Call to Action (2013) is hereby incorporated by reference, as further support of the health, safety and public welfare concerns that exist with underage drinking.

The Appanoose County Board of Supervisors further finds that persons under twenty-one (21) who attend gatherings where alcoholic beverages are brought or made available, and that the persons who are in control of such premises are knowingly tolerating, allowing or permitting alcohol use to occur. This ordinance will establish penalties for persons who knowingly permit or allow underage drinking and will encourage those persons to ensure that those activities are not occurring on premises under their control.

Based on these findings, the following ordinance is enacted by the Appanoose County Board of Supervisors:

22.02 DEFINITIONS

- a) "Alcoholic Beverage" means any beverage containing more than one half of one percent of alcohol by volume including alcoholic liquor, wine, or beer as specified in Chapter 123.3, 2013 Iowa Code.
- b) "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.
- c) "Parent" means any person having legal custody of a juvenile (1) as a natural parent, adoptive parent or stepparent, (2) as a legal guardian, or (3) as a person to whom legal custody has been given by order of the court.
- d) "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or 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. "Premises" does not include property that is licensed to sell or serve alcoholic beverages.
- e) "Public Place" means the same as defined in 2013 Iowa Code section 123.3 (36).
- f) "Social Host" means any person, partnership, corporation or association of one or more individuals who aids, 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 the event, gathering or party takes place, (2) the person in charge of the premises, or (3) the person(s) who organized the event, gathering or party.
 - a. If the social host is a juvenile, and the 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 and/or controlled substances is occurring, the parent(s) are also liable for violations of this chapter.
- g) "Underage person" means any individual under the age of twenty-one (21).
- h) "Juvenile" means a person under the age of eighteen (18).
- i) "Legal Age" means twenty-one (21) years of age or more.
- j) "Emergency Responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
- k) "Enforcement Services" means the salaries and benefits of emergency responders or the amount of the 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.

22.03 PROHIBITED ACTS

It is unlawful for any social host of an event, gathering or party on the social host's premises to knowingly, or should reasonably know, permit or allow underage persons to consume alcoholic beverages, or knowingly, or should reasonably know, permit or allow underage persons to possess alcoholic beverages on the premises, whether or not the social host is present on the premises.

A social host has an affirmative defense if the social host took reasonable steps to prevent when the person knows or reasonably should know that an underage person has consumed an alcoholic beverage, or possesses an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption of alcohol by the underage person or notified law enforcement, and allowed law enforcement to enter the premises for the purpose of stopping the illegal activities.

- a) Controlling underage person's access to alcoholic beverages

- b) Verifying the age of persons being served, in the possession of, or consuming alcoholic beverages at the event, gathering, or party by inspecting drivers' licenses or other government issued identification cards.
- c) Supervising the activities of underage persons at the party.
- d) 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

22.04 EXCEPTIONS

- a. This Ordinance does not apply to actions permitted under Section 123.47(2), Iowa Code (2013), or to legally protected religious observances, or to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.
- b. The exceptions outlined in Section 22.04 (a) shall not apply under circumstances in which the underage person leaves the home, religious gathering, or place of employment and subsequently violates Iowa Code section 123 46 (2) Consumption or intoxication in public places

22.05 ENFORCEMENT

The provisions of the Ordinance shall be enforced by the Appanoose County Sheriff's Office and the Centerville Police Department. The Appanoose County Sheriff's Office shall have primary but not exclusive enforcement responsibility for this Ordinance.

22.06 PENALTIES

Violations of this Ordinance are declared to be civil infractions under the Appanoose County Code of Ordinances. A five hundred dollar (\$500.00) civil penalty shall be imposed for a social host's first offense. A seven hundred and fifty dollar (\$750.00) civil penalty shall be imposed for a social host's second offense. A one thousand dollar (\$1000.00) civil penalty shall be imposed for a social host's third or subsequent offense. In addition, the county may seek reimbursement for enforcement services provided by emergency responders related to the event, gathering or party. Violations of the Ordinance may also be considered by the County for purposes of approving licenses applied for by the social host or for any other requirements that are subject to approval by the County.

22.07 REPEALER

All Ordinances or parts thereof that are in conflict with this Ordinance are hereby repealed.

22.08 SAVINGS CLAUSE

If any sections, 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.

22.09 EFFECTIVE DATE

This Ordinance shall be in full force and in effect from and after its final passage, adoption and publication as provided by law

22.10 APPLICABILITY

This Ordinance shall be in effect and includes all incorporated and unincorporated areas of Appanoose County following adoption and publication as provided by law

Passed by the Appanoose County Board of Supervisors on this 5th day of August, 2013.

Dean Raster
Appanoose County Supervisor
Jody McNamee
Appanoose County Supervisor
John Smith
Appanoose County Supervisor

Attest:

Linda Clemens
Appanoose County Auditor

First Reading: Passed and approved this 5th day of August, 2013.

Second Reading: Waived August 5, 2013

Third Reading: Waived August 5, 2013

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THE CODE OF ORDINANCES
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c) "Parent" means any person having legal custody of a juvenile (1) as a natural parent, adoptive parent or stepparent, (2) as a legal guardian, or (3) as a person to whom legal custody has been given by order of the court.

d) "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or 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. "Premises" does not include property that is licensed to sell or serve alcoholic beverages.

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of this chapter.

g) "Underage person" means any individual under the age of twenty-one (21).

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Passed by the Appanoose County Board of Supervisors on this 5th day of August, 2013.

Attest:

Appanoose County Auditor

First Reading: Passed and approved this 5th day of August, 2013.

Second Reading: Waived August 5, 2013

Third Reading: Waived August 5, 2013

Runs 1x

August 9th, 2013

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On this 9th day of August 20 13
personally appeared before the undersigned, within and
for said County and State

Rebecca Maxwell

Publisher of the

AD-EXPRESS AND DAILY IOWEGIAN

a daily newspaper published in Centerville, County of

Appanoose, State of Iowa, who being duly sworn states

on oath that the Appanoose County
Ordinance 39

a true copy of which

is hereto attached was published in said paper in the

issue of

Friday, August 9, 2013

Rebecca Maxwell Publisher

Subscribed and sworn to before me this 9th day

of August, 20 13

John C. Briggs Notary Public

Notary Expiration Date 12/20/16

Printer's Fee \$93.27



CYNTHIA M. BRIGGS
Commission Number 150040