

JONES COUNTY IOWA ORDINANCE 2011-01

An ordinance amending the code of ordinances of the County of Jones, State of Iowa.

Be it enacted by the Board of Supervisors of Jones County, Iowa, as follows:

Section 1: The purpose of this ordinance is to add CHAPTER 12, JONES COUNTY KEG SOCIAL HOST ORDINANCE OF TITLE V - PUBLIC SAFETY & HEALTH.

Section 2: The Chapter will read as follows:

CHAPTER 12
JONES COUNTY SOCIAL HOST ORDINANCE
TITLE V - PUBLIC ORDER, SAFETY & HEALTH

SECTION 1. TITLE

This ordinance shall be known and may be cited and referred to as the Jones County Social Host Ordinance.

SECTION 2. PURPOSE

The Board of Supervisors of Jones County intend to protect the interest, welfare, health, and safety within Jones County by prohibiting the services to and consumption of alcoholic beverages by persons under the age of twenty-one (21) at premises located in the County. The County Board of Supervisors find 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 County Board of Supervisors further finds that persons under the age of twenty-one (21) often obtain alcoholic beverages at such gatherings and that persons who are in control of such premises know or have reason to know of such service and/or consumption and will be more likely to ensure that alcoholic beverages are neither served nor consumed by persons under the age of twenty-one (21) at these gatherings. Based on these findings, the County Supervisors have deemed it necessary to enact the following regulations in Jones County.

SECTION 3. DEFINITIONS

For purposes of this ordinance, the following terms have the following meanings:

- A. 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: means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, 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. Emergency Responders: means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
- D. Emergency Response: means any incident requiring response by fire fighting, law enforcement, ambulance, medical, or other emergency services.
- E. 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.
- F. 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.
- G. Juvenile: means a person under the age of eighteen (18).
- H. Legal Age: means twenty-one (21) years of age or more.
- I. 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.
- J. Person: means any individual, partnership, corporation, or any association of one or more individuals.
- K. Possession or Control: means actual possession or constructive possession based on facts, which permit the inference of intent to possess or control alcoholic beverages.
- L. 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.
- M. Public Place: means the same as defined in Iowa Code section 123.3(27).
- N. Social Host: means any person who allows, 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(s) in charge of the premises; or (3) the person(s) responsible for organizing the event, gathering, or party.

This ordinance does not apply to a social host who is a juvenile, however if the social host is a juvenile and the parent(s) of the juvenile knows or reasonably should know of the event, gathering, or party and knows or reasonably should know that the consumption of alcohol is occurring, the parent(s) shall be liable for violations of the Ordinance.

- O. Underage Person: means any person under the age of twenty-one (21).

SECTION 4. 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:

- A. Controlling underage persons' access to alcoholic beverages,
- B. Controlling the quantity of alcoholic beverages,
- C. 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,
- D. Supervising the activities of underage persons at the party, and
- E. 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.

SECTION 5. PROHIBITIONS

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.

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/or allowed law enforcement to enter the premises for the purpose of stopping illegal activities.

SECTION 6. EXCEPTIONS

- A. This ordinance shall not apply:
 - 1. Conduct solely between an underage person and his or her parents while present in the parents' household,
 - 2. Legally protected religious observances, or
 - 3. Situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.
- B. The exceptions outlined in Section 6.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.

SECTION 7. ENFORCEMENT

The provisions of this Ordinance shall be enforced by any peace officer within the State of Iowa.

SECTION 8. PENALTIES

Violations of SECTION 5. PROHIBITIONS are declared to be county infractions, punishable by civil penalty.

- A. A five hundred dollar (\$500.00) civil penalty shall be imposed for a social host's first offense.
- B. A seven hundred fifty dollar (\$750.00) civil penalty shall be imposed for a social host's second or subsequent offense.
- C. The court may order restitution paid to any public agency for the costs of the emergency response resulting from the actions constituting a violation of this section, not exceeding five hundred dollars per public agency for each such response.
- D. A public agency seeking such restitution shall consult with the county attorney regarding the expenses incurred by the public agency, and the county attorney shall include the expenses in the statement of pecuniary damages pursuant to section 910.3b., of the Code of Iowa.
- E. In determining if a violation charged is a second or subsequent offense, conviction for violation of this section, Iowa Code section 123.47, or an ordinance of any city or county in the state of Iowa that substantially corresponds to this section or Iowa Code section 123.47, shall be counted as previous offenses.

SECTION 9. JURIDICTION

The provisions of this Ordinance shall apply throughout Jones County, Iowa, including municipalities that have not enacted a municipal ordinance dealing with similar subject matter.

SECTION 10: REPEALER

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 11: SEVERABILITY CLAUSE

If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of either the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 12. EFFECTIVE DATE

This ordinance shall be in full force and in effect from and after its passage, adoption, and publication as required by law.

Section 3. When Effective

This ordinance shall be in full force and effect from and after its final passage, approval, and publication as provided by law.

APPROVAL:

First Consideration: February xx, 2011 Book "S" Page

Second Consideration: February xx, 2011 Book "S" Page

Final Consideration & Adoption: March xx, 2011 Book "S" Page

Published: March xx, 2011 in the Midland Times, March xx, 2011 in the Monticello Express, and March xx, 2011 in the Anamosa Journal-Eureka.

I, Janine Sulzner, Jones County Auditor, hereby certify that the foregoing Jones County, Iowa, Ordinance 2011-01, to amend the Jones County Code of Ordinances, was considered, approved, and published as stated.

Janine Sulzner, Auditor

Date