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LINN COUNTY ORDINANCE #5-5-2017

PREPARED BY: Linn County Attorney, 935-2nd St. SW, Cedar Rapids, IA 52404
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RETURN TO: Linn County Auditor, Attn: Becky Shoop, 935 2nd ST. SW, CEDAR
RAPIDS, IA 52404 (319) 892-5308.

CHAPTER 42 - REVISED
5-5-2017
LINN COUNTY ORDINANCE PROVIDING PENALTIES
FOR ADULTS KNOWINGLY PROVIDING ALCOHOLIC BEVERAGES and/or CONTROLLED SUBSTANCES
TO UNDERAGE PERSONS AT SOCIAL GATHERINGS
(SOCIAL HOST ORDINANCE)

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Repealer: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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.

This ordinance shall become effective May 15, 2017 or upon publication, whichever is later.

Passed and approved: May 15, 2017

Published in the Cedar Rapids Gazette / effective date: May 18, 2017,

Amendments and Resolutions: N/A

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42.1 PURPOSE.

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

The Linn County Board of Supervisors finds that the occurrence of social gatherings at premises where alcoholic beverages and/or controlled substances 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 (2007) is hereby incorporated by reference, as further support of the health, safety and public welfare concerns that exist with underage drinking.

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

42.2 DEFINITIONS

- a) "Adult Person" means any person age 18 or older.
- b) "Alcoholic Beverage" means any beverage containing more than one half of one percent of alcohol by volume including alcoholic liquor, wine, or beer.
- c) "Controlled Substances" includes those substances defined by Iowa Code Chapters 124 and 155A including synthetic versions.
- d) "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.

- e) "Juvenile" means a person under the age of eighteen (18).
- f) "Legal Age" means age 21 or older.
- g) "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.
- h) "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel, or motel room or other dwelling unit, or hall or meeting, 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.
- i) "Reasonable Steps" include, but are not limited to, controlling access to alcoholic beverages and controlled substances by verifying the age of persons attending gatherings by inspecting drivers' licenses or other government issued identification cards; prohibiting the consumption or use of all controlled substances, including the abuse of medications or use of synthetic drugs at gatherings and supervising the activities of underage persons at gatherings to ensure safety.
- j) "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.
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 and/or controlled substance is occurring, the parent(s) shall be liable for violations of this Ordinance.
- k) "Underage person" means any individual under the age of twenty-one (21).

42.3 PROHIBITED ACTS

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 and/or controlled substances, or knowingly permit or allow underage persons to possess alcoholic beverages and/or controlled substances 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 and/or controlled substances or notified law enforcement and allowed law enforcement to enter the premises for the purpose of stopping the illegal activities.

42.4 EXCEPTIONS

This Ordinance does not apply to actions permitted under Section 123.47(3), Iowa Code (2017), or to legally protected religious observances.

42.5 PENALTIES

A violation of the provisions of this ordinance shall be enforced as a civil infraction in accordance with Iowa Code Section 331.307. First time offenses shall carry a civil penalty of \$750. Second and subsequent offenses shall carry a civil penalty of \$1000.

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Whenever any adult having control of a premises is present at the premises at the time that a minor possesses or consumes alcohol and/or controlled substances, it shall be *prima facie* evidence that such adult had the knowledge or should have had the knowledge of such activities occurring at the social gathering.

42.6 JURISDICTION

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

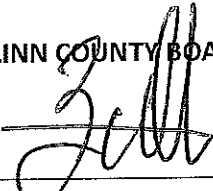
First reading on the 1st of May, 2017.

Second reading on the 3rd of May, 2017.

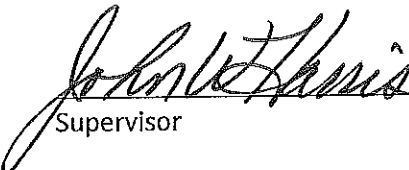
Third reading and final passage on the 15th day of May, 2017.

Published in *The Gazette* on the 15 day of May, 2017.

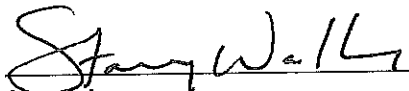
LINN COUNTY BOARD OF SUPERVISORS




Chairperson




Supervisor



Supervisor



Supervisor



Supervisor

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ATTEST:

Joel D. Miller by Rebecca Shoop, Deputy
Joel D. Miller, Linn County Auditor

STATE OF IOWA)
COUNTY OF LINN)

I, Joel D. Miller, County Auditor of Linn County, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance passed by the Linn County Board of Supervisors at a regular meeting of said Board held on May 15, 2017 and published as provided by law on May 18, 2017.

Joel D. Miller by Rebecca Shoop, Deputy
Linn County Auditor

Subscribed and sworn to me this 15th day of May, 2017.

Amanda Hoy
Notary Public, State of Iowa

