

NOTICE OF SECOND READING AND PASSAGE

ORDINANCE NO. 2008-1020.02

AN ORDINANCE RELATING TO THE IMPOSITION OF LIABILITY ON SOCIAL HOSTS WHO KNOWINGLY ALLOW MINORS TO OBTAIN, POSSESS OR CONSUME ALCOHOLIC BEVERAGES ON THEIR PROPERTY OR UPON PROPERTY UNDER THEIR CONTROL AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, Marion County, Kentucky (the "County") finds that unsupervised gatherings on private property where alcohol is consumed by minors is harmful to the minors themselves and the communities where such gatherings are held, and

WHEREAS, police ability to abate gatherings where alcohol is consumed by minors on private property will result in a decrease in abuse of alcohol and/or controlled substances by minors, and a decrease in physical altercations and injuries, neighborhood vandalism and excessive noise disturbance, thereby improving public safety, and

WHEREAS, problems associated with such gatherings are difficult to resolve unless law enforcement has the legal authority to direct the host to disperse the gathering, and

WHEREAS, control of large gatherings or events on private property where minors are consuming alcohol is necessary when such activity is determined to be a threat to the peace, health, safety or general welfare of the public, and

WHEREAS, the County finds and declares that the purpose of this Ordinance is to protect public health, safety and general welfare and to enforce laws prohibiting the consumption of alcohol by minors,

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF MARION COUNTY, KENTUCKY:

SECTION ONE: Definitions: As used in this Ordinance, unless the context otherwise requires:

"Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirits of wine from whatever source or by whatever process produced.

"Alcoholic beverage" includes 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 or alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

"Family member" means a spouse, a parent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

“Guardian” means (1) a person who, under court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

“Knowingly” means when with respect to conduct or to a circumstance described by this Ordinance a person is aware that his or her conduct is of that nature or that the circumstance exist.

“Minor” means any person under twenty-one years of age.

“Parent” means a person who is a natural parent, adoptive parent, legal custodian or step-parent of another person.

“Party, gathering or event” means a group of five (5) or more persons, other than the family members of the person owning or having control of the residence or other private property, place or premises, who have assembled or are assembling.

SECTION TWO: Prohibited Conduct: No person shall knowingly permit or allow a party, gathering or event at his or her place of residence or other private property, place or premises under his or her control where a minor or minors are present and alcoholic beverages are being consumed by any minor.

SECTION THREE: Protected Activities: This Ordinance shall not apply to prohibit conduct involving the use of alcoholic beverages where only the minor and his or her family members are present. This Ordinance shall also not apply to prohibit conduct involving the use of alcoholic beverages as part of the exercise of religious beliefs.

SECTION FOUR: Affirmative Defenses: The following shall constitute affirmative defenses to a charge under this Ordinance:

- A. Where, within one (1) hour after learning of the possession or consumption of alcoholic beverages by a minor at a gathering upon private property owned or under the control of the person charged with violation of this Ordinance, such person enlisted the aid of and cooperated with law enforcement personnel to cause minors in possession of or consuming alcoholic beverages to be removed from the private property;
- B. Where, upon property containing five (5) acres or more and upon which no residential structure is located, the owner or person with legal control of the property is not present upon the property at the time of the gathering, has no knowledge or reason to know of such gathering upon the property and has prominently posted “No Trespassing” signs upon the property prior to the gathering having taken place.

SECTION FIVE: Severability: If any section, phrase or provision of this Ordinance is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

SECTION SIX: Conflict: To the extent any resolution, ordinance or parts thereof is in conflict with the provisions of this Ordinance, the provisions of this Ordinance will prevail and be given effect.

SECTION SEVEN: Penalty: A person's first violation of this Ordinance shall be a Class B misdemeanor and any subsequent violation within a five (5) year period shall be a Class A misdemeanor.

SECTION EIGHT: Effective Date: This Ordinance shall become effective upon its second reading, passage and publication.

Pursuant to KRS 67.077, notice is hereby given that an Ordinance (the "Ordinance") of the County of Marion, Kentucky (the "County"), the title and contents of which are set out above, was given second reading and then passed and adopted by the Fiscal Court of the County at a meeting held on June 5, 2008.

**Karen Spalding
Fiscal Court Clerk
County of Marion, Kentucky**