

ORDINANCE NO. 2009-_____

AN ORDINANCE OF VAN BUREN COUNTY, ARKANSAS TO PROHIBIT THE HOSTING OR PERMITTING GATHERINGS WHERE MINORS CONSUME ALCOHOLIC BEVERAGES; PROVIDING FOR THE IMPOSITION OF FINES AND COSTS AGAINST THE PERSON OR PERSONS HAVING CONTROL OF THE PREMISES; PROVIDING FOR REPEAL OF ORDINANCES INCONSISTENT HEREWITH AND ALLOWING FOR SEVERABILITY.

BE IT ORDAINED BY VAN BUREN COUNTY, ARKANSAS:

SECTION 1:

Allowing Gatherings Where Minors are Consuming Alcoholic Beverages.

- (A) **Definitions.** For purposes of this section, the following definitions shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“ALCOHOL” means ethyl alcohol, hydrated oxide of ethyl, or spirits or 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 (1) 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. This term includes intoxicating beverages and low point beer as defined herein.

“GATHERING” is a party, gathering, or event, where a group of three or more minors have assembled or are assembling for a social occasion or social activity.

“INTOXICATING BEVERAGE” includes beverages containing more than three and two-tenths percent (3.2%) alcohol by weight.

“LEGAL GUARDIAN” means (1) a person who, by 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.

“LOW POINT BEER” means and includes beverages containing more than one-half of one percent ($\frac{1}{2}$ of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including by not limited to beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion of barley or other grain, malt or similar products.

“MINOR” means any person under twenty-one (21) years of age.

“JUVENILE” means any person less than 18 years of age except where otherwise specified under the section. The term “JUVENILE” is synonymous with the term “MINOR” as provided in the section.

“PARENT” means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

“PREMISES” means any residence or other private property, place, or premises, including any commercial or business premises.

“RESPONSE COST” are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering, including but not limited to: (1) salaries and benefits of law enforcement, code enforcement, fire, or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative costs attributable to such response(s); (2) the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at or leaving the scene of a gathering; (3) the cost of repairing any County equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at, or leaving the scene of a gathering; and (4) any other allowable costs related to the enforcement of this Section.

“YEAR OF AGE” continues from one birthday, such as the 17th, to, but not including, the day of the next, such as the 18th or the 21st birthday.

(B) Consumption of Alcohol by Minor In Public Places, Place Open to Public, or Place Not Open to Public.

Except as permitted by state law, it is unlawful for any minors to:

- (1) consume at any public place or any place open to the public alcoholic beverage; or
- (2) consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage that minor is being supervised by his or her parent or legal guardian.
- (3) Host, Permit, or Allow a Party, Gathering, or Event Where Minors Consuming Alcoholic Beverages is occurring.

(C) PROSCRIBED CONDUCT.

- (1) It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps are controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting driver's licenses or other government-issued

identification cards to ensure that minors do not consume alcoholic beverages while at the gathering.

- (2) It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection (C)(1) of this Section.
- (3) This Section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or legal guardian.
- (4) Nothing in this Section should be interpreted to prohibit any family activity held in the confines of the family home from providing the use of alcohol to immediate family members within the supervision of parents and guardians. However, if a minor leaves such a family gathering intoxicated and is found in public then said providers of alcohol will be held responsible in the same manner as a non-family gathering.
- (5) Nothing in this section should be interpreted to prohibit any religious practice which includes the use of alcohol. However, if a minor leaves such a religious gathering intoxicated and is found to be in public then said providers of alcohol will be held responsible in the same manner as a non-religious gathering.
- (6) This Section shall not apply to any premises licensed by the State of Arkansas to dispense alcoholic beverages.

(D) CRIMINAL PENALTIES AND CIVIL REMEDIES.

- (1) Any person who shall violate the provisions of this Section shall be deemed guilty of an offense against the County and upon conviction thereof shall be punished for violation of an unclassified misdemeanor first offense, with a fine of Five Hundred Dollars (\$500.00) plus all court costs and statutory penalties, as set forth in this Ordinance and with a fine of One Thousand Dollars (\$1000.00) for a second or subsequent offense, plus all court costs and statutory penalties.
- (2) Any juvenile who shall violate the provisions of this Section shall be deemed guilty of an offense against the County and upon conviction thereof shall be punished for violation in the Van Buren County Juvenile Court.
- (3) Violations of this Section shall be prosecuted by the Prosecution Attorney of the 20th Judicial District criminally, civilly, and/or administratively as provided by this Ordinance. The County may seek administrative fees and response costs associated with enforcement of this Section through all remedies or procedures provided by statute, ordinance, or law. This Section shall not limit the authority of peace officers or private citizens to make arrests for any criminal offense arising out the conduct regulated by this section, nor shall they limit Counties ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of this Section.

(E) LOCAL AUTHORITY.

This Section shall not apply where prohibited or preempted by state or federal law.

SECTION II:

That this section shall repeal all Ordinances or section of Ordinances that are inconsistent herewith.

SECTION III:

If, regardless of cause, any section, subsection, paragraph or clause of this Ordinance is held invalid or unconstitutional, the remaining sections, subsections, paragraphs, or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provision of this Ordinance.

PASSED AND APPROVED BY THE QUORUM COURT OF VAN BUREN COUNTY,
ARKANSAS ON THIS _____ DAY OF _____, 2009.

Robert Bramlett
County Judge

ATTEST:

Ester Bass
County Clerk