

**COMMONWEALTH OF KENTUCKY
DAVIESS COUNTY FISCAL COURT**

KOC 1010.8 (2009)

**AN ORDINANCE RELATING TO THE PROHIBITION AGAINST HOSTING,
PERMITTING, OR ALLOWING GATHERINGS WHERE MINORS CONSUME
ALCOHOLIC BEVERAGES**

WHEREAS, Daviess County Fiscal Court, pursuant to the powers delegated to it by the Kentucky Constitution has the authority to enact laws that promote the public health, safety, and general welfare of its residents; and

WHEREAS, Daviess County, acting through the Fiscal Court finds that parties, gatherings, or events [gatherings] on private property where alcoholic beverages are consumed by minors, who are under the legal age to consume alcohol in the State of Kentucky, are harmful to the minors and a threat to public health, safety, quiet enjoyment of residential property, and general welfare; and

WHEREAS, the Fiscal Court finds that minors often obtain alcoholic beverages at gatherings held at private residences or other private property, places, or premises, including rented commercial premises, which are under the control of a person who knows or should know of the consumption of alcoholic beverages by minors; further, the Fiscal Court finds that persons responsible for such gatherings often fail to take reasonable steps to prevent the consumption of alcoholic beverages by minors at these gatherings; and

WHEREAS, control of gatherings on private property where alcoholic beverages are consumed by minors is necessary when such activity is a threat to the peace, health, safety, or general welfare of the public; and

WHEREAS, peace officers must often make multiple responses to the location of a gathering where alcoholic beverages are consumed by minors to disperse uncooperative participants, causing a drain on public safety resources and in some cases, leaving other areas of the County with delayed police response; and

WHEREAS, problems associated with gatherings where alcoholic beverages are consumed by minors are difficult to prevent and deter unless peace officers, including the Daviess County Sheriff's Department, have the legal authority to arrest offenders and direct the host to disperse the gathering; and

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

WHEREAS, the Fiscal Court finds and declares that the consumption of alcohol by minors impacts the health, safety, and general welfare of Daviess County's citizens and communities; and

WHEREAS, Daviess Fiscal Court intends that criminal liability apply to any person in control of private property who knowingly hosts, permits, or allows a party, gathering, or event where minors are present and an alcoholic beverage is being consumed by any minor, where the person in control of the private property knows or reasonably should know that a minor consumed an alcoholic beverage; and

WHEREAS, further Daviess Fiscal Court intends to impose a duty on any person having control of any residence or other private property, place, or premises, including any commercial premises, who knowingly hosts, permits, or allows a party, gathering, or event, to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMONWEALTH OF KENTUCKY, COUNTY OF DAVIESS, KENTUCKY, AS FOLLOWS:

Section 1. Definitions

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 (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.

Gathering is a party, gathering, or event, where a group of three or more persons have assembled or are assembling for a social occasion or social activity.

Household or premises means any home, apartment, condominium, premises or other dwelling unit or meeting room or hall, including the yard and curtilage of such household or premises which are owned, rented, leased or under the control of the person or persons responsible for the party, regardless of whether such premises are occupied on a permanent or temporary basis, or merely occupied as a premises for a social function.

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.

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

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 costs 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 government 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 ordinance.

Section 2. Hosting, Permitting, or Allowing a Party, Gathering, or Event Where Minors Consuming Alcoholic Beverages Prohibited, Consumption of alcohol by minor prohibited, presumption.

(a) (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 include: 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; and supervising the activities of minors 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 (a)(1) of this Section.

(3) It is unlawful for a person under the age of twenty-one (21) years to consume alcohol, except as permitted by statute. A person under the age of twenty-one years is presumed to have consumed alcohol if they have an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of the initial contact by a law enforcement officer.

(b) 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, as permitted by KRS 530.070 (1)a.

(c) This Section shall not apply to any Kentucky Department of Alcoholic Beverage Control licensee at any premises regulated by the Department of Alcoholic Beverage Control.

Section 3. Mandatory Minimum Fines Criminal violations of Section 2 shall be punishable, on a first offense, by a mandatory minimum fine of \$100.00, with neither fine nor costs suspended, and, on second and subsequent offenses, by a fine of \$200.00, plus costs, with neither fine nor costs suspended

Section 4. Reservation of Legal Options: The Daviess County Attorney, in the name of the Commonwealth of Kentucky shall prosecute violations of this ordinance and may recover the *response costs* associated with enforcement through all remedies or procedures provided by statute, ordinance, or law. This ordinance shall not limit the authority of peace officers to make arrests for any criminal offense arising out of conduct regulated by this ordinance, nor shall they limit the Commonwealth of Kentucky's ability to initiate and prosecute any criminal offense arising out of the same.

Section 5. Severability Clause If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity will not affect the remaining parts of the ordinance.

INTRODUCED AND PUBLICLY READING on first reading on this the 18 day of June, 2009.

PUBLICLY READ AND APPROVED on second reading on this the 2 day of July, 2009.

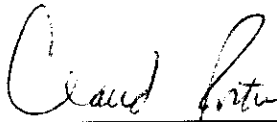
DAVIESS COUNTY FISCAL COURT

By: Reid Haire
Reid Haire
Daviess County Judge/Executive

ATTEST:

Jennifer C. Warren
Jennifer Warren
Fiscal Court Clerk

PREPARED BY:

A handwritten signature in cursive script, appearing to read "Claud Porter". The signature is written in dark ink and is positioned above a horizontal line.

Claud Porter
Daviss County Attorney
P.O. Box 158
Owensboro, Kentucky 42302