

Board of Supervisors
Calhoun County Courthouse
Rockwell City, Iowa
Tuesday, July 16, 2013

The Board of Supervisors of Calhoun County met with the following members present: Nicholson, Hoag, Sr., and Jacobs

Agenda additions: David Wollenzien, Drainage Attorney

It was moved by Hoag, Sr. and seconded by Jacobs to approve the agenda as amended. Ayes all. Motion carried.

The minutes of the last meeting were read. It was moved by Jacobs and seconded by Hoag, Sr. to approve the minutes. Ayes all. Motion carried.

It was moved by Jacobs and seconded by Hoag, Sr., to approve the following reports: Quarterly Report of Judy Howrey, County Auditor; Quarterly Report of Kathy Bennett, County Recorder; Quarterly Report of Calhoun County Historical Society. Ayes all. Motion carried

A telephonic meeting was held with Webster County Board of Supervisors concerning the following: Jt. DD 12-38 MHF Engineering- \$738.00, Jt. DD 70-95 MHF Engineering \$3,647.80, Jt. DD 70-95 Pay Estimate #3 Ingraham Const. **\$35,460.00**. Both boards approved.

Ron Haden, Engineer, and Steve Goins, Assistant to the Engineer, met with the Board to update them on Secondary Road projects.

It was moved by Jacobs and seconded by Hoag, Sr., to approve Underground Permit #4-2013 for James Dougherty to place 18" tile between Sections 25 & 26, Elm Grove Township. Ayes all. Motion carried.

Theresa Hildreth, Chamber President, met with the Board concerning Sweet Corn Daze and the pony rides-August 3rd. Theresa presented the schedule for August 3rd and sketch of activities on the Courthouse lawn and the streets closed around the square.

It was moved by Hoag, Sr., and seconded by Nicholson to approve the first reading of "An Ordinance Amending the Code of Ordinances of the County of Calhoun, by adding Chapter 2013-3 Pertaining to Social Host." William A. Davis, County Sheriff was present. No one was present to object. Ayes all. Motion carried.

It was moved by Hoag, Sr., and seconded by Jacobs to waive the waiting period and approve the second reading of "An Ordinance Amending the Code of Ordinances of the County of Calhoun, by adding Chapter 2013-3 Pertaining to Social Host." Ayes all. Motion carried.

It was moved by Jacobs and seconded by Hoag, Sr., to waive the waiting period and approve the third reading of "An Ordinance Amending the Code of Ordinances of the County of Calhoun, by adding Chapter 2013-3 Pertaining to Social Host." Ayes all. Motion carried.

It was moved by Hoag, Sr., and seconded by Jacobs to adopt the following Ordinance:

ORDINANCE NO. 2013-3

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF CALHOUN, BY ADDING CHAPTER 2013-3 PERTAINING TO SOCIAL HOST

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF CALHOUN COUNTY AS FOLLOWS TO WIT:

SECTION 1. NEW CHAPTER. The Code of Ordinances of Calhoun County is amended by adding new Chapter 2013-3 entitled Social Host which is hereby adopted as read as follows:

2013-3.01 PURPOSE

Calhoun County intends to protect the interest, welfare, health, and safety within Calhoun County by prohibiting the services to and consumption of alcoholic beverages by person under the age of twenty-one (21) at unsupervised parties on private property where alcohol is consumed by minors, are harmful to the minors themselves and to the community where such parties are held. Law Enforcement's ability to abate gatherings where alcohol is consumed by minors on private property will result in a decrease in abuse of alcohol by minors, physical altercations and injuries, neighborhood vandalism, and excessive noise disturbances thereby improving public safety. Problems associated with such gatherings are difficult to resolve unless Law Enforcement has the legal authority to direct the host to disperse the group. Control of large parties, 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. In addition, Law Enforcement officers frequently have been required to make calls to a location of a party, gathering, or event in order to disperse uncooperative participants, causing a drain of manpower and resources and in some cases, leaving other areas of the County with inadequate protection. Based on these findings, the Board of Supervisors has deemed it necessary to enact the following regulations in Calhoun County

2013-3.02 DEFINITIONS For purposes of this ordinance, the following terms have the following meanings:

- A. Alcohol. "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. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half or 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. "Emergency Responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
- D. Enforcement Services. "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 treatments for any injured emergency responder, and the costs of repairing any damage to equipment or vehicles.
- E. Event. Gathering. Party. "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.
- F. Juvenile. "Juvenile" means a person under the age of eighteen (18).
- G. Legal Age. "Legal Age" means twenty-one (21) years of age or more.
- H. Parent. "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; or (4) a person who has assumed care of juvenile through an arrangement for youth exchange.
- I. Person. "Person" means any individual, partnership, corporation, or any association of one or more individuals.
- J. Possession or Control. "Possession or control" means actual possession or constructive possession based on facts, which permit the inference of intent to possess or control of alcoholic beverages.
- K. Premises. "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.
- L. Public Place. "Public place" means the same as defined in Iowa Code section 123.3(27).
- M. Social Host. "Social Host" means any person (see Section 1(I)) 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.
- N. Underage Person. "Underage person" means any person under the age of twenty-one (21).

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.

2013-3.03 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 driver's 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.

2013-3.04 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 person to consume alcoholic beverages, or knowingly permit or allow underage person 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 allowed law enforcement to enter the premises for the purpose of stopping illegal activities.

2013-3.05 EXCEPTIONS

A. This ordinance shall not apply:

1. Conduct solely between an underage person and his or her parents while present in the parent's 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 2103-3.05(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.**

2013-3.06 ENFORCEMENT

The provisions of this Ordinance shall be enforced by the law enforcement agencies of this county. The Calhoun County Sheriff's Office shall have primary, but not exclusive responsibility for this Ordinance.

2013-3.07 PENALTIES

A. Violations of Section 1 are declared to be county ordinance infractions, punishable by civil penalty. A seven-hundred, fifty dollar (\$750.00) civil penalty shall be imposed for a social host's first offense. A one-thousand dollar (\$1,000.00) civil penalty shall be imposed for a social host's second or subsequent offense. The County may also seek reimbursement for enforcement services provided by emergency responders related to the event, gathering, or party.

B. In determining if a violation 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.

2013-3.08 JURISDICTION

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

SECTION 2. REPEALER. All ordinance or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. 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 the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.
Ayes all. Motion carried.

Lori Erkenbrack, County Treasurer, met with the Board concerning a tax sale compromise. It was moved by Hoag, Sr., and seconded by Jacobs to assign to Todd A. Thomas, Vail, Iowa, for current taxes of \$244.00 the following described real estate: Lot 4, Block 29, Maplewood Addition to City of Manson. Ayes all. Motion carried.

David Wollenzien, Drainage Attorney, met with the Board concerning a letter from Buchanan, Bibler, Gabor and Meis, Attorneys, Algona, about a voluntary petition for annexation. Also present was Wayne Dowling, Drainage Clerk. A joint meeting will be held on Tuesday, August 6 at 11:30 am with Webster County Board of Supervisors in Board Room, Courthouse, Rockwell City.

A conference call with Pocahontas County Board of Supervisors and Brian Blomme, I&S Group, was held concerning Jt. DD 35-37 improvements, Also present was Wayne Dowling, Drainage Clerk and Zac Anderson, I&S Group. After a discussion, it was moved by Jacobs and seconded by Louis Stauter (Pocahontas County), to hold an informal hearing in Fonda at 1:30 pm, Tuesday, August 20. Ayes all. Motion carried.

It was moved by Jacobs and seconded by Hoag, Sr., to adjourn until Tuesday, July 23, 2013 at 9:00 am for their regular Board meeting. Ayes all. Motion carried.

Gary Nicholson, Chairman

Judy Howrey, Auditor

Dean G. Hoag, Sr., Vice Chairman

Scott Jacobs