

CITY OF STILWELL ORDINANCE NO. 351

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Carrie Philpott - Adair County Clerk  
State of Oklahoma

AN ORDINANCE PROHIBITING THE PERMITTING, OR ALLOWING GATHERINGS WHERE MINORS ARE CONSUMING ALCOHOLIC BEVERAGES; PROVIDING PENALTY FOR VIOLATION; PROVIDING FOR REPEALER AND SEVERABILITY.

WHEREAS, the City of Stilwell, pursuant to the police powers delegated to it by the Oklahoma Constitution and as a charter city, has the authority to enact laws that promote the public health, safety, and general welfare of its residents: and

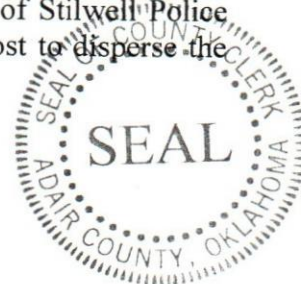
WHEREAS, The City of Stilwell, acting through the City council [the Council] finds that parties, gatherings, or events [gatherings] on private property where alcoholic beverages, to include intoxicating beverages and low point beer are consumed by minors, who are under the legal age to consume alcohol in the State of Oklahoma, are harmful, to the minors themselves and a threat to public health, safety, quiet enjoyment of residential property, and general welfare; and

WHEREAS, the Council 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 control of a person who knows or should know of the consumption of alcoholic beverages by minors; further, the Council finds that persons responsible for the occurrence of 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 determined to be a threat to the peace, health, safety, or general welfare of the public; and

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

WHEREAS, problems associated with gatherings where alcoholic beverages are consumed by minors are difficult to prevent and deter unless the City of Stilwell Police Department has the legal authority to arrest offenders and direct the host to disperse the gathering; and



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

WHEREAS, it is the intent of the Council that criminal liability under Stilwell Municipal Code, applies 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 has consumed an alcoholic beverage; and

WHEREAS, it is the further intent of the Council 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, where the person in control of the private property knows or reasonably should know that a minor has consumed an alcoholic beverage;

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF  
STILWELL, OKLAHOMA:

SECTION 1. Permitting or Allowing Gatherings Where Minors are  
Consuming Alcoholic Beverages

(A) Definitions. For purposes of Ordinance, the following definitions shall apply:

"Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or 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 persons 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 (1/2 of 1 %) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including but 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 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 City 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) other allowable costs related to the enforcement of this Section.

(B) Consumption of Alcohol by Minor in Public Place, Place Open to Public, or Place Not Open to Public

Except as permitted by state law, it is unlawful for any minor 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.

(C) Hosting, Permitting, or Allowing a Party, Gathering, or Event Where Minors consuming Alcoholic Beverages Prohibited

- (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 drivers' licenses or other government-issued identification cards to ensure that minor do not consume alcoholic beverages while at 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 had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in 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 the 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 in public then said providers of alcohol will be held responsible in the some manner as a non-religious gathering.

(6) This Section shall not apply to any premises licensed by the State of Oklahoma to dispense alcoholic beverages.

(7) Penalty. Any person who shall violate the provisions of this Ordinance shall be deemed guilty of an offense against the City and upon conviction thereof shall be punished by a fine up to the maximum amount allowed under the municipal ordinances for the City of Stilwell, Oklahoma.

(8) Reservation of Legal Options. Violations of this Section may be prosecuted by the City of Stilwell criminally, civilly, and/or administratively as provided by the Municipal Code. The City or Stilwell 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 of conduct regulated by this Section, nor shall they limit the City of Stilwell's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of this Section.

(9) Local Authority. This section shall not apply where prohibited or preempted by state or federal law.

Section 2. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

Section 3. Severability. If any section, sub-section, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court competent jurisdiction, such portion shall be deemed a separate, distinct and independent

provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 10. That in order to preserve and protect public safety, health and peace, an emergency is hereby declared to exist by reason whereof this Ordinance shall take effect immediately upon its passage and publication.

PASSED by the City Council this 4<sup>th</sup> day of May 2009.

APPROVED by the Mayor this 5<sup>th</sup> day of May 2009.

ATTEST:



James Collins  
James Collins, Mayor

Sheldon L. Migletto  
Sheldon L. Migletto, City Clerk

(Published in the Stilwell Democrat Journal, June 10, \_\_\_\_\_, 2009)