New Business #15

COUNTY AGENDA REQUEST

Department:	Code Enforcement	Presenter(s):	Officer Kathy Hobbs
Meeting Date:	Tuesday, March 11, 2014	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to adopt Ordinance 2014-04 enacting provisions to Social Hosts.

Background/History/Details:

This ordinance will make it unlawful for any person who is in legal and actual control of any location where a gathering takes place to allow such a gathering where one or more persons attending the gathering is charged with a violation of any of the provisions of O.C.G.A. Sec. 3-3-23.

A copy of O.C.G.A. 3-3-23 follows for reference.

This ordinance is being recommended by Code Enforcement staff and has been approved by Sheriff Barry Babb.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt Ordinance 2014-04 enacting provisions to Social Hosts.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	Yes	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

STATE OF GEORGIA

FAYETTE COUNTY

ORDINANCE

NO. 2014-____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR FAYETTE COUNTY, GEORGIA; TO ENACT PROVISIONS PERTAINING TO SOCIAL HOSTS; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF FAYETTE COUNTY AS IT PERTAINS TO OFFENSES AND MISCELLANEOUS PROVISIONS (CHAPTER 12), BE AMENDED AS FOLLOWS:

Section 1. By adding a new Section 12-10, pertaining to "Social hosts", to Article I of Chapter 12, to be numbered and read as follows:

Sec. 12-10. Social hosts.

(a) *Definitions.* For the purposes of this section, the following definitions shall apply:

(1) *Social host* shall mean any person who is in legal and actual control of any location where a gathering takes place.

(2) *Gathering* shall mean three (3) or more non-family members, at least one of whom is under the age of 21 years old.

(b) *Violation.* It shall be unlawful for any social host to allow any gathering where one (1) or more persons attending such gathering is charged with a violation of any of the provisions of O.C.G.A. § 3-3-23.

(c) *Penalties.* Any person who violates any provisions of this section shall, upon conviction, be guilty of a violation of such ordinance and shall be punished in accordance with this Code of Ordinances; provided, however, that for a first offense, the person shall not be fined less than $150.00; for a second and subsequent offense, the person shall not be fined less than $500.00.

Section 2. This ordinance shall become effective immediately upon its adoption by the Board of Commissioners for Fayette County.

Section 3. All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. In any event any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part thereof. The Board of Commissioners hereby declares that it would have passed the remaining parts of this Ordinance if it had known that such part or parts hereof would be declared or adjudged invalid or

unconstitutional.

SO ENACTED this _____ day of _____, 2014.

BOARD OF COMMISSIONERS OF
FAYETTE COUNTY

By:_____
Steve Brown, Chairman

(SEAL)

ATTEST:

_____
Floyd Jones, County Clerk

Approved as to form:

_____
County Attorney

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O.C.G.A. § 3-3-23

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*** Current through the 2009 Regular Session ***

TITLE 3. ALCOHOLIC BEVERAGES
CHAPTER 3. REGULATION OF ALCOHOLIC BEVERAGES GENERALLY
ARTICLE 2. PROHIBITED ACTS

O.C.G.A. § 3-3-23 (2009)

§ 3-3-23. Furnishing to, purchase of, or possession by persons under 21 years of age of alcoholic beverages; use of false identification; proper identification; dispensing, serving, selling, or handling by persons under 21 years of age in the course of employment; seller's actions upon receiving false identification

(a) Except as otherwise authorized by law:

(1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age;

(2) No person under 21 years of age shall purchase, attempt to purchase, or knowingly possess any alcoholic beverage;

(3) No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage;

(4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age; or

(5) No person under 21 years of age shall misrepresent his or her identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.

(b) The prohibitions contained in paragraphs (1), (2), and (4) of subsection (a) of this Code section shall not apply with respect to the sale, purchase, or possession of alcoholic beverages for consumption:

(1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or

(2) At a religious ceremony.

(c) The prohibitions contained in paragraphs (1), (2), and (4) of subsection (a) of this Code section shall not apply with respect to the possession of alcoholic beverages for consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person and when possession is in the home of the parent or guardian and such parent or guardian is present.

(d) The prohibition contained in paragraph (1) of subsection (a) of this Code section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under Code Sections 40-5-100 through 40-5-104. "Proper identification" shall not include a birth certificate and shall not include any traffic citation and complaint form.

(e) If such conduct is not otherwise prohibited pursuant to Code Section 3-3-24, nothing contained in this Code section shall be construed to prohibit any person under 21 years of age from:

(1) Dispensing, serving, selling, or handling alcoholic beverages as a part of employment in any licensed establishment;

(2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured; or

(3) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.

(f) Testimony by any person under 21 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this Code section, shall not be used in any administrative or judicial proceedings brought against such testifying person under 21 years of age.

(g) Nothing in this Code section shall be construed to modify, amend, or supersede Chapter 11 of Title 15.

(h) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such alcoholic beverage to request to see and to be furnished with proper identification as provided for in subsection (d) of this Code section in order to verify the age of such person; and the failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so knowingly.

(i) Any retailer or retail consumption dealer, or any person acting on behalf of such retailer or retail consumption dealer, who upon requesting proper identification from a person attempting to purchase alcoholic beverages from such retailer or retail consumption dealer pursuant to subsection (h) of this Code section is tendered a driver's license which indicates that such driver's license is falsified, is not the driver's license of the person presenting it, or that such person is under the age of 21 years, the person to whom said license is tendered shall be authorized to either write down the name, address, and license number or to seize and retain such driver's license and in either event shall immediately thereafter summon a law enforcement officer who shall be authorized to seize the license either at the scene or at such time as the license can be located. The procedures and rules connected with the retention of such license by the officer shall be the same as those provided for the acceptance of a driver's license as bail on arrest for traffic offenses pursuant to Code Section 17-6-11.

HISTORY: Code 1933, § 5A-510, enacted by Ga. L. 1981, p. 1269, § 22; Ga. L. 1985, p. 753, §§ 1, 3; Ga. L. 1985, p. 782, §§ 1, 2; Ga. L. 1986, p. 789, §§ 1, 2; Ga. L. 1988, p. 1372, § 1; Ga. L. 1989, p. 1227, § 1; Ga. L. 1997, p. 1085, § 1.

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