Book 2013 Page 1888

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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared by and Return To: Carla K. Becker, County Auditor, 301 E. Main St., Manchester, IA 52057 563 927-4701

CERTIFICATION

Attached hereto is the supporting documentation for the passage of Ordinance #37 entitled "Social Host", by the Delaware County Board of Supervisors.

1. County Ordinance #37
2. Proof of Publication of the Public Notice for the first, and possible final, reading of Ordinance #37 published March 20, 2013 in The Manchester Press and in the Dyersville Commercial and March 19, 2013 in the Delaware County Leader.
3. Copy of the Board of Supervisors Official Minutes of April 1, 2013 in Book 3, Page 44 through Page 47 showing the first, and final, approved reading of Ordinance #37.
4. Proof of Publication of the full text of Ordinance #37 on April 10, 2013 in The Manchester Press, and the Dyersville Commercial and April 9, 2013 in the Delaware County Leader.

I, Carla K. Becker, Delaware County Auditor, do hereby certify that the attached are originals or true copies of the above listed instruments.

Dated this 4th day of June, 2013.

Carla K. Becker, Delaware County Auditor

DELAWARE COUNTY OFFICIAL SEAL IOWA

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

Subscribed and sworn to before me, and in my presence by Carla K. Becker, Delaware County Auditor, this 4th day of June, 2013.

NOTARIAL SEAL IOWA

ANNE RAVE
Commission Number 757587
MY COMMISSION EXPIRES
MARCH 25, 2015

Anne Rave, Notary Public in and for the State of Iowa

COUNTY ORDINANCE NO. 37

SOCIAL HOST

Be it ordained by the Board of Supervisors of Delaware County, Iowa:

Section 1. Purpose.

Pursuant to the authority granted under Chapter 331, Code of Iowa (2011), this Ordinance is enacted to protect and preserve the rights, privileges, and property of the residents of Delaware County and to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of Delaware County. The purpose of this ordinance is to prohibit the consumption of alcoholic beverages by persons under the legal drinking age of twenty-one (21) at gatherings where adult persons know or have reason to know or allow or permit underage persons to drink alcoholic beverages on property they own or control.

The Delaware County Board of Supervisors finds that the occurrence of social gatherings at premises where alcoholic beverages are served to, or consumed by, persons under the legal drinking age is harmful to such persons themselves and a threat to public welfare, health and safety. The Surgeon General's Call to Action (2007) is hereby incorporated by reference, as further support of the health, safety and public welfare concerns that exists with underage drinking.

The Delaware County Board of Supervisors further finds that persons under legal drinking age often attend gatherings where controlled substances and/or alcoholic beverages are brought or made available, and that the persons who are in control of such premises either have reason to know or are knowingly tolerating, allowing, or permitting such drug and alcohol use to occur. This ordinance will establish penalties for persons who know or have reason to know or permit or allow underage drinking or drug use, and will encourage those persons to ensure that those activities are not occurring on premises under their control.

Section 2. Definitions.

a. "Adult Person" means any person age eighteen (18) or older.

b. "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.

c. "Alcoholic beverage" means any beverage in any form that contains more than one half of one percent of alcohol by volume including alcoholic liquor, wine, or beer.

d. "Emergency Responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.

e. "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 treatment for any injured emergency responder, and the costs of repairing any damage to equipment or vehicles.

f. "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.

g. "Juvenile" means a person under the age of eighteen (18).

h. "Legal age" means twenty-one (21) years of age or more.

i. "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; or (3) as a person to whom legal custody has been given by order of the court.

j. "Person" means any individual, partnership, corporation or any association of one or more individuals.

k. "Possession or Control" means actual possession or constructive possession based on facts, which permit the inference of intent to possess or control alcoholic beverages.

l. "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.

m. "Public place" means the same as defined in Iowa Code section 123.3(27).

n. "Social host" means any person who aids, allows, entertains, organizes, supervises, controls or permits an event, gathering or party. This includes but is not limited to: (1) the person (see Section j. above) 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.

If the social host is a juvenile, and the juvenile's parent(s) are (1) present on the premises, or (2) knows or reasonably should know of the event, gathering or party and knows or reasonably should know that the consumption of alcohol is occurring, both the juvenile and the parent(s) will be held liable for violations of this chapter.

o. "Underage person" means any person under the age of twenty-one (21).

Section 3. 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.

Section 4. Prohibited Acts.

a. 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 persons to consume alcoholic beverages or knowingly permit or allow underage persons to possess alcoholic beverages on the premises, whether or not the social host is present on the premises.

b. It is unlawful for any social host to host an event, gathering or party on premises when the person knows or reasonably should know that an underage person has consumed an alcoholic beverage, or possess an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the underage person. A

social host who hosts such an event, gathering or party does not have to be present at the time the prohibited act occurs.

c. A person or persons under the legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine, or beer in their possession or control. (As set out in Iowa Code section 123.47(2)). A person under the legal age who has consumed alcoholic liquor, wine, or beer shall be presumed to have had the same in his or her possession or control prior to its consumption.

d. 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 the illegal activities.

Section 5. Exceptions.

This Ordinance does not apply to actions permitted under Iowa Code Section 123.47(2) or to legally protected religious observances or to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

Section 6. Enforcement.

The Delaware County Sheriff's Office shall have primary, but not exclusive, enforcement responsibility for this Ordinance.

Section 7. Jurisdiction.

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

Section 8. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

Section 9. Repealer Clause.

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

Section 10. Severability Clause.

If any section, provision, sentence, clause, phrase 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 provision, section, subsection, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 11. Evidence of Consumption.

A specific finding has been made by the Board of Supervisors that preliminary breath screening tests (PBT's), which have been approved by the Department of Public Safety for use in Public Intoxication cases, are accurate in determining the presence or absence of alcohol in a person's body. Such devices are valuable tools in the investigation of unlawful consumption of alcohol. Therefore, at trial, evidence obtained during the administration of preliminary breath testing, including the test result expressed in terms of alcohol concentration, shall be admissible on the issue of whether a person under the legal drinking age did or did not consume alcohol.

Section 12. Penalties.

A person who commits a violation under Section 4 shall be punished by the following penalties:

a. A first offense shall be a simple misdemeanor punishable by a scheduled fine of five hundred dollars ($500.00) plus applicable surcharges and court costs.

b. A second or subsequent offense shall be a simple misdemeanor punishable by a scheduled fine of six hundred twenty-five dollars ($625.00) plus applicable surcharges and court costs.

c. The court may, in its discretion, order the person to perform community service work under Iowa Code Section 909.3A, of an equivalent value to the fine imposed under this section.

d. The County may also seek reimbursement for enforcement provided by emergency responders related to the event, gathering or party.

PASSED AND ADOPTED THIS 1st DAY OF April, 2013.

Jeff Madlom, Chairperson
Delaware County Board of Supervisors

ATTEST:

Carla Becker, County Auditor

DELAWARE COUNTY OFFICIAL SEAL IOWA

STATE OF IOWA)
) ss:
DELAWARE COUNTY)

On this 1st day of April, 2013, before me, Anne Rave, a Notary Public in and for the State of Iowa, personally appeared Jeff Madlom and Carla Becker to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor, respectively, of the County of Delaware, Iowa; that the seal affixed to the foregoing instrument is the county seal of the county and that the instrument was signed and sealed on behalf of the county, by authority of its Board of Supervisors, as contained in Ordinance No. 37 passed (or Resolution adopted) by the Board of Supervisors under Roll Call No. _____ of the Board of Supervisors on the 1st day of April, 2013, and Jeff Madlom and Carla Becker acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the county, by it voluntarily executed.

ANNE RAVE
Commission Number 757587
MY COMMISSION EXPIRES
MARCH 25, 2015

Notary Public, State of Iowa

wpdocs\social-host-ordinance.wpd

STATE OF WISCONSIN AFFIDAVIT OF PUBLICATION

Sandi Garfoot

being duly sworn, doth depose and say that he/she is an authorized representative of the MANCHESTER PRESS a weekly newspaper published by News Publishing Co. Inc. at Manchester in Delaware County, Iowa and that an advertisement of which the annexed is a true copy, taken from said paper, was published therein on

Mar 20, 2013

PUBLIC NOTICE • PUBLIC NOTICE • PUBLIC NOTICE • PUBLIC NOTICE

LEGAL NOTICE – DELAWARE COUNTY BOARD OF SUPERVISORS PUBLIC NOTICE

Public Notice is hereby given that the Delaware County Board of Supervisors will meet for the first, and possible final, reading in consideration of Ordinance #37 "A Social Host Ordinance" at their regular meeting on April 1, 2013 at 1:15 pm in the Courthouse, Manchester, Iowa. Copies of the full text of said Ordinance are available to the public at the Delaware County Auditor's Office or on the County's website at www.co.delaware.ia.us.

Summary: The purpose of this ordinance is to prohibit the consumption of alcoholic beverages by persons under the legal drinking age of twenty-one (21) at gatherings where adult persons know or have reason to know or allow or permit underage persons to drink alcoholic beverages on property they own or control. Authority for this ordinance is granted under Chapter 331, Code of Iowa (2011) and if passed will be enforced throughout the entire county, both rural and urban.

Carla K. Becker, Delaware County Auditor

Publish: 3/20/13

SIGNED Sandi Garfoot

DATED 3-21-13

Diane S Baumgartner

Notary Public, State of Wisconsin

My Commission Expires 9/21/14

of. Lines 19 # of Weeks Published 1

Printers Fee $ 13.75

Proof of Publication $ 1.00

Total $ 14.75

DIANE S BAUMGARTNER NOTARY PUBLIC STATE OF WISCONSIN

STATE OF IOWA)
) **Ss:**
DELAWARE COUNTY

April 1, 2013
Manchester, Iowa
1:15 PM

The Delaware County Board of Supervisors met in regular session this date at 1:15 pm with all members present. Also present were Milt Kramer, Bruce Trapp, Melanie Dill, Jen Stolka, Jim Wessels, Delma Hardin, Anthony Bardgett, Carla Becker, and three (3) members of the media. Jeff Madlom, Chairperson, called the meeting to order.

Motion made by Helmrichs, second by Ries and carried to approve the minutes from the March 25, 2013 regular session. All Ayes

Motion made by Ries, second by Helmrichs and carried to approve the following employees to attend their respective meetings: Casey Snyder and Lynn Brunsman to attend the Jail Basic 40 hour school in Des Moines April 15-19, 2013; Joette Orcutt and Sue Collins to attend the Jail in-service 20 hour school in Dubuque April 2-4, 2013; Megan Norem, Ken Rion and Glenn Nystel to attend the Jail in-service 20 hour school in Johnson County May 21-23, 2013; John LeClere to attend the ISSCA Civil School in Des Moines April 21-24, 2013; John LeClere and Courtney Vorwald to attend the DEC Drug Endangered Children seminar in Altoona on April 8, 2013; and Jeff Madlom, Shirley Helmrichs and Jerry Ries to attend the RTA meeting in Dubuque on April 3, 2013. All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the payment of the following claims:

Alliant Energy	Service	68.01
Black Hills Energy	Service	372.24
Mediacom LLC	Data Processing	139.95
Windstream	Telephone Service	523.66

All Ayes

Motion made by Ries, second by Helmrichs and carried to approve a request for partial payment from Renaissance Restoration, Inc. as follows:

Courtroom Ceiling Restoration	$34,884.90
Preparation of Ceiling for New Lighting	$5,246.89
Total Partial Payment	$40,131.79

Chairperson Madlom stated that the Board is extremely happy with how the project is coming along. After the new lighting is installed in a few weeks, the Board is considering having an open house so everyone can see the beautifully restored ceiling. All Ayes

There were no "Applications for Approval of Underground Construction on Delaware County Right-of-Way" submitted for consideration.

Motion made by Helmrichs, second by Ries and carried to acknowledge receipt of the following manure management plan updates: Robert Schaul in Section 28 of Coffins Grove Township; C&K Pork Inc, Kent Keppler, in Section 6 of Richland Township; Nick Eike, Eike Farms, in Section 3 of Hazel Green Township; James Dolan, Delaware Finisher, in Section 30 of Prairie Township; Pork Chop Ranch Inc, Zumbach Finisher, in Section 31 of Union Township; Jeff State, P&D, in Section 7 of Honey Creek Township; Mouw Family Investments LLC, Winch Site, in Section 20 of Union Township; Agri-Vest Inc., Recker Farm South, in Dubuque County, Wilson Farms, Ann Wilson-Grant, in Section 32 of Delhi Township; and DAK Pork LLC, Ann Wilson-Grant, in Section 1 of Hazel Green Township. All Ayes

This being the date and time set to hold a public hearing on the first, and possibly final, reading of Proposed Ordinance #37 – A Social Host Ordinance, Chairperson Madlom opened the hearing at 1:25 pm.

Proposed Ordinance #37 –Social Host, was read aloud by the Board for those present to hear.

Supervisor Ries asked those representing the City of Manchester if they had any concerns that the proposed Ordinance covers the rural area and those living within Delaware County municipalities. There were no objections.

Having received no comments regarding proposed Ordinance #37 – Social Host, either written or oral, the public hearing was closed at 1:39 pm.

Motion made by Helmrichs, second by Ries and carried to approve the first reading of proposed Ordinance #37 – Social Host, waive the second and final readings of said proposed ordinance and direct the Auditor to publish the full text of the approved Ordinance as follows:

COUNTY ORDINANCE # 37
SOCIAL HOST

Be it ordained by the Board of Supervisors of Delaware County, Iowa:

Section 1. Purpose.

Pursuant to the authority granted under Chapter 331, Code of Iowa (2011), this Ordinance is enacted to protect and preserve the rights, privileges, and property of the residents of Delaware County and to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of Delaware County. The purpose of this ordinance is to prohibit the consumption of alcoholic beverages by persons under the legal drinking age of twenty-one (21) at gatherings where adult persons know or have reason to know or allow or permit underage persons to drink alcoholic beverages on property they own or control.

The Delaware County Board of Supervisors finds that the occurrence of social gatherings at premises where alcoholic beverages are served to, or consumed by, persons under the legal drinking age is harmful to such persons themselves and a threat to public welfare, health and safety. The Surgeon General's Call to Action (2007) is hereby incorporated by reference, as further support of the health, safety and public welfare concerns that exists with underage drinking.

The Delaware County Board of Supervisors further finds that persons under legal drinking age often attend gatherings where controlled substances and/or alcoholic beverages are brought or made available, and that the persons who are in control of such premises either have reason to know or are knowingly tolerating, allowing, or permitting such drug and alcohol use to occur. This ordinance will establish penalties for persons who know or have reason to know or permit or allow underage drinking or drug use, and will encourage those persons to ensure that those activities are not occurring on premises under their control.

Section 2. Definitions.

a. "Adult Person" means any person age eighteen (18) or older.
b. "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.
c. "Alcoholic beverage" means any beverage in any form that contains more than one half of one percent of alcohol by volume including alcoholic liquor, wine, or beer.

d. "Emergency Responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
e. "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 treatment for any injured emergency responder, and the costs of repairing any damage to equipment or vehicles.
f. "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.
g. "Juvenile" means a person under the age of eighteen (18).
h. "Legal age" means twenty-one (21) years of age or more.
i. "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; or (3) as a person to whom legal custody has been given by order of the court.
j. "Person" means any individual, partnership, corporation or any association of one or more individuals.
k. "Possession or Control" means actual possession or constructive possession based on facts, which permit the inference of intent to possess or control alcoholic beverages.
l. "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.
m. "Public place" means the same as defined in Iowa Code section 123.3(27).
n. "Social host" means any person who aids, allows, entertains, organizes, supervises, controls or permits an event, gathering or party. This includes but is not limited to: (1) the person (see Section j. above) 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.
If the social host is a juvenile, and the juvenile's parent(s) are (1) present on the premises, or (2) knows or reasonably should know of the event, gathering or party and knows or reasonably should know that the consumption of alcohol is occurring, both the juvenile and the parent(s) will be held liable for violations of this chapter.
o. "Underage person" means any person under the age of twenty-one (21).

Section 3. 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.

Section 4. Prohibited Acts.

a. 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 persons to consume alcoholic beverages or knowingly permit or allow underage persons to possess alcoholic beverages on the premises, whether or not the social host is present on the premises.
b. It is unlawful for any social host to host an event, gathering or party on premises when the person knows or reasonably should know that an underage person has consumed an alcoholic beverage, or possess an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the underage person. A social host who hosts such an event, gathering or party does not have to be present at the time the prohibited act occurs.
c. A person or persons under the legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine, or beer in their possession or control. (As set out in Iowa Code section 123.47(2)). A person under the legal age who has consumed alcoholic liquor, wine, or beer shall be presumed to have had the same in his or her possession or control prior to its consumption.
d. 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 the illegal activities.

Section 5. Exceptions.

This Ordinance does not apply to actions permitted under Iowa Code Section 123.47(2) or to legally protected religious observances or to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

Section 6. Enforcement.

The Delaware County Sheriff's Office shall have primary, but not exclusive, enforcement responsibility for this Ordinance.

Section 7. Jurisdiction.

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

Section 8. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

Section 9. Repealer Clause.

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

Section 10. Severability Clause.

If any section, provision, sentence, clause, phrase 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 provision, section, subsection, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 11. Evidence of Consumption.

A specific finding has been made by the Board of Supervisors that preliminary breath screening tests (PBT's), which have been approved by the Department of Public Safety for use in Public Intoxication cases, are accurate in determining the presence or absence of alcohol in a person's body. Such devices are valuable tools in the investigation of unlawful consumption of alcohol. Therefore, at trial, evidence obtained during the administration of preliminary breath testing, including the test result expressed in terms of alcohol concentration, shall be admissible on the issue of whether a person under the legal drinking age did or did not consume alcohol.

Section 12. Penalties.

A person who commits a violation under Section 4 shall be punished by the following penalties:

a. A first offense shall be a simple misdemeanor punishable by a scheduled fine of five hundred dollars ($500.00) plus applicable surcharges and court costs.
b. A second or subsequent offense shall be a simple misdemeanor punishable by a scheduled fine of six hundred twenty-five dollars ($625.00) plus applicable surcharges and court costs.
c. The court may, in its discretion, order the person to perform community service work under Iowa Code Section 909.3A, of an equivalent value to the fine imposed under this section.
d. The County may also seek reimbursement for enforcement provided by emergency responders related to the event, gathering or party.

PASSED AND ADOPTED THIS 1st DAY OF APRIL, 2013.
/S/ Jeff Madlom, Chairperson
Delaware County Board of Supervisors
ATTEST:
/S/ Carla Becker, County Auditor
Ayes: Helmrichs, Ries and Madlom Nays: None

Motion made by Ries, second by Helmrichs and carried to accept the FY 2012-13 Audit Report as filed. All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the following agreement with the Department of Human Services regarding the usage of transition funds for mental health services:

Agreement between the Department of Human Services and Delaware County pursuant to HF160, 85th General Assembly

Federal Child Enrollment Contingency Funds (issued under the authority of section 2104(n) of the Social Security Act), are credited to the Mental Health and Disability Services Redesign Transition Fund created in 2012 Iowa Acts, chapter 1120, section 23, and are made available to selected counties of the State of Iowa. A county receiving an allocation from the Redesign Transition Fund shall not use the allocation in a manner that violates federal match requirements for the medical assistance program or for the child enrollment contingency fund under the federal Children's Health Insurance Program Reauthorization Act of 2009. A county receiving an allocation under this subsection shall not use the allocation in any way that supports or draws federal match moneys.

AUTHORITIES

DHS and Delaware County (the County) are authorized to participate in this Agreement under HF160, 85th General Assembly:

Department of Human Services (DHS): means the single state agency (42 CFR §431.10) designated by the Governor as the agency for administration of related federal and state programs (42 CFR §431.10; 7 CFR §273.15, 7 CFR § 271.4 and 2009 Iowa Code section 234.6).

RESPONSIBILITIES OF DEPARTMENT OF HUMAN SERVICES

A. DHS is the entity responsible for drawing down the Federal Child Enrollment Contingency Funds and depositing the funds into the Mental Health and Disability Services Redesign Transition Fund.

B. DHS shall remit funds designated in HF 160 to the County not later than two calendar weeks following the effective date of the enactment of HF160.

C. DHS shall provide oversight of the Child Enrollment Contingency Funds balance and supply reporting as necessary to the federal government as required by law (Ref. OMB Circular A-133 subpart D.)

D. If the County is not subject to a single audit in accordance with OMB Circular A-133, the DHS shall bear the audit costs associated with any procedures relating to the performance of audit requirements established by the DHS and the Office of the Auditor of State for the Federal Child Enrollment Contingency Funds allocation.

RESPONSIBILITIES OF COUNTY

A. The County shall comply with all requirements for allowable costs as stated in HF160, 42 C.F.R. § 433.51(a) and (c), 42 C.F.R. § 457.628(a) and OMB Circular A-87.

B. The County shall comply with audit requirements as stated in OMB Circular A-133. Any audit costs pertaining to a federal audit of the Federal Child Enrollment Contingency Funds received are the responsibility of the County. The County shall bear the County's costs associated with any audit requirements.

C. If an audit takes exception to Federal Child Enrollment Contingency Funds expenditures under this Agreement, the County shall assume legal liability for any reimbursement of the federal funds or penalty determination resulting from the audit findings. The County shall remit these funds to the DHS within five business days of notice from the DHS or the cognizant federal agency.

D. The County shall comply with any audit requirements established by DHS and the Office of the Auditor of State for the County's expenditures relating to the allocation.

E. The County must report Federal Child Enrollment Contingency Funds expended on the County's Schedule of Expenditures of Federal Awards (SEFA) as passed through the Iowa Department of Human Services under CFDA# 93.767, Agency/Pass-through number 75X5551.

ACCOUNTABILITY

By signing this Agreement, the parties agree to the responsibilities listed above and are certifying that they have read and understand the terms of this agreement and will comply with all federal and state regulations.

EXECUTION. IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above the parties have entered into this Agreement and have caused their duly authorized representatives to execute this Agreement.

The State of Iowa, Department of Human Services

By: _____ Date: 3/29/2013

Name: Richard Shultz

Title: Administrator MHDS

For the County

The County certifies that Federal Child Enrollment Contingency Funds will not be used as the non-federal match for any other federal funding for expenditures.
The County certifies that Federal Child Enrollment Contingency Funds will not be used for expenditures previously reimbursed by another entity.
By: /S/ Jeff Madlom
Title: Chairperson, Delaware County Supervisors
All Ayes

Motion made by Ries, second by Helmrichs and carried to approve the low bid of $185,169.31 submitted by K Construction Inc. for the 310th Ave Bridge Project #BROS-C028(81)—8J-28 (locally known as the Westhoff Bridge) at the state letting held on March 19, 2013. Bids received were as follows:

K Construction, Inc.	$185,169.31
Jim Schroeder Construction, Inc.	$190,411.90
Muscatine Bridge Co., Inc.	$211,459.72
Taylor Construction, Inc.	$213,366.00
Iowa Bridge & Culvert, LC	$237,510.36

The late start date for this project will be August 5, 2013 with 55 working days allocated for completion. All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the low bid of $807,363.35 submitted by Mathy Construction Co d/b/a River City Paving for the X47 Paving Project #FM-C028(82)—55-28 at the state letting held on March 19, 2013. Theirs was the only bid submitted for this project. The late start date for this project will be August 19, 2013 with 20 working days allocated for completion. All Ayes

ENGINEER'S REPORT

The Delaware County Engineer respectfully requests a voluntary embargo of the gravel roads throughout the entire county. As the days are starting to warm up, the roads are becoming soft and possibly impassable. We request everyone limit travel until the roads have a chance to heal. The Secondary Roads Department will attempt to fix areas that are a danger to the public but will not begin "normal" maintenance activities until the county's heavy equipment is able to access the roads on a routine basis. If anyone must haul, please limit travel to the early mornings if and when the roads are frozen. Delaware County appreciates the public's patience and understanding in this transition time.

NEXT MEETING

The next regular session of the Board of Supervisors will be held on Monday, April 8, 2013 at 1:15 pm.

PUBLIC COMMENTS:

None.

There being no further business before the Board, Chairperson Madlom asked for a motion to adjourn.

Motion made by Ries, second by Helmrichs and carried to adjourn the meeting at 1:46 pm. All Ayes

These minutes have been read and approved.

Jeff Madlom, Chairperson

Carla K. Becker, Auditor

Legal Notice-- Delaware County Board of Supervisors

COUNTY ORDINANCE # 37
SOCIAL HOST

Be it ordained by the Board of Supervisors of Delaware County, Iowa:

Section 1. Purpose.

Pursuant to the authority granted under Chapter 331, Code of Iowa (2011), this Ordinance is enacted to protect and preserve the rights, privileges, and property of the residents of Delaware County and to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of Delaware County. The purpose of this ordinance is to prohibit the consumption of alcoholic beverages by persons under the legal drinking age of twenty-one (21) at gatherings where adult persons know or have reason to know or allow or permit underage persons to drink alcoholic beverages on property they own or control.

The Delaware County Board of Supervisors finds that the occurrence of social gatherings at premises where alcoholic beverages are served to, or consumed by, persons under the legal drinking age is harmful to such persons themselves and a threat to public welfare, health and safety. The Surgeon General's Call to Action (2007) is hereby incorporated by reference, as further support of the health, safety and public welfare concerns that exists with underage drinking.

The Delaware County Board of Supervisors further finds that persons under legal drinking age often attend gatherings where controlled substances and/or alcoholic beverages are brought or made available, and that the persons who are in control of such premises either have reason to know or are knowingly tolerating, allowing, or permitting such drug and alcohol use to occur. This ordinance will establish penalties for persons who know or have reason to know or permit or allow underage drinking or drug use, and will encourage those persons to ensure that those activities are not occurring on premises under their control.

Section 2. Definitions.

a. "Adult Person" means any person age eighteen (18) or older.

b. "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.

c. "Alcoholic beverage" means any beverage in any form that contains more than one half of one percent of alcohol by volume including alcoholic liquor, wine, or beer.

d. "Emergency Responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.

e. "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 treatment for any injured emergency responder, and the costs of repairing any damage to equipment or vehicles.

f. "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.

g. "Juvenile" means a person under the age of eighteen (18).

h. "Legal age" means twenty-one (21) years of age or more.

i. "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; or (3) as a person to whom legal custody has been given by order of the court.

j. "Person" means any individual, partnership, corporation or any association of one or more individuals.

k. "Possession or Control" means actual possession or constructive possession based on facts, which permit the inference of intent to possess or control alcoholic beverages.

l. "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.

m. "Public place" means the same as defined in Iowa Code section 123.3(27).

n. "Social host" means any person who aids, allows, entertains, organizes, supervises, controls or permits an event, gathering or party. This includes but is not limited to: (1) the person (see Section j. above) 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. If the social host is a juvenile, and the juvenile's parent(s) are (1) present on the premises, or (2) knows or reasonably should know of the event, gathering or party and knows or reasonably should know that the consumption of alcohol is occurring, both the juvenile and the parent(s) will be held liable for violations of this chapter.

o. "Underage person" means any person under the age of twenty-one (21).

Section 3. 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.

Section 4. Prohibited Acts.

a. 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 persons to consume alcoholic beverages or knowingly permit or allow underage persons to possess alcoholic beverages on the premises, whether or not the social host is present on the premises.

b. It is unlawful for any social host to host an event, gathering or party on premises when the person knows or reasonably should know that an underage person has consumed an alcoholic beverage, or possess an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the underage person. A social host who hosts such an event, gathering or party does not have to be present at the time the prohibited act occurs.

c. A person or persons under the legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine, or beer in their possession or control. (As set out in Iowa Code section 123.47(2)). A person under the legal age who has consumed alcoholic liquor, wine, or beer shall be presumed to have had the same in his or her possession or control prior to its consumption.

d. 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 the illegal activities.

Section 5. Exceptions.

This Ordinance does not apply to actions permitted under Iowa Code Section 123.47(2) or to legally protected religious observances or to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

Section 6. Enforcement.

The Delaware County Sheriff's Office shall have primary, but not exclusive, enforcement responsibility for this Ordinance.

Section 7. Jurisdiction.

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

Section 8. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

Section 9. Repealer Clause.

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

Section 10. Severability Clause.

If any section, provision, sentence, clause, phrase 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 provision, section, subsection, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 11. Evidence of Consumption.

A specific finding has been made by the Board of Supervisors that preliminary breath screening tests (PBT's), which have been approved by the Department of Public Safety for use in Public Intoxication cases, are accurate in determining the presence or absence of alcohol in a person's body. Such devices are valuable tools in the investigation of unlawful consumption of alcohol. Therefore, at trial, evidence obtained during the administration of preliminary breath testing, including the test result expressed in terms of alcohol concentration, shall be admissible on the issue of whether a person under the legal drinking age did or did not consume alcohol.

Section 12. Penalties.

A person who commits a violation under Section 4 shall be punished by the following penalties:

a. A first offense shall be a simple misdemeanor punishable by a scheduled fine of five hundred dollars ($500.00) plus applicable surcharges and court costs.

b. A second or subsequent offense shall be a simple misdemeanor punishable by a scheduled fine of six hundred twenty-five dollars ($625.00) plus applicable surcharges and court costs.

c. The court may, in its discretion, order the person to perform community service work under Iowa Code Section 909.3A, of an equivalent value to the fine imposed under this section.

d. The County may also seek reimbursement for enforcement provided by emergency responders related to the event, gathering or party.

PASSED AND ADOPTED THIS 1st DAY OF APRIL, 2013.

/S/ Jeff Madlom, Chairperson
Delaware County Board of Supervisors
ATTEST:
/S/ Carla Becker, County Auditor

Notarization

State of Iowa, Delaware County, ss

I, Mary Helle, being duly sworn, state that I am the publisher of the Delaware County Leader, a newspaper published at Hopkinton, Delaware County, Iowa, and the attached notice was published in said newspaper for one consecutive weeks beginning April 9, 2013, and ending June, 20__.

PRINTERS FEES: $ 102.31

Mary Helle

Subscribed in my presence and sworn to before me by Mary Helle on this 30th day of April, 2013.

Cathy Sharris

Notary Public

NOTARIAL SEAL IOWA
CATHY S. HARRIS
Commission Number 731078
My Commission Expires
October 19, 2014

FILED
MAY 15 2013
CARLA K. BECKER
DELAWARE COUNTY AUDITOR