

# ORDINANCE NO. 132

**AN ORDINANCE OF THE CITY OF CHERRY VALLEY, ARKANSAS TO PROHIBIT THE HOSTING OR PERMITTING GATHERINGS WHERE MINORS CONSUME ALCOHOLIC BEVERAGES; PROVIDING FOR THE IMPOSITION OF INCARCERATION, FINES AND COSTS AGAINST THE PERSON OR PERSONS HAVING CONTROL OF THE PREMISES; PROVIDING FOR REPEAL OF ORDINANCES IN CONSISTANT HEREWITH; ALLOWING FOR SEVERABILITY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHERRY VALLEY, ARKANSAS:**

## SECTION 1:

*Allowing Gatherings Where Minors are Consuming Alcoholic Beverages.*

A) Definitions: *For the purpose of this section, the following definitions shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.*

**“ALCOHOL”** *means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source, or by whatever process produced.*

**“ALCOHOLIC BEVERAGES”** *include alcohol, sprits, 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 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 ad low point beer as defined herein.*

**“CODE”** *means the compilation of Ordinances as amended as provided in the Code of the City of Cherry Valley, Arkansas.*

**“GATHERING”** *is a party, gathering or event, where a group of three or more minors have assembled or are assembling for a social occasion or social activity.*

**“INTOXICATING BEVERAGE”** *including beverages containing more than three and two-tenths percent (3.2%) alcohol 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 a court.*

# ORDINANCE NO. 132

-2-

**“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-thirds (3.2%) alcohol weight, including but not limited to beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion of barely or other grain, malt or similar products.

**“MINOR”** means any person under twenty-one (21) years of age.

**“JUVENILE”** means any person under the age of 18 years of age except where otherwise specified under the section. The term “JUVENILE” is synonymous with the term “MINOR” as provided in this section.

**“PARENT”** means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

**“PREMISIES”** means any residence or other private property, place, or premises, including any commercial or business premises.

**“RESPONSE COSTS”** are the cost associated with responses by law enforcement, fire, and other emergency response providers to a gathering, including but 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 cost attributed 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) any other allowable cost related to the enforcement of this section.

**“YEAR OF AGE”** continues from one birthday, such as the 17<sup>th</sup>, to but not including the day of the next, such as the 18<sup>th</sup>, or the 21<sup>st</sup>, birthday.

## **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

# ORDINANCE NO. 132

-3-

(2) *consume at any place not open to the public any alcoholic beverages unless in connection with consumption of the alcoholic beverage that minor is being supervised by his or her parent or legal guardian.*

(3) *Hosting, Permitting or Allowing a Party, Gathering, or Event Where Minors Consuming Alcoholic Beverages Prohibited.*

C)

(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 quality of alcoholic beverages present at the gather; verifying the age of persons attending the gathering by inspecting driver's license or other government-issued identification cards to ensure the minors 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 or reasonable 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 un subsection c) (1) of this section.*

D) *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.*

E) *Nothing in this section should be interpreted to prohibit any family activity held in the confines of the family home from providing the use alcohol to immediate family members within the supervision of parents and guardians. However, if a minor leaves such 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.*

F) *Nothing in this section should be interpreted to any religious practice which includes the use of alcohol. However, if a minor leaves such a religious gathering intoxicated and is found to be in public the said providers of alcohol will be held responsible in the same manner as a non-religious gathering.*

G) *This section shall not apply to any premises licensed by the State of Arkansas to dispense alcoholic beverages.*

# ORDINANCE NO. 132

-4-

## H) Criminal Penalties and Civil Remedies

- (1) *Any person who shall violate the provisions of this section shall be deemed guilty of an offense against the City and upon conviction thereof shall be punished for violation of a Class A. Misdemeanor offense, with a fine of Five Hundred Dollars (\$500.00) for the first offense with the fine doubling for each subsequent offense, or by imprisonment, plus all court costs and statutory penalties, as set forth in this Ordinance.*
  - (2) *Any Juvenile who shall violate the provision of this Section shall be deemed guilty of an offense against the City and upon conviction thereof shall be punished for violation according to the Code of the Cherry Valley Juvenile Court.*
  - (3) *Violations of this section may be prosecuted by the City of Cherry Valley criminally, civilly and/or administratively as provided by the Municipal Code. The City may seek administrative fees and response costs associated with enforcement of this Section through all remedies or procedure provided by statute, ordinance or law. This section shall not limit the authority of peace officers or private citizens to make arrest for any criminal offense arising out of the conduct regulated by this section, nor shall they limit the City's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of this Section.*
- 1) **Local Authority** *This section shall not apply where prohibited or preempted by the state or federal law.*

### **Section 2**

*That this section shall repeal all Ordinances or section of Ordinances that are inconsistent therewith.*

### **Section 3**

*If regardless of cause, any section, subsection, paragraph or clause of this Ordinance is held invalid or unconstitutional, the remaining section, subsections, paragraphs or clauses shall continue in full force and effect and shall be constructed thereafter as being the entire provision of this Ordinance.*

# ORDINANCE NO. 132

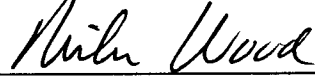
-5-

## Section 4

**Emergency Clause:** *This Ordinance being necessary for the preservation of the public peace, health, comfort, convenience, morals, safety and welfare of the City of Cherry Valley an emergency is declared to exist and this Ordinance shall be full force and effect from the date of its adoption.*

**PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF CHERRY VALLEY, ARKANSAS ON THIS 23<sup>RD</sup> DAY OF JUNE, 2009.**

**APPROVED:**



**Mike Wood – Mayor**

**ATTEST:**

  
**Stacey Bennett Recorder-Treasurer**