

ORDINANCE NO. 09182017

**AN ORDINANCE TO PROHIBIT OPEN HOUSE PARTIES
WITHIN THE TOWN OF VANCE**

WHEREAS, the Town of Vance, Alabama has an interest in the safety of all of its citizens, including its citizens who are under the age of twenty-one (21); and

WHEREAS, persons who are under the age of twenty-one (21) who consume or possess alcoholic beverages and controlled substances threaten the safety of the citizens of the Town of Vance, Alabama; and

WHEREAS, the Town of Vance, Alabama has determined that persons under the age of twenty-one (21) are receiving, consuming and possessing alcoholic beverages and controlled substances while at the residences, accompanying property, or surrounding premises of adult citizens; and

WHEREAS, the Town of Vance, Alabama, desires to enact provisions that will reduce and eliminate the occurrence of persons under the age of twenty-one (21) receiving, possessing, and consuming alcoholic beverages and controlled substances while at the residences, accompanying property, or surrounding premises of adult citizens; and

WHEREAS, the Town of Vance, Alabama finds that "open house parties" as defined by this ordinance are an offense against the public welfare and that enactment of this ordinance serves a legitimate governmental and public interest and will further the health, safety and welfare of the citizens of Vance.

WHEREAS, it is the intent of the Town of Vance that this ordinance be strict liability;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Vance, Alabama, as follows:

Permitting open house parties where minors are present; exceptions;

1. **Definitions.** For purposes of this ordinance, the terms below shall be defined as follows:

- a. **ADULT.** A person who, pursuant to state law, may possess alcoholic beverages.
- b. **ALCOHOL.** Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, or non-beverage (industrial) alcohol ingested by non-oral means, which

contain one-half of one percent or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine.

- c. **OPEN HOUSE PARTY.** A social gathering of two or more minors at a residence or premises, as defined by this ordinance.
- d. **CONTROLLED SUBSTANCE.** The meaning ascribed in Ala. Code § 20-22 (1975).
- e. **MINOR.** Any person under 21 years of age who, pursuant to state, law, may not possess alcoholic beverages. For purposes of this ordinance, a minor shall not include a person who is related to the adult who occupies the residence or premises as owner or lessee.
- f. **RESIDENCE OR PREMISES.** A home, apartment, condominium, RV, or any other unit designed for dwelling. Included within this definition is the surrounding property of said home, apartment, condominium, RV, or any other unit designed for dwelling.

2. **Open House Parties - When Prohibited.** Any adult who owns or rents, leases, subleases any residence or premises from another party shall be in violation of this ordinance if an open house party occurs at said adult's residence or premises and any alcohol or controlled substance prohibited by law to be possessed or consumed by a minor is possessed or consumed by a minor at said adult's residence or premises.

3. **Penalties.** The following penalties shall apply for a violation of this ordinance:

- a. For the first violation, an adult found to be in violation of this ordinance shall receive a warning from the court and be punished by a fine not to exceed Twenty-Five Dollars (\$25.00). Any adult who violates this section is guilty of a violation.
- b. For the second violation of this ordinance, any adult found to be in violation of this ordinance shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), and not less than Two Hundred Dollars (\$200.00). Any adult who violates this section is guilty of a violation.
- c. For the third and subsequent violations of this ordinance, an adult found in violation of this ordinance shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), and not less than Three Hundred Dollars (\$300.00) and by imprisonment or community service for the Town. The length of the imprisonment or community service or any combination thereof cannot exceed six (6) months. Any adult who violates this section is guilty of a violation.
- d. Upon application by the accused for a first violation of this ordinance, the court with concurrence of the prosecution may defer prosecution of said violation for a period of six (6) months, after which time the action may be

dismissed upon the following conditions:

- i. No more violations of this ordinance or any other ordinance or law concerning alcohol or controlled substances are committed by said adult during said deferral period; and
- ii. The applicant successfully completes a court-approved alcohol and controlled substance education program, which can be conducted by a private counselor certified in alcohol/drug issues, which addresses the dangers of alcohol and controlled substance use by persons under the age of twenty-one (21).

If the criminal action is dismissed pursuant to this subsection and the applicant is charged with a new violation of this ordinance after that dismissal, the charge which arose after the first action was dismissed will be treated as a second violation of this ordinance, and the penalties prescribed in section 3(b) of this ordinance shall apply. Subsequent violations shall be subject to the provisions of section 3(c) of this ordinance.

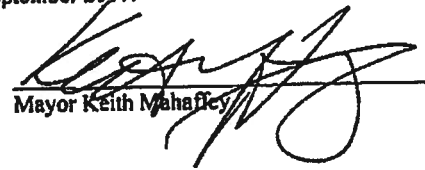
4. Procedure. The City finds that violations of this ordinance are bailable as a matter of right and that, if the defendant is not in custody and if there is no reason to believe that the defendant will not respond to the summons, the summons procedure provided by the Alabama Rules of Criminal Procedure is the preferred method to secure the presence of the person(s) accused of violating said ordinance. If the summons does not result in appearance of the defendant, there is reasonable cause to believe the defendant will fail to appear, or the summons cannot be delivered or served, an arrest warrant will be issued. In addition, all provisions of state law authorizing arrest without a warrant shall continue to apply with full force and effect.

5. Construction of Ordinance. This ordinance shall apply separate and apart from any similar provision of state law, and this ordinance shall not replace or supplant the provisions of state law concerning open house parties which shall continue to apply with full force and effect.

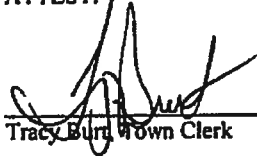
6. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

7. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED AND APPROVED THIS THE 18th DAY OF September 2017.


Mayor Keith Mahaffey

ATTEST:


Tracy Burt Brown Clerk