

# ORDINANCE NO. 2010-040

Adopted by the Sacramento City Council

November 23, 2010

## AN ORDINANCE ADDING ARTICLE IV TO CHAPTER 9.12 OF THE SACRAMENTO CITY CODE RELATING TO SOCIAL HOST LIABILITY FOR ALCOHOL CONSUMPTION BY MINORS

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

Section 1

A. Findings. The City Council finds as follows:

1. Minors often obtain, possess or consume alcoholic beverages at gatherings held at private residences or other private property, places or premises including rented commercial premises. Persons responsible for these gatherings may fail to take reasonable steps to prevent consumption of alcoholic beverages by minors.
2. Consumption of alcoholic beverages by minors is harmful to the minors and poses a threat to the public health, safety and welfare in that it increases alcohol abuse by minors resulting in injury, incidents of minors driving while intoxicated, physical altercations, neighborhood vandalism, excessive noise disturbance and violent crimes including sexual offenses.
3. Law enforcement and other emergency personnel respond to these gatherings to manage the incident and, on occasion, make multiple responses to the same location diverting valuable resources from other service calls in the community and resulting in a disproportionate expenditure of public safety resources. Law enforcement and other emergency personnel are not currently reimbursed for the costs attributable to responding to a gathering involving consumption of alcoholic beverages by minors.

B. Purpose. The purpose of this article is to protect the public health, safety and general welfare and quiet enjoyment of property by prohibiting the hosting, permitting or allowing of gatherings where minors are consuming alcoholic beverages and holding persons who allow these gatherings responsible for the nuisances created by, and the costs associated with responding to, such gatherings.

## Section 2

Article IV is added to Chapter 9.12 of the Sacramento City Code, to read as follows:

### **ARTICLE IV. SOCIAL HOST LIABILITY FOR ALCOHOL CONSUMPTION BY MINORS**

#### **9.12.200 Definitions.**

"Alcoholic beverage" shall have the same meaning as in Section 23004 of the California Business & Professions Code.

"Family gathering" means a gathering where each minor present is supervised by his or her parent or guardian.

"Gathering" means any party, event or other meeting where two or more persons have assembled or are assembling for a social occasion or social activity.

"Guardian" means a person who, by court order, is the guardian of a minor; or a public or private agency with whom a minor has been placed by the court.

"Host a gathering" means to permit or allow a gathering to take place.

"Juvenile" means a person under the age of 18.

"Minor" means a person under the age of 21.

"Parent" means a person who is a natural parent, adoptive parent, foster parent, or step-parent.

"Response costs" means costs associated with law enforcement, fire or other emergency response personnel responding to, remaining at or leaving the scene of a gathering including but not limited to:

1. Salaries and benefits of law enforcement, fire or other emergency response personnel;
2. Administrative costs;
3. The cost of any medical treatment of injuries to any law enforcement fire or other emergency response personnel;
4. The cost of using any city equipment;
5. The cost of repairing any damaged city equipment or property; and
6. Any other costs related to enforcement of this article.

"Social host" means a person who hosts a gathering including, but not limited to, the following:

1. The owner, tenant, landlord, property manager or person in charge of the private property where the gathering occurs;
2. The person who organizes, supervises, officiates, conducts, controls or otherwise is in charge of a gathering.

**9.12.210 Consumption of alcohol by a minor on private property prohibited.**

Except as provided in Section 9.12.230, no minor shall consume any alcoholic beverage on private property.

**9.12.220 Hosting a gathering where minors consume alcoholic beverages prohibited.**

Except as provided in Section 9.12.230, no person shall host a gathering on private property where such person knows or reasonably should know that alcoholic beverages are being served to, possessed by or consumed by a minor. Whenever such person is present during such a gathering where alcoholic beverages are being served to, possessed by or consumed by a minor, it shall be a rebuttable presumption that the person knew or should have known alcoholic beverages are being served to, possessed by or consumed by a minor.

**9.12.230 Exemptions.**

- A. The provisions of Sections 9.12.210 and 9.12.220 shall not apply to:
  1. Conduct involving use of alcoholic beverages as permitted under federal or state law;
  2. Premises regulated by the California Department of Alcohol and Beverage Control;
  3. A family gathering.
- B. The provision of Section 9.12.220 shall not apply to a social host who initiates contact with law enforcement to assist in removing any person from a gathering or terminating the gathering in order to comply with this article, provided such request for assistance is made before any other person contacts law enforcement to complain about the gathering.
- C. The provision of Section 9.12.220 shall not apply to landlords, property managers, and similar owner agents of such private property, with the sole exception of an owner who, whether on a temporary or permanent basis, leases, rents or allows the use of, such private property by or to a family member for any purpose, with or without compensation.

**9.12.240 Recovery of response costs.**

- A. The response costs incurred for the second and any subsequent response within any 60-day period to the same property for a violation of this article shall be imposed on a social host as provided in this section. All social hosts in violation of Section 9.12.220 for the same gathering shall be jointly and severally liable for the response costs incurred in response to their gathering. If a social host who is in violation of Section 9.12.220 and liable for the response costs is a juvenile, the juvenile and the parent of the juvenile shall be jointly and severally liable for the response costs. The amount of response costs shall constitute a debt owed to the city.
- B. Notice of the response costs shall be served via first-class mail on the social host(s) liable for such costs pursuant to subsection A above. The notice shall contain the following information: 1) the name of the social host(s) being held liable for the response costs; 2) the address of the private property where the gathering occurred; 3) the date and time of the response; 4) the law enforcement, fire or other emergency response personnel who responded; and 5) an itemized list of the response costs.
- C. Payment for response costs shall be remitted to the City of Sacramento within 30 calendar days of the date of the notice. The payment of any such costs shall be stayed upon the filing of a timely appeal.
- D. A social host charged with response costs may, within ten calendar days of the date of the notice of response costs, appeal the response costs in accordance with Article IV of Chapter 1.24. The appeal hearing shall be scheduled and conducted in the manner prescribed in Article IV of Chapter 1.24. Failure to timely file an appeal pursuant to Article IV of Chapter 1.24 shall constitute a failure to exhaust available administrative remedies, and shall bar any further or other review or appeal of the response costs.

#### **9.12.250 Violation.**

- A. In addition to any other remedy allowed by law, any person who violates a provision of this article is subject to criminal sanctions, civil actions, and administrative penalties pursuant to Chapter 1.28.
- B. Violations of this article are hereby declared to be a public nuisance.
- C. Any person who violates a provision of this article is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each separate offense.
- D. Any person who violates a provision of this article is guilty of a misdemeanor.
- E. All remedies prescribed under this article shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

#### **Section 3.**

If any section, subsection, subdivision, sentence, clause or phrase in this ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with

the laws of the United States, or the state of California, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

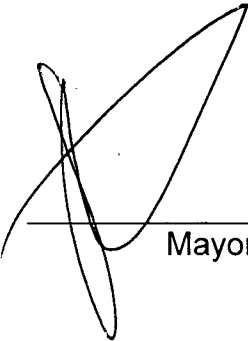
Adopted by the City of Sacramento City Council on November 23, 2010 by the following vote:

Ayes: Councilmembers Ashby, Cohn, Fong, McCarty, Pannell, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: Councilmembers Hammond and Sheedy.



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Mayor Kevin Johnson

Attest:

  
Shirley Concolino, City Clerk

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