

**MODEL
SOCIAL HOST ACCOUNTABILITY
ORDINANCE**
(v. 1-20-16)

Note - This Model has been drafted as a starting template for those counties and municipalities who would like to adopt some form of Social Hosting Ordinance. It may be used without limitation by any county/municipality for that purpose and may be altered in any way deemed appropriate by the governing body and its legal representative(s). This Model was developed in large part from the Kennesaw, Georgia "Social Hosting Ordinance".

TITLE

This ordinance shall be referred to as the "(City / County)Social Hosting Ordinance."

**AN ORDINANCE RELATING TO SOCIAL HOSTING
CONCERNING CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS**

FINDINGS AND INTENT

The County Commission / Mayor and City Counsel finds and declares as follows:

- (a) In 2007, the U.S. Surgeon General issued a report entitled "The Surgeon General's Call to Action To Prevent and Reduce Underage Drinking," which can be found at <http://twww.surgeongeneral.gov/topics/underagedrinking/calltoaction.pdf>. ("Surgeon General's Call to Action").
- (b) "Early alcohol consumption by some young people will result in an alcohol use disorder-that is, they will meet diagnostic criteria for either alcohol abuse or dependence." Surgeon General's Call to Action. at page 4.
- (c) "(A) higher percentage of youth in 8th, 10th, and 12th grades used alcohol in the month prior to being surveyed than used tobacco or marijuana, the illicit drug most commonly used by adolescents." Surgeon General's Call to Action, at page 5.
- (d) Various surveys have found that: approximately ten percent of children who are nine to ten years old have started drinking alcoholic beverages; nearly 33 percent of youth start drinking alcoholic beverages before the age of 13; more than ten percent of youth who are 12 to 13 years old and over 33 percent of youth who are 14 to 15 years old reported drinking a whole alcoholic beverage in the year before they were surveyed, and the peak years of alcohol initiation are when youth are in 7th and 8th grades. Surgeon General's Call to Action. at page 6.
- (e) While adolescents typically drink alcoholic beverages less often than adults, when they do drink alcoholic beverages, adolescents tend to drink more alcoholic beverages at each event than adults. Surgeon General's Call to Action, at pages 6-7.

(f) Persons who are less than the age of 21 often possess or consume alcoholic beverages at social parties or gatherings held at or on property under control of a person who either has provided the alcoholic beverages or who knows or reasonably should know of such conduct, but fails to take steps to prevent it.

(g) "Annually, about 5,000 people under age 21 die from alcohol-related injuries involving underage drinking." Surgeon General's Call to Action, at page 10.

(h) Underage drinking "(p)lays a significant role in risky sexual behavior, including unwanted, unintended, and unprotected sexual activity, and sex with multiple partners. Such behavior increases the risk of unplanned pregnancy and for contracting sexually transmitted diseases (STDs), including infection with HIV, the virus that causes AIDS." Surgeon General's Call to Action, at page 10.

(i) Underage drinking "increases the risk of physical and sexual assault." Surgeon General's Call to Action, at page 10.

(j) Underage drinking "(c)an cause a range of physical consequences, from hangovers to death from alcohol poisoning." Surgeon General's Call to Action, at page 11.

(k) Underage drinking "(c)an cause alterations in the structure and function of the developing brain, which continues to mature into the mid to late twenties and may have consequences reaching far beyond adolescence." Surgeon General's Call to Action, at page 11.

(l) Underage drinking "(c)reates secondhand effects that can put others at risk. Loud and unruly behavior, property destruction, unintentional injuries, violence, and even death because of underage alcohol use afflict innocent parties. For instance, about 45 percent of people who die in car crashes involving a drinking driver under the age of 21 are people other than the driver." Surgeon General's Call to Action, at page 11.

(m) There is concern about underage persons obtaining and consuming alcoholic beverages at functions under the control of adults who know or should know of such conduct but fail to stop it.

(n) This body finds that adults who knowingly allow underage drinking on property they control should be held responsible and accountable.

(o) Too frequently, adults who are aware that underage drinking is illegal allow underage drinking at property they control knowing that they are not breaking the law so long as they don't directly provide the alcohol to minors. This body finds that this is a gap in the current laws that must be eliminated.

(p) Law enforcement agency responses to disturbances involving underage consumption of alcoholic beverages at parties or gatherings at or on private residences or other private property frequently require the use of extensive public resources. Further, when law enforcement personnel respond to such disturbances it limits their ability to respond to other service calls in the community, thereby placing the community at increased risk. Law enforcement is not currently reimbursed for their expenses when called to a party or gathering at or on a private residence or other private property.

(q) The prohibitions found in this ordinance are reasonable and expected to deter the possession and consumption of alcoholic beverages by persons under the age of 21 by holding responsible persons who encourage, are aware of, or should be aware of, the illegal and harmful conduct, yet fail to take steps to prevent it. In addition, the revenue received, after cost reimbursement to responding the law enforcement agency, will be directed toward law enforcement strategies and prevention programs.

DEFINITIONS

Dwelling unit means, without limitations, any of the following:

- (1) Any single and multi-family residence including, but not limited to, any apartment, cabin, condominium, duplex, house, or log cabin, and the land on which it is located, whether owned, leased, rented, or occupied for no compensation by the occupant or occupants;
- (2) Any mobile home and the land upon which the mobile home is located, whether or not rent is paid for the mobile home, for the land upon which the mobile home is located, or for both;
- (3) Any recreational vehicle, whether located on privately-owned or publicly-owned property, and whether rent or not is paid for the recreational vehicle, and the land upon the recreational vehicle is located.

Event means a gathering at which two or more persons assemble or gather for a social occasion or activity.

Gathering means an assembled group of people for any occasion or activity.

Legal guardian is a person who is lawfully vested with the power and charged with the duty of taking care of an underage person.

Other property: includes, but is not limited to the following locations:

- a. A hotel or motel room;
- b. An assembly hall or meeting room;
- c. A common room of a dwelling unit used for a party (e.g., a recreation room of an apartment building or a common room of a condominium complex);
- d. A site in a campground;
- e. A vacant lot;
- f. Land or real estate of any type; or
- g. Any type of watercraft.

Parent means any person who is a natural parent, an adoptive parent, a foster parent, a step-parent, or who a person who stands *in loco parentis*.

Party means a gathering or event at which two or more persons assemble or gather for a social occasion or activity.

Person has a right of possession if the person is:

- (1) The owner of the dwelling unit, private residence, or other property;
- (2) The record owner of the title to the property as of the time of the party or gathering regardless of where that person currently resides;
- (3) A tenant or lessee of the dwelling unit, private residence, or other property;

- (4) A landlord of another person who has a right of possession in the dwelling unit, private residence, or other property; or
- (5) The person or persons who are in charge of the dwelling unit, private residence, or other property.

Private residence means the following:

- (1) A dwelling unit, whether occupied on a temporary basis, whether occupied as a dwelling or for a party or other social function, and whether owned, leased, rented, or used with or without compensation;
- (2) Any other item on the same land parcel as the dwelling unit, which includes, but is not limited to any of the following: an animal pen, an animal shed, a barn, a boat dock, a boat house, a cabana, an equipment shed, a free-standing office, a garage, a gazebo, a granary, a hot tub, a hunting cabin, a corn crib, a sauna, a stable, a studio, a swimming pool, a private office, a shed, a silo, a tent, a tool shed, a tree-house, a tractor, or a vehicle of any type or nature;
- (3) Other items or areas accompanying or on the same land parcel as the dwelling unit, whether improved or unimproved, such as a yard (whether fenced or unfenced), patio, outdoor grilling or eating area, open fields, jetty, pier, dock, or lake shore;
- (4) Water bodies contiguous to or on the same land parcel as a dwelling unit such as a basin, bayou, brook, creek, dam, lagoon, lake, marsh, pond, river, stream, or swamp.

Reasonable steps means steps that include, but are not limited to:

- (1) Controlling access to alcoholic beverages;
- (2) Controlling the quantity of alcoholic beverages;
- (3) Assuring that no one at the party or gathering that is consuming or possessing any alcoholic beverage is underage and verifying the legal minimum drinking age of any person at the party or gathering who appears could be underage by inspecting drivers licenses or other government-issued identification cards; and
- (4) Supervising and monitoring the activities of the party or gathering to assure that no underage persons consume or possess any alcoholic beverage.

Social host means

- (1) a person who organizes, supervises, officiates, conducts or controls a party or gathering on property over which the person has a right of possession; or
- (2) a person who knowingly allows a party or gathering on property over which the person has a right of possession.

Underage person means any person under the age of 21.

PROHIBITED ACTS

(a) It shall be a violation of this ordinance for any social host to permit or allow a party or gathering to take place or continue at or on property over which the person has a right of possession if any underage person at the party or gathering possesses or consumes any alcoholic beverage and the person knows or reasonably should know, after taking all reasonable steps to prevent alcoholic beverage possession or consumption by the underage person that the underage person is possessing or consuming any alcoholic beverage at the party or gathering.

(b) It shall be a violation of this ordinance for a parent or legal guardian to allow any underage person under the care of that parent or legal guardian to allow the underage person to attend a party or gathering if that parent or legal guardian knows or reasonably should know that the underage person will possess or consume any alcoholic beverage at that party or gathering.

(c) It is the duty of any social host to take all reasonable steps to prevent the possession or consumption of alcoholic beverages by any underage person at any party or gathering on property over which the person has a right of possession. A breach of this duty shall be a violation of this ordinance.

(d) Any violation of O.C.G.A. § 3-3-23 as amended shall also be a violation of this ordinance.

(e) If any social host determines or has reason to believe that an underage person has consumed or possessed an alcoholic beverage before or during any party or gathering, that person shall immediately:

1. contact the local law enforcement agency that has jurisdiction where the property is located and report the suspected underage consumption or possession, and
2. attempt to prevent the underage person from driving away from the property using any reasonable, non-physical means. Any person complying with this sub-section (e) shall be immune from any civil liability concerning the compliance with this sub-section (e).

PENALTIES

(a) Any person who violates this ordinance shall, for the first offense, be punished by (*for county ordinances - up to six months imprisonment*) (*for city ordinances – the maximum allowed under the city charter*), a fine of up to one thousand dollars (\$1,000.00). The person shall further be required to perform not less than 24 hours of community service, no part of which shall be suspended, and may be required to complete an appropriate class or program ordered by the Court.

(b) Any person who violates this ordinance a second time shall be punished by (*for county ordinances - up to six months imprisonment*) (*for city ordinances – the maximum allowed under the city charter*), at least 48 hours of which shall not be suspended or probated, by a fine of \$500.00 to \$1000.00, no part of which shall be suspended, shall perform 48 hours community service, no part of which shall be suspended, and shall be required to complete an appropriate class or program ordered by the Court.

(c) Any person who violates this ordinance a third or subsequent time shall be punished by (*for county ordinances - up to six months imprisonment*) (*for city ordinances – the maximum allowed under the city charter*), at least 30 days of which shall not be suspended or probated, by a fine of \$1000.00, no part of which shall be suspended, shall perform 48 to 100 hours community service, and shall be required to complete an appropriate class or program ordered by the Court.

(d) The Court may order a social host who violates this ordinance to pay for the costs of law enforcement's and any other city/county agency's response to a party or gathering in which underage persons have obtained, possessed, or consumed alcoholic beverages.

(e) The above penalties are subject to the restrictions set out in O.C.G.A. §15-10-60.

(f) Each underage person who consumes or possesses alcohol in violation of this ordinance shall constitute a separate offense of the social host.

CIVIL REMEDIES

A social host who violates this ordinance may be held liable for injuries and damages sustained by third parties as a result of a minor's negligence and acts caused in any degree by that minor's alcohol consumption as a result of the social host's violation of this ordinance.

EXCEPTIONS

(a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(b) This ordinance does not apply to any other situation for which state or federal law has established a clear exception.

SEPARABILITY

Should any Article, Section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declarations shall not affect the validity of this ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.