

ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
PROPOSED AND INITIATED BY _____
MOVED BY Dages SECONDED BY Westerlund

BILL NO. B-19

ORDINANCE NO. 2007-16

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADDING
ARTICLE 9 TO CHAPTER 8 OF THE FRESNO MUNICIPAL CODE,
RELATING TO PROHIBITIONS AGAINST CONSUMPTION OF
ALCOHOLIC BEVERAGES BY UNDERAGE PERSON(S) AND
ALLOWING OR HOSTING GATHERINGS WHERE UNDERAGE
PERSON(S) ARE CONSUMING ALCOHOLIC BEVERAGES.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 9 is hereby added to Chapter 8 of the Fresno Municipal Code is added to
read:

ARTICLE 9

SOCIAL HOST ORDINANCE CONCERNING
CONSUMPTION OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSON(S).

- Section 8-901. Short Title.
- 8-902. Findings and Intent.
- 8-903. Purpose.
- 8-904. Definitions.
- 8-905. Consumption of Alcohol by Underage Person(s).
- 8-906. Prima Facie Evidence.
- 8-907. Separate Violation for Each Incident.
- 8-908. Penalties for Violation and Enforcement Remedies.
- 8-909. Reservation of Legal Options.

SECTION 8-901. SHORT TITLE. This Article shall be known and cited as the
"Social Host Ordinance." When used in this article, "this article" means the Social Host
Ordinance.

SECTION 8-902. FINDINGS AND INTENT. The Council finds and determines
as follows:

Adopted 3-6-07
Approved 3-19-07
Effective 4-19-07



(a) The occurrence of parties on private property where alcohol is served to or consumed by underage person(s) is harmful to the underage person(s) and a threat to public health, safety, quiet enjoyment of property, and the general welfare, of the communities where such parties are held.

(b) Underage person(s) often obtain alcoholic beverages at parties held at private residences or at rented residential and commercial premises that are under the control of a person who knows or should know of the underage service and/or consumption. Person(s) responsible for the occurrence of parties on private property over which they have possession or control have failed to ensure that alcoholic beverages are neither served to nor consumed by underage person(s) at these parties.

(c) Control of parties on private property where underage person(s) are being served or consuming alcohol is necessary because such activity poses a threat to the peace, health, safety, or general welfare of the public. Police ability to abate gatherings where alcohol is served to or consumed by underage person(s) on private property will result in a decrease in abuse of alcohol by underage person(s), physical altercations and injuries, neighborhood vandalism, and excessive noise disturbance thereby improving public safety.

(d) Problems associated with such parties at which alcoholic beverages are served to or consumed by underage person(s) are difficult to prevent and deter unless law enforcement has the legal authority to direct the host to disperse the party.



(e) Law enforcement, fire and other emergency response services personnel have and are required to respond, sometimes on multiple occasions, to parties on private property at which alcoholic beverages are served to or consumed by underage person(s). Responses to such parties result in a disproportionate expenditure of public safety resources and cause a drain of staff, leaving other areas of the City with inadequate protection.

(f) Person(s) held responsible for abetting or tolerating parties will be more likely to properly supervise and stop such conduct at parties held on private property under their possession and control. The prohibitions found in this chapter are reasonable and expected to deter the consumption of alcoholic beverages by underage person(s) by holding person(s) who knowingly allow service to or consumption by underage person(s) responsible.

SECTION 8-903. PURPOSE. The Council finds and declares that the purpose of this ordinance is:

- (a) to protect public health, safety and general welfare;
- (b) to enforce laws prohibiting the service to and consumption of alcohol by underage person(s); and
- (c) to reduce the costs of providing law enforcement, fire and other emergency response services to parties by imposing a civil fee against social hosts and landowners (including landlords) and for the recovery of costs associated with providing law enforcement, fire and other emergency response services to parties where alcoholic beverages are served to or consumed by underage person(s).



SECTION 8-904. DEFINITIONS. The following terms as used in this article shall have the meaning ascribed to them in this section as follows:

(a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(b) "Alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

(c) The term "underage person(s)" means any person under twenty-one (21) years of age.

(d) The term "juvenile" means any person under eighteen (18) years of age.

(e) The term "party or parties," means an assembly of two (2) or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

(f) The term "private property" shall mean a hotel or motel room or bed and breakfast unit, home, yard, apartment, condominium, mobile home, cottage, cabin, trailer, tent or other dwelling unit, abandoned or vacant warehouse or other building or a hall or meeting room, whether occupied on a temporary or permanent 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.



(g) The term “responsible person” means a person or persons with a right of possession in the residence or other private property on which a party is conducted, including, but is not limited to:

1. An owner of the private property;
2. A tenant or lessee of the private property;
3. The person(s) in charge of the private property; and
4. The person(s) who organizes, supervises, officiates, conducts or controls the party or any other person(s) accepting responsibility for such party.

(h) The term “person(s)” includes, but is not limited to, any business, corporation or other organization.

SECTION 8-905. CONSUMPTION OF ALCOHOL BY UNDERAGE

PERSON(S). Except as permitted by Article I, Section 4, of the California Constitution, it is unlawful for any person to:

(a) Knowingly permit, allow, or host a party on his or her private property or premises under his or her control where underage person(s) are present and alcoholic beverages are being served to or consumed by any underage person(s).

(b) This section shall not apply to conduct involving the service to or consumption of alcoholic beverages, which occurs exclusively between an underage person(s) and his or her parent or legal guardian or during the course of a religious ceremony conducted by an ordained minister.



(c) This section shall not apply to any location or place regulated by the California Department of Alcohol and Beverage Control.

SECTION 8-906. PRIMA FACIE EVIDENCE. Whenever a responsible person is present at a private property at the time an underage person(s) is being served or consumes any alcoholic beverage thereon, it shall be prima facie evidence that such person(s) had the knowledge or should have had the knowledge specified in Section 8-905.

SECTION 8-907. SEPARATE VIOLATION FOR EACH INCIDENT. Each incident in violation of Section 8-905 shall constitute a separate offense. An "incident" refers to each time law enforcement, fire, or other emergency personnel respond to a party, i.e., if a response is required multiple times to the same party on the same date, each response shall be a separate offense.

SECTION 8-908. PENALTIES FOR VIOLATION AND ENFORCEMENT REMEDIES.

(a) A violation of this section shall constitute a misdemeanor punishable by a fine of \$1,000.00 or by imprisonment for a period not to exceed six (6) months, or by both fine and imprisonment.

SECTION 8-909. RESERVATION OF LEGAL OPTIONS.

(a) The City of Fresno does not waive its right to seek other legal remedies or procedures. This section in no way limits the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct currently regulated, nor do they limit in any way the prosecution's ability



to initiate and prosecute a criminal prosecution for any violation of a criminal offense arising out of the same circumstances.

(b) If any section, subsection, sentence, clause or phrase or word of this ordinance is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Fresno City Council hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.



SECTION 3. SEVERABILITY. The Council declares that the provisions of this ordinance are severable. If, for any reason, any sentence, paragraph, or section of this ordinance is determined by a court of competent jurisdiction to be invalid, such determination will not affect the validity of the remaining provisions of this ordinance.

STATE OF CALIFORNIA)
 COUNTY OF FRESNO) ss.
 CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the 6th day of March, 2007.

AYES : Calhoun, Dages, Sterling, Westerlund, Perea
 NOES : Duncan
 ABSENT : Xiong
 ABSTAIN : None

Mayor Approval: March 19, 2007

Mayor Approval/No Return: N/A, 2007

Mayor Veto: N/A, 2007

Council Override Vote: N/A, 2007

REBECCA E. KLISCH
 City Clerk

BY: Rebecca E. Klisch
 Deputy

APPROVED AS TO FORM:
 CITY ATTORNEY'S OFFICE

BY: [Signature]
 Deputy

March 7, 2007

Council Adoption: 3/6/07
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ALAN AUTRY

RECEIVED

FROM: REBECCA E. KLISCH, CMC
City Clerk

REK
MAR 19 PM 4:11
CITY CLERK, FRESNO CA

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 3/06/07, Council adopted the attached Ordinance No. 2007-16 entitled **Adding to the FMC re: social host gatherings (underage consumption of alcoholic beverages)**, Item No. **1K**, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Perea
Noes : None
Absent : Xiong
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before March 20, 2007. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)


Alan Autry, Mayor

Date: 3/19/07

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes :
Noes :
Absent :
Abstain :