



CITY OF
HAYWARD
HEART OF THE BAY

DATE: May 13, 2008
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of an Ordinance Adding Article 11 to Chapter 4 of the Hayward Municipal Code, the Social Host Accountability Ordinance

RECOMMENDATION

That the City Council adopt the attached Ordinance.

BACKGROUND

The ordinance was introduced at the May 6, 2008, meeting of the City Council with the following vote:

AYES:	Council Members:	Rodriquez, Quirk, Halliday, Ward, Dowling, Henson
	Mayor:	Sweeney
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

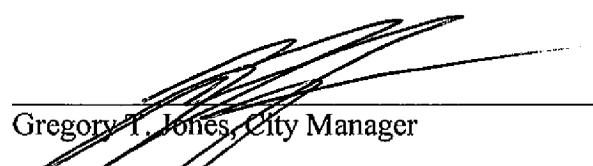
The ordinance was published in the Hayward Daily Review on May 10, 2008. Adoption at this time is therefore appropriate.

Recommended by:



Angelina Reyes, City Clerk

Approved by:



Gregory T. Jones, City Manager
Attachment: Draft Ordinance

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY
COUNCIL OF THE CITY OF HAYWARD

ORDINANCE ADDING ARTICLE 11 TO CHAPTER 4 OF THE HAYWARD MUNICIPAL
CODE, THE SOCIAL HOST ACCOUNTABILITY ORDINANCE

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

Section 1. Findings, Intent, and Purpose.

- (a) The City Council of the City of Hayward, pursuant to the City's police powers under Article XI, Sections 3 and 5 of the California Constitution, and the City Charter established pursuant to such sections, has the authority to enact and enforce laws that promote the public health, safety, and general welfare of its residents. The occurrence of loud or unruly gatherings on private property where alcoholic beverages are served to, consumed by, or in the possession of underage persons is harmful to the underage persons themselves, and is a threat to the public health, safety, or quiet enjoyment of residential property and the general welfare. Underage persons often obtain alcoholic beverages at gatherings 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 service to, possession by, and/or consumption of alcohol by underage persons.
- (b) Persons having possession or control of private property who are responsible for social gatherings on that property have failed to ensure that alcoholic beverages are neither served to, nor consumed by, underage persons at these gatherings. The City Council further finds that problems associated with social gatherings where alcoholic beverages are served to, or consumed by, underage persons are difficult to prevent and deter unless the Hayward Police Department has the legal authority to direct the host to disperse the gathering and to cite the responsible persons.
- (c) Law enforcement personnel have in the past been required to respond to unruly gatherings on private property where alcoholic beverages are served to, consumed by, or in the possession of underage persons. Law enforcement personnel have also received multiple service calls in the same calendar year concerning unruly gatherings at the same property. Such calls for service result in a disproportionate expenditure of public safety resources and delay official responses to other calls in the rest of the City. Additionally, underage drinking at such gatherings has resulted in disproportionately higher numbers of underage persons driving while intoxicated, increased social violence, and incidents of sexual assault.
- (d) An ordinance that imposes liability on property owners and other responsible persons for gatherings that allow underage drinking is necessary to deter and prevent such gatherings. Persons who actively or passively aid, allow, or tolerate such gatherings should be held liable for permitting such gatherings, the nuisances created by them, and the costs associated with responding to them.

- (e) The intent of this Ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, by deterring the service to and consumption of alcoholic beverages by underage persons, and reducing the costs to the public of providing police response services to unruly gatherings and gatherings of underage persons where alcohol is served, both in terms of monetary costs and availability of law enforcement personnel for other calls. These purposes are implemented by the imposition of administrative penalties for social hosts and landowners (including landlords) and the imposition of fees to recover the costs incurred by the City in providing law enforcement responses to gatherings where alcoholic beverages are served to, or consumed by, underage persons.
- (f) The City Council of the City of Hayward therefore determines that gatherings on private property where alcoholic beverages are served to, or consumed by, underage persons are a threat to the public peace, health, safety, and general welfare, and a public nuisance as they affect the entire City of Hayward community as well as the neighborhoods in which they occur.

Section 2. The following provisions are hereby adopted and added to Chapter 4 of the Hayward Municipal Code as Article 11:

ARTICLE 11

SOCIAL HOST ACCOUNTABILITY ORDINANCE

SEC. 4-9.00. DEFINITIONS.

SEC. 4-9.05. DUTY OF RESPONSIBLE PERSONS.

SEC. 4-9.10. UNDERAGE OR UNRULY GATHERINGS ON PRIVATE PROPERTY UNLAWFUL.

SEC. 4-9.15. EXCEPTION.

SEC. 4-9.20. CIVIL AND ADMINISTRATIVE ENFORCEMENT AND PENALTIES FOR VIOLATIONS.

SEC. 4-9.25. IMPOSITION OF RESPONSE COSTS FOR PUBLIC SAFETY RESPONSES.

SEC. 4-9.30. ADMINISTRATIVE PENALTIES.

SEC. 4-9.35. HEARINGS ON THE IMPOSITION OF CIVIL FINE, RESPONSE COSTS, AND/OR ADMINISTRATIVE PENALTIES – APPEALS.

SEC. 4-9.40. CIVIL FINE AND RESPONSE COSTS – DEBT TO CITY – ENFORCEMENT.

SEC. 4-9.45. ENFORCEMENT AUTHORITY.

SEC. 4-9.50. CUMULATIVE REMEDIES.

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days after adoption.

Introduced at a meeting of the Hayward City Council held May 6, 2008, the above-entitled ordinance was introduced by Council Member Dowling, and by unanimous vote of the Council.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on May 13, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

DATED: May 10, 2009

Angelina Reyes, City Clerk
City of Hayward