

ORDINANCE NO. 2780

AN ORDINANCE OF THE CITY OF REDLANDS ADDING CHAPTER
9.30 TO THE REDLANDS MUNICIPAL CODE ESTABLISHING SOCIAL
HOST LIABILITY

WHEREAS, the City of Redlands (the “City”), pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents; and

WHEREAS, the occurrence of loud and unruly gatherings on private property where alcoholic beverages, marijuana and other controlled substances are served to, or consumed by, underage persons is harmful to the underage persons themselves and a threat to public health, safety, quiet enjoyment of residential property and general welfare; and

WHEREAS, underage persons often obtain alcoholic beverages, marijuana and other controlled substances 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 underage service and/or consumption; and

WHEREAS, persons responsible for the occurrence of loud or unruly gatherings on private property over which they have possession or control have failed to ensure that alcoholic beverages, marijuana and other controlled substances are neither served to nor consumed by underage persons at these parties; and

WHEREAS, landlords have failed to prevent the occurrence or reoccurrence of loud or unruly gatherings, including those where alcoholic beverages, marijuana and other controlled substances are served to or consumed by underage persons on private property they lease to tenants, which seriously disrupts the quiet enjoyment of neighboring residents; and

WHEREAS, problems associated with loud or unruly gatherings at which alcoholic beverages, marijuana and other controlled substances are served to, or consumed by, underage persons are difficult to prevent and deter unless the City’s Police Department has the legal authority to direct the host to disperse the gathering; and

WHEREAS, control of loud or unruly gatherings on private property where alcoholic beverages, marijuana and other controlled substances are served to, or consumed by, underage persons is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public; and

WHEREAS, persons held responsible for abetting or tolerating loud or unruly gatherings will be more likely to properly supervise or stop such conduct at gatherings held on property under their possession or control; and

WHEREAS, in the past and present, law enforcement, fire and other emergency response services personnel have and are required to respond, sometimes on multiple occasions, to loud or

unruly gatherings on private property at which alcoholic beverages, marijuana and other controlled substances are served to, or consumed by, underage persons, and responses to such gatherings result in a disproportionate expenditure of public safety resources of the City, which are underwritten by general municipal taxes paid to the City by its taxpayers and residents and delaying police responses to regular and emergency calls to the rest of the City; and

WHEREAS, the intent of this ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare; and to impose strict liability on property owners and other responsible persons for the nuisances created by, and the costs associated with responding to, loud and unruly gatherings to deter and prevent such gatherings;

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

Section 1. Chapter 9.30, entitled “Social Host Liability,” is hereby added to the Redlands Municipal Code to read as follows:

“Chapter 9.30

SOCIAL HOST LIABILITY

9.30.010	Purposes
9.30.020	Definitions
9.30.030	Consumption of Alcoholic Beverages and other Controlled Substances Prohibited
9.30.040	Hosting, Permitting, Allowing a Gathering Prohibited
9.30.050	Responsibility for Property Management
9.30.060	Penalties for Violation of Chapter
9.30.070	Recovery of Response Costs
9.30.080	Billing and Collections
9.30.090	Reservation of Legal Options
9.30.100	Appeals

9.30.010. Purposes. The purposes of this chapter are to protect public health, safety and general welfare; to enforce laws prohibiting the service to and consumption of alcoholic beverages by underage persons; and to reduce the costs of providing police, fire and other emergency response services to loud or unruly gatherings by imposing a civil fee against social hosts and landowners (including landlords) for the recovery of costs associated with providing law enforcement, fire and other emergency response services to loud or unruly gatherings, including those where alcoholic beverages are served to or consumed by underage persons.

9.30.020. Definitions. For the purposes of this chapter, the following terms shall have the following meanings:

- 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 whether alone or when diluted, mixed, or combined with other substances.
- C. "Controlled Substance" means a drug or substance whose possession and use are regulated under the Controlled Substances Act. Such term does not include any drug or substance for which the individual found to have consumed such substance has a valid prescription issued by a licensed medical practitioner authorized to issue such a prescription.
- D. "Gathering" is a party, gathering, or event where a group of two or more persons have assembled or are assembling for a special occasion or social activity.
- E. "Juvenile" means any person under eighteen years of age.
- F. "Loud or unruly gathering" means a party or gathering of two or more persons at or on a residence or other private property upon which loud or unruly conduct occurs. Such loud or unruly conduct includes, but is not limited to:
1. Excessive noise;
 2. Excessive traffic;
 3. Obstruction of public streets or crowds that have spilled into public streets;
 4. Public drunkenness or unlawful public consumption of alcohol, alcoholic beverages, or marijuana or other controlled substance;
 5. Service to, or consumption of alcohol or alcoholic beverages by, any underage person, except as permitted by state law;
 6. Assaults, batteries, fights, domestic violence or other disturbances of the peace;
 7. Vandalism;
 8. Litter; and
 9. Any other conduct which constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare.

G. “Public Place” means any place in which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and other common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops, other than the campus of a public or private college or university, if such college or university (1) maintains a Public Safety Department adequately staffed to provide security and police services at all times with respect to the campus, meaning 24 hours per day and 7 days per week, and (2) has in place a written protocol with the Redlands Police Department with respect to coordination and cooperation regarding provision of security and police services on the campus.

H. “Responsible person” means a person or persons with a right of possession in the residence or other private property on which a loud or unruly gathering is conducted, including, but not limited to:

1. An owner of the residence or other private property;
2. A tenant or lessee of the residence or other private property;
3. The landlord of another person responsible for the gathering;
4. The persons in charge of the residence or other private property; and/or
5. Any persons who host, organize, supervise, permit, officiate, conduct or control the gathering or any other persons accepting responsibility for such a gathering. If the responsible person for the gathering is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this chapter. To incur liability for response costs imposed by this chapter, the responsible person for the loud or unruly gathering need not be present at such gathering resulting in the response giving rise to the imposition of response costs. This chapter therefore imposes vicarious as well as direct liability upon a responsible person. Notwithstanding the foregoing, the term “responsible person” shall not mean or be interpreted to mean a public or private college or university, if such college or university (1) maintains a Public Safety Department adequately staffed to provide security and police services at all times with respect to the campus, meaning 24 hours per day and 7 days per week, and (2) has in place a written protocol with the Redlands Police Department with respect to coordination and cooperation regarding provision of security and police services on the campus.

I. “Response costs” means the costs associated with responses by law enforcement, fire and other emergency response providers to loud or unruly gatherings, including but not limited to:

1. Salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with loud or unruly gatherings, and the administrative costs attributable to such responses; and
2. Except when the responsible person against whom the City might seek cost recovery is a public or private college or university that satisfies the requirements of Section 9.30.020 G, the cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured responding to, remaining at or leaving the scene of a loud or unruly gathering; and
3. Except when the responsible person against whom the City might seek cost recovery is a public or private college or university that satisfies the requirements of Section 9.30.020 G, the cost of repairing any City equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of a loud or unruly gathering.

J. "Residence or other private property" means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation, other than the campus of a public or private college or university, if such college or university (1) maintains a Public Safety Department adequately staffed to provide security and police services at all times with respect to the campus, meaning 24 hours per day and 7 days per week, and (2) has in place a written protocol with the Redlands Police Department with respect to coordination and cooperation regarding provision of security and police services on the campus.

K. "Underage person" means any person under twenty-one years of age.

9.30.030. Consumption of alcoholic beverages and other controlled substances prohibited. Except as permitted by state law, it is unlawful for any Minor to:

- A. Consume at any public place or any places open to the public any alcoholic beverage, marijuana, or other controlled substance; or
- B. Consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of an alcoholic beverage that minor is being supervised by his or her parent or legal guardian.

9.30.040. Hosting, permitting, allowing a gathering prohibited.

A. Except as permitted by state law, it is unlawful for any person having control of any premises who knows or should reasonably know that he or she has hosted, permitted, or allowed a gathering to take place at said premises, where at least one minor consumes an alcoholic beverage, marijuana or other controlled substance wherever the person having control of the premises either knows a minor has consumed an alcoholic beverage, marijuana or other controlled substance or reasonably should have known that a minor consumed an alcoholic beverage, marijuana or other controlled substance by a minor.

B. It is the duty of any person having control of any premises, who knows or should know that he or she has hosted, permitted, or allowed a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages, marijuana or other controlled substances by any minor at the gathering. Reasonable steps are controlling access to alcoholic beverages, marijuana or other controlled substances at the gathering; controlling the quantity of alcoholic beverages, marijuana or other controlled substances present at the gathering; verifying the age of the persons attending the gathering by inspecting drivers licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages, marijuana or other controlled substances while at the gathering; and supervising the activities of minors at the gathering.

C. Whenever a person having a control of a premises is present at the premises at the time that a minor possesses or consumes any alcoholic beverage, marijuana or controlled substance thereon, it shall be prima facie evidence that such person had the knowledge or should have had the knowledge specified in this section.

D. Except as permitted by State law, it is unlawful for any person to host, permit, conduct, organize or allow a gathering in, upon or at any public place where at least one minor consumes alcoholic beverages, marijuana or controlled substances.

E. A person who hosts, permits, or allows a gathering shall be deemed to have actual or constructive knowledge that a minor has consumed or possessed alcoholic beverages, marijuana or controlled substances if the persons has not taken all reasonable steps to prevent the consumption or possession of alcoholic beverages, marijuana or controlled substances, as set forth in subsection 9.30.040B of this Chapter.

F. A person who hosts, permits, or allows a gathering shall be deemed to have actual or constructive knowledge that a minor has consumed or possessed alcoholic beverages, marijuana or controlled substances if the person has not taken all responsible steps to prevent the consumption or possession of alcoholic beverages, marijuana or controlled substances by minors.

G. A person who hosts, permits or allows a gathering shall not be in violation of this section if he or she seeks immediate assistance from the Redlands Police Department or other law enforcement agency to remove any person who refuses to abide by the host's performance of the duties imposed by this section, or terminate the gathering because the host has been unable to prevent minors from consuming or possessing alcoholic beverages, marijuana or controlled substances despite having taken all reasonable steps to do so, as long as such request is made before any other person makes a complaint about the gathering.

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

I. This section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or guardian, as permitted by Article I, section 4, of the California Constitution.

9.30.050. Responsibility for Property Management. Every owner, occupant, lessee or holder of any possessory interest of a residence or other private property within the City is required to maintain, manage and supervise the property and all persons thereon in a manner or as not to violate the provisions of this Chapter. The owner of the property remains liable for such violations regardless of any contract or agreement with any third party regarding the property.

9.30.060. Penalties for Violation of Chapter.

A. It shall be an infraction for any responsible person to conduct, aid, allow, permit or condone a loud or unruly gathering at a residence or other private property, or in, at or upon any public place.

B. The civil fines shall be no less than \$100 for the first violation, \$200 for the second violation, and \$500 for each subsequent violation, occurring within one year of the first violation.

C. The fines prescribed in this Section 9.30.060 are in addition to any response costs that may be assessed pursuant to this Chapter.

D. The second, third or subsequent violation fines prescribed at subsections B2 and B3 of this Section are payable whether or not the responsible person for such loud or unruly gathering is different from the responsible person for any prior loud or unruly gathering at the residence or other private property.

E. The fine schedule prescribed in this Section 9.30.060 is a "rolling schedule," meaning that in calculating the fine payable the City shall count backward starting from the date of the most recent loud or unruly gathering to determine how many prior loud or unruly gatherings have taken place at the residence or other private property in question during the statutory twelve month period. A warning given

pursuant to this chapter shall remain in effect for the residence or other private property at a given address until a full twelve month period has elapsed during which there have been no response to a loud or unruly gathering at the residence or other private property.

9.30.070. Recovery of Response Costs.

A. When law enforcement, fire or other emergency response provider responds to a loud or unruly gathering at a residence or other private place, or in, at or upon any public place within the City within a twelve month period of a warning given to a responsible person for a loud or unruly gathering, all responsible persons shall be jointly and severally liable for the City's costs of providing response costs for that response and all subsequent responses during the warning period.

B. When a law enforcement, fire or other emergency response provider official makes an initial response to a loud or unruly gathering at a residence or other private property, or in, at or upon any public place within the City, the official shall inform any responsible persons for the gathering at the scene that:

1. The official has determined that a loud or unruly gathering exists; and
2. Responsible persons will be charged for any response costs required for subsequent responses to the scene for a loud or unruly gathering within a twelve-month period.

C. Only one warning will be given to a responsible person pursuant to this Section before the City assesses response services costs pursuant to Section 9.30.060. If a responsible person cannot be identified at the scene, the official may issue a warning to one or more persons identified in Section 9.30.020 G and/or subsequently return to the residence or other private property and issue the warning to a then-present responsible person. Warnings given to responsible persons who do not reside at the residence or other private property in question shall be delivered by first-class and/or certified mail.

9.30.080. Billing and Collections. The amount of response costs shall be deemed a debt owned to the City by the responsible person held liable for the loud or unruly gathering and, if a juvenile, by the juvenile's parents or guardians. Any person owing such costs shall be liable in a civil action brought in the name of the city for recovery for such fees, including reasonable attorneys' fees.

A. Notice of the costs for which the responsible person is liable shall be mailed via first-class and certified mail within 14 days of the response giving rise to such costs. The notice shall contain the following information:

1. The name of the persons being held liable for the payment of such costs;

2. The address of the residence or other private property where the loud or unruly gathering occurred;
3. The date and time of the response;
4. The law enforcement, fire and emergency service provider who responded;
5. The date and time of any previous warning given and/or previous responses to loud or unruly gatherings at the residence or other private property in question within the previous twelve months; and
6. An itemized list of the response costs for which the persons are being held liable.

B. The responsible person must remit payment of the noticed response costs to the Finance Department of the City within thirty days of the date of the notice. The payment of any such costs shall be stayed upon a timely appeal made pursuant to this chapter.

C. The amount of a civil fine and/or responsive costs shall be deemed a debt owed to the City by the persons found in violation of section 9.02.040 and therefore liable for a fine under section 9.02.060 and fees under section 9.02.070, and, if that person is a juvenile, then also his/her parents or guardians. Any person owing such fine and/or fees shall be liable in an action brought in the name of the City for recovery of such fines and/or fees. These recovery costs may include reasonable attorneys' fees incurred in the action if the City prevails, as the City reserves the right to seek to recover reasonable attorneys' fees, on a case by case basis.

9.30.090. Reservation of Legal Options. Nothing in this chapter shall be construed as a waiver by the City of any right to seek reimbursement for actual costs of response services through other legal remedies or procedures. The procedure provided for in this chapter is in addition to any other statute, ordinance or law, civil or criminal. This chapter in no way limits the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this chapter.

9.30.100. Appeals. Any person upon whom is imposed a fine/penalty pursuant to and/or response costs recovery fees shall have the right to appeal the imposition of such fine/penalty or fees to the City pursuant to the procedures established by the City for appealing the abatement of public nuisances.”

Section 2. The City Council hereby determines that the adoption of this ordinance is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15061 (b)(3).

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provision or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Section 4. The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published once in the Redlands Daily Facts, a newspaper of general circulation within the City, and thereafter, this ordinance shall take effect as provided by law.

Pete Aguilar, Mayor

ATTEST:

Sam Irwin, City Clerk

I, Sam Irwin, City Clerk, City of Redlands, hereby certify that the foregoing Ordinance was duly adopted by the City Council at the regular meeting thereof, held on the _____ day of _____ 2013, by the following vote:

AYES:

NOES:

ABSENT:

Sam Irwin, City Clerk