

ORDINANCE NO. 3066

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
TITLE 9 OF THE CHULA VISTA MUNICIPAL CODE BY
ADDING CHAPTER 9.14, SECTIONS 9.14.010 THROUGH
9.14.070 RELATING TO MAKING IT UNLAWFUL FOR
MINORS TO CONSUME ALCOHOLIC BEVERAGES, AND
FOR PERSONS TO HOST, PERMIT, OR ALLOW
GATHERINGS WHERE MINORS ARE CONSUMING
ALCOHOLIC BEVERAGES

WHEREAS, the City of Chula Vista, pursuant to the police powers delegated to it by the California Constitution and as a charter city, has the authority to enact laws that promote the public health, safety, and general welfare of its residents; and

WHEREAS, the City of Chula Vista, acting through the City Council [the Council] finds that parties, gatherings, or events [gatherings] on private property where alcoholic beverages are consumed by minors, who are under the legal age to consume alcohol in the State of California, are harmful to the minors themselves and a threat to public health, safety, quiet enjoyment of residential property, and general welfare; and

WHEREAS, the Council finds that minors often obtain alcoholic beverages at gatherings held at private residences or other private property, places, or premises, including rented commercial premises, which are under the control of a person who knows or should know of the consumption of alcoholic beverages by minors; further, the Council finds that persons responsible for the occurrence of such gatherings often fail to take reasonable steps to prevent the consumption of alcoholic beverages by minors at these gatherings; and

WHEREAS, control of gatherings on private property where alcoholic beverages are consumed by minors is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public; and

WHEREAS, police officers often are required to make multiple responses to the location of a gathering where alcoholic beverages are consumed by minors in order to disperse uncooperative participants, causing a drain on public safety resources and in some cases, leaving other areas of the City with delayed police response; and

WHEREAS, problems associated with gatherings where alcoholic beverages are consumed by minors are difficult to prevent and deter unless the City of Chula Vista Police Department has the legal authority to arrest offenders and direct the host to disperse the gathering; and

WHEREAS, police ability to abate gatherings on private property where alcohol is consumed by minors will result in a decrease in abuse of alcohol by minors, physical altercations and injuries, neighborhood vandalism, and excessive noise disturbance, thereby improving public safety; and

WHEREAS, it is the intent of the Council that liability under this Ordinance applies to any person in control of private property who knowingly hosts, permits, or allows a party, gathering, or event where minors are present and an alcoholic beverage is being consumed by any minor, where the person in control of the private property knows or reasonably should know that a minor has consumed an alcoholic beverage; and

WHEREAS, it is the further intent of the Council to impose a duty on any person having control of any residence or other private property, place, or premises, including any commercial premises, who knowingly hosts, permits, or allows a party, gathering, or event, to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain as follows:

SECTION I: That the Chula Vista Municipal Code be amended to add Chapter 9.14, Sections 9.14.010 through 9.14.070 to read as follows:

Chapter 9.14 Alcohol Consumption by Minors

9.14.010 Purpose and intent.

The City Council finds and declares as follows:

A. The City of Chula Vista, pursuant to the police powers delegated to it by the California Constitution and as a charter city, has the authority to enact laws that promote the public health, safety, and general welfare of its residents;

B. The occurrence of parties, gatherings, or events on private property where alcoholic beverages are consumed by minors, who are under the legal age to consume alcohol in the State of California, are harmful to the minors themselves and a threat to public health, safety, quiet enjoyment of property, and general welfare;

C. Minors often obtain alcoholic beverages at gatherings held at private residences or other private property, places, or premises, including rented commercial premises, which are under the control of a person who knows or should know of the consumption of alcoholic beverages by minors.

D. Persons responsible for the occurrence of such gatherings often fail to take reasonable steps to prevent the consumption of alcoholic beverages by minors at these gatherings.

E. The ability of police officers to control gatherings on private property where alcoholic beverages are consumed by minors is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public.

F. Gatherings involving consumption of alcohol by minors, as defined by this chapter, are unlawful and constitute a public nuisance pursuant to state law and provisions of this Municipal Code.

G. The purpose and intent of this chapter is: (1) to protect public health, safety, and general welfare of people and premises in the city, including the quiet enjoyment of property; (2) to enforce laws prohibiting the consumption of alcohol by minors; and (3) to reduce the costs of providing police services to parties, gatherings, or events requiring a response by requiring the person who knowingly hosts, permits, or allows a party, gathering, or event to ensure minors are not consuming alcoholic beverages through criminal, civil, administrative, and other penalties as allowed by state and local law.

9.14.020 Definitions.

For purposes of Sections 9.14.010 through 9.14.070, the following definitions shall apply:

“Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

“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 (1) 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.

“Gathering” is a party, gathering, or event, where a group of three or more persons have assembled or are assembling for a social occasion or social activity.

“Legal Guardian” means: (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

“Minor” means any person under twenty-one years of age.

“Parent” means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

“Premises” means any residence or other private property, place, or premises, including any commercial or business premises.

“Response costs” are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering, including but not limited to: (1) salaries and benefits of law enforcement, code enforcement, fire, or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative costs attributable to such response(s); (2) the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering; (3) 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 gathering; and (4) any other allowable costs related to the enforcement of Sections 9.14.030 and 9.14.040.

9.14.030 Consumption of Alcohol by Minor Prohibited in Public Place, Place Open to Public, or Place Not Open to Public.

Except as permitted by state law, it is unlawful for any minor to:

A. consume at any public place or any place open to the public any alcoholic beverage;
or

B. consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage that minor is being supervised by his or her parent or legal guardian.

9.14.040 Hosting, Permitting, or Allowing a Party, Gathering, or Event Where Minors Consuming Alcoholic Beverages Prohibited.

A. Imposition of Duty and Violation.

B.

1. It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps are controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting drivers licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages while at the gathering; and supervising the activities of minors at the gathering.

2. It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in Subsection A.1 of this section.

B. 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 legal guardian, as permitted by Article I, Section 4, of the California Constitution.

C. This section shall not apply to any California Department of Alcoholic Beverage Control licensee at any premises regulated by the Department of Alcoholic Beverage Control.

9.14.050 Mandatory Minimum Fines.

Criminal violations of Sections 9.14.030 and 9.14.040 shall be punishable, on a first offense, by a mandatory minimum fine of \$100.00, plus statutory penalty assessments, with neither fine nor assessments stayed or suspended, and, on second and subsequent offenses, by a mandatory minimum fine of \$200.00, plus statutory penalty assessments, with neither fine nor

assessments stayed or suspended. Notwithstanding other provisions of the Municipal Code, violations of the provisions of this chapter may also be subject to an administrative fine of \$1,000 per incident, as allowed by Section 9.14.060. The administrative fine shall constitute a debt of the responsible person to the City, and shall be payable to the City in the manner provided in CVMC Chapters 1.40 and 1.41 and other applicable law. If the responsible person is a minor, the parent or guardian of the minor shall be jointly and severally liable under this section.

9.14.060 Reservation of Legal Options.

Violations of Sections 9.14.030 and 9.14.040 may be prosecuted by the City of Chula Vista, in the name of the People of the State of California, criminally, civilly, and/or administratively as provided by the Municipal Code. The City of Chula Vista may seek administrative fees and response costs associated with enforcement of Sections 9.14.030 and 9.14.040, through all remedies or procedures provided by statute, ordinance, or law. Sections 9.14.030 and 9.14.040 shall not limit the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by Sections 9.14.030 and 9.14.040, nor shall they limit the City of Chula Vista's or the People of the State of California's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of Section 9.14.030 or 9.14.040.

9.14.070 Local Authority.

Sections 9.14.010 through 9.14.060 shall not apply where prohibited or preempted by state or federal law.

SECTION II: Effective Date. This Ordinance shall take effect and be in force thirty days after its final passage.

Presented by



Richard P. Emerson
Police Chief

Approved as to form by



Ann Moore
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 24th day of April 2007, by the following vote:

AYES: Councilmembers: Castaneda, McCann, Ramirez, Rindone, and Cox
NAYS: Councilmembers: None
ABSENT: Councilmembers: None



Cheryl Cox, Mayor

ATTEST:



Susan Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3066 had its first reading at a regular meeting held on the 17th day of April, 2007 and its second reading and adoption at a regular meeting of said City Council held on the 24th day of April 2007.

Executed this 24th day of April 2007.



Susan Bigelow, MMC, City Clerk