

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE ADDING CHAPTER 9.78
(SOCIAL HOST REGULATIONS) TO
TITLE 9 (PUBLIC PEACE, SAFETY, AND
MORALS) OF THE FORT BRAGG
MUNICIPAL CODE**

ORDINANCE NO. 921-2015

WHEREAS, the City currently has no rules or regulations prohibiting the hosting of parties where alcohol is consumed by minors; and

WHEREAS, the City Council of the City of Fort Bragg ("City Council") has determined that hosting of parties where alcohol is served to minors creates a threat to public health and safety; and

WHEREAS, the City Council wishes to establish rules and regulations governing social hosting of parties attended by minors in the City limits.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. Local, state and national research indicates that youth use alcohol more than all other illegal drugs combined, making underage drinking a priority issue for communities to address.
2. Adoption of this ordinance is in the best interest of the City of Fort Bragg in that this ordinance prohibits the hosting of parties where alcohol is consumed by minors, and in so doing, promotes the public health, safety, and welfare of the residents of the City.
3. There is no possibility that the adoption of this ordinance will have a significant impact on the environment, and therefore, the adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

Section 2. Chapter 9.78, entitled Social Host Regulations is hereby added to Title 9 (Public Peace, Safety, and Morals) of the Fort Bragg Municipal Code as follows:

SOCIAL HOST REGULATIONS

- 9.78.010 Findings and purpose
- 9.78.020 Definitions
- 9.78.030 Unlawful parties where alcohol is consumed by minors
- 9.78.040 Recovery of public safety service costs

- 9.78.050 Civil penalties
- 9.78.060 Administrative citations and appeals
- 9.78.070 Recovery of expenses, costs and penalties – Liens
- 9.78.080 No criminal liability for violation
- 9.78.090 Remedies cumulative – Actions – Relationship to other laws

9.78.010 FINDINGS AND PURPOSE.

A. The City Council finds that Parties where alcohol is consumed by Minors are not only unlawful but often a cause for disturbance.

B. Police ability to abate Parties 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, thereby improving public safety.

C. Police officers have been required to make return calls to the location of a Party where alcohol is consumed by Minors in order to disperse uncooperative participants, causing a drain of resources and, in some cases, leaving other areas of the City with inadequate police protection.

D. Accordingly, the City Council of the City of Fort Bragg finds and declares that purposes of this Chapter are:

1. To protect public health, safety and general welfare;
2. To assist in the enforcement of laws prohibiting the consumption of alcohol by Minors; and
3. To recover costs of providing public safety services to Parties where alcohol is consumed by Minors requiring two or more public safety responses.

9.78.020 DEFINITIONS.

The following words and phrases, whenever used in this Chapter, shall have the meaning provided in this section unless the context clearly requires otherwise:

JUVENILE. Any person under the age of 18 years.

MINOR. Any person under the age of 21 years.

PARTY. A group of two or more persons who have assembled or are assembling for a social occasion or activity at a Premises.

PREMISES. A residence or other private property, or rented public property. Premises include any land on which the residence or other private property or rented public property is located and any accessory structures located on the land.

PUBLIC SAFETY SERVICE COSTS. The costs associated with responses by law enforcement, fire and other emergency response providers to a Party, 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 Parties, and the administrative costs attributable to such responses; and
2. The cost of any medical treatment for any law enforcement, fire or other emergency response personnel injured responding to, remaining at or leaving the scene of a Party; and
3. The cost of repairing any City equipment or property damage, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of a Party.

RESPONSIBLE PERSON. Includes but is not limited to:

1. Any person who owns, rents, leases, and/or otherwise has control or is in charge

of the Premises where a Party occurs where alcohol is consumed by a Minor ;

2. Any person who conducts, aids, organizes, hosts, permits or allows a Party where alcohol is consumed by a Minor; and

3. The parents or guardians of a Juvenile who is a Responsible Person.

9.78.030 UNLAWFUL PARTIES WHERE ALCOHOL IS CONSUMED BY MINORS.

No person in control of any Premises shall suffer, permit, allow, or host a Party at the Premises where alcohol is consumed by any Minor.

9.78.040 RECOVERY OF PUBLIC SAFETY SERVICE COSTS.

When a public safety response to a Party held in violation of Section 9.78.030 occurs, the City may hold any Responsible Person liable for the Public Safety Service Costs incurred by the City in responding to the Party, in addition to any and all other costs, expenses and penalties which may be assessed or imposed as a result of a violation of this Chapter. If there is more than one Responsible Person for the Party, all such individuals shall be jointly and severally liable for the Public Safety Service Costs. The amount of any Public Safety Service Costs may be collected by the City by any available legal remedy, including but not limited to the cost recovery procedure set forth in Section 9.78.070.

9.78.050 CIVIL PENALTIES.

In addition to any and all other Public Safety Service Costs, fees, penalties and expenses which may be assessed or imposed as a result of violation of this Chapter, any person who violates Section 9.78.030 shall be liable and responsible for, and shall pay to the City, a civil penalty of:

- A. \$300.00 for a first violation;
- B. \$500.00 for a second violation within 12 months of the first violation;
- C. \$750.00 for each additional violation within 12 months of the first violation.

9.78.060 ADMINISTRATIVE CITATIONS AND APPEALS.

A. Whenever an enforcement officer determines a violation of Section 9.78.030 has occurred, the enforcement officer has the authority to issue an administrative citation to any Responsible Person, pursuant to Section 6.12.060 of this Code.

B. A Responsible Person to whom an administrative citation is issued may appeal the citation by requesting an administrative hearing within 10 days of the issuance of the administrative citation. Any such request for administrative hearing must be filed in accordance with Chapter 1.08 of this Code. Failure to timely request an administrative hearing in the manner required by this section constitutes a waiver of the hearing and a failure to exhaust administrative remedies.

C. Any request for an administrative hearing under this Chapter shall be conducted in accordance with Chapter 1.06 of this Code.

9.78.070 RECOVERY OF EXPENSES, COSTS AND PENALTIES – LIENS.

A. Any and all Public Safety Service Costs, expenses and penalties that remain unpaid after demand by the City, shall become a lien on the Premises on which the violation occurred, except that no lien shall attach to publicly-owned property. Such Public Safety Service Costs, expenses and penalties shall be collected in the same manner as City taxes, and thereafter the property upon which they are a lien shall be sold in the same manner as property now is

sold for delinquent taxes.

B. The City Attorney shall have the authority to file an action or proceeding to recover such Public Safety Service Costs, expenses and/or penalties, and to take any other action at law or equity which he or she may deem necessary to recover the same. In any such action or proceeding, the City shall be entitled to recover its costs, including, but not limited to, its attorneys' fees.

9.78.080 NO CRIMINAL LIABILITY FOR VIOLATION.

This Chapter is not intended to, and does not, establish any criminal liability for a violation of Section 9.78.030.

9.78.090 REMEDIES CUMULATIVE – ACTIONS – RELATIONSHIP TO OTHER LAWS.

The remedies provided under this Chapter are cumulative, and shall not restrict the City to any other remedy to which it is entitled under law or equity. Nothing in this Chapter shall be deemed to preclude the imposition of any criminal penalty under state law, nor shall anything in this Chapter be deemed to conflict with any penalty or provision under state law, or to prohibit any conduct authorized by the state or federal statutes or constitutions.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on September 28, 2015, and adopted at a regular meeting of the City of Fort Bragg held on _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dave Turner,
Mayor

ATTEST:

June Lemos
City Clerk

PUBLISH: _____, 2015 and _____, 2015 (by summary).
EFFECTIVE DATE: _____, 2015.