



Staff Report

November 12, 2019

TO: Honorable Mayor and Members of the Town Council
FROM: Mary Beth Van Voorhis, Planning Director
DATE: November 5, 2019
RE: Adoption of Social Host Liability Ordinance – Second Reading

RECOMMENDATION

Adopt Ordinance 279, adding Social Host Liability, Title 7, Chapter 7.18 to the Loomis Municipal Code imposing liability on a "responsible person" for a minor's use of alcohol, cannabis, or controlled substances at gatherings. Oral reading waived.

ISSUE STATEMENT AND DISCUSSION

The Placer County Youth Commission ("PCYC") provided a presentation to the Town Council at the regular meeting on April 9, 2019. Following the presentation, the Town Council directed staff to return the matter for approval of a Social Host Ordinance for the Town of Loomis.

Staff from the Placer County Department of Health and Human Services, Children's System of Care Division, serve as advisors to PCYC. On May 12, 2009, the Placer County Board of Supervisors ("Board") approved the formation of PCYC as an advisory body to the Board. The purpose of PCYC is to integrate the youth voice into local policymaking and engage the community to create positive change. As part of its policymaking efforts, PCYC has contributed to the adoption of social host ordinances in the cities of Roseville, Rocklin, Lincoln, and Auburn.

Underage individuals can get alcohol, cannabis, and other controlled substances through social means, including at parties, through older siblings, or from parents or other adults. Such social means account for one of the predominant means by which underage individuals gain access to alcohol, cannabis, and other controlled substances.

Underage drinking, cannabis, and controlled substance use at parties and associated binge drinking can be dangerous. Traffic accidents, sexual assaults, fights, property destruction, alcohol poisoning and drug overdose and, over the long term, alcoholism, drug addiction, and other serious health problems can result from underage consumption of alcohol, cannabis, and other controlled substances.

Fighting underage consumption of alcohol, cannabis, and controlled substances in a comprehensive way requires addressing social access to these substances. The proposed ordinance is designed to hold accountable the host of a party or social gathering where alcohol, cannabis, or controlled substances are consumed by minors.

The Placer County Sheriff's Office was consulted regarding this ordinance. The Sheriff's Office supports its adoption and will be responsible for enforcement of the ordinance.

CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") REQUIREMENTS

The adoption of this ordinance will not cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, therefore, no further environmental evaluation is required pursuant to CEQA.

FINANCIAL AND/OR POLICY IMPLICATIONS

There are no financial issues associated with the adoption of this ordinance.

ATTACHMENTS

A Ordinance.

TOWN OF LOOMIS

ORDINANCE NO. 279

AN ORDINANCE OF THE TOWN OF LOOMIS, TOWN COUNCIL,
ADDING CHAPTER 7.18 TO THE LOOMIS MUNICIPAL CODE CONCERNING
SOCIAL HOST LIABILITY

WHEREAS, the Town of Loomis finds instances of disturbances caused by social gatherings in private homes and other spaces disturb the public peace, safety, and welfare of members of the community; and

WHEREAS, these incidents can also jeopardize the welfare and safety of those in attendance; and

WHEREAS, the purpose of this chapter is to protect the public health, safety, and general welfare of people and premises in the county, including the quiet enjoyment of property, by enhancing the ability of law enforcement to deter the consumption of alcohol, cannabis, or other controlled substances by minors and to hold adult hosts accountable for ensuring minors are not consuming alcoholic beverages, cannabis, or other controlled substances.

NOW THEREFORE, THE TOWN OF LOOMIS, TOWN COUNCIL, DOES ORDAIN AS FOLLOWS:

Title 7, Health and Safety, Chapter 7.18 Social Host Liability, is hereby added as set forth in Attachment A.

The foregoing Ordinance was introduced for the first reading at a regular meeting of the Town of Loomis, Town Council, duly held on October 8, 2019 and the second reading on November 12, 2019. This ordinance shall take effect and be in full force thirty (30) days after the date of its passage by the following roll call vote:

- AYES:**
- NOES:**
- ABSTAINED:**
- ABSENT:**

Tim Onderko, Mayor

ATTEST:

APPROVED AS TO FORM:

Charleen Strock, Town Clerk

Jeffrey Mitchell, Town Attorney

Attachment A

Town of Loomis TITLE 7, HEALTH AND SAFETY CHAPTER 7.18 SOCIAL HOST LIABILITY

Chapter 7.18 of the Loomis Municipal Code shall be known as "Social Host Liability" and is enacted as follows:

Sections:

- 7.18.010 Title and purpose.
- 7.18.020 Definitions.
- 7.18.030 Hosting, permitting, or allowing a gathering where minors consume alcoholic beverages, cannabis, or other controlled substances prohibited.
- 7.18.040 Dispersal of gathering.
- 7.18.050 Separate violation for each incident.
- 7.18.060 Violation.
- 7.18.070 Enforcement authority.
- 7.18.080 Response costs.
- 7.18.090 Administrative monetary penalties.
- 7.18.100 Failure to pay response costs and/or administrative penalties.
- 7.18.110 No duty to enforce.
- 7.18.120 Severability.

7.18.010 Title and purpose.

This chapter shall be known as the Social Host Liability Ordinance. The purpose of this chapter is to protect the public health, safety, and general welfare of people and premises in the Town of Loomis and county, including the quiet enjoyment of property, by enhancing the ability of law enforcement to deter the consumption of alcohol, cannabis, or other controlled substances by minors and to hold adult hosts accountable for ensuring minors are not consuming alcoholic beverages, cannabis, or other controlled substances. This chapter is not intended to interfere with existing state and local laws, including, but not limited to, those related to serving and consuming alcohol and medicinal use of cannabis.

7.18.020 Definitions.

The terms used in this chapter shall have the following meanings:

"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, or 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.

"Cannabis" shall have the same definition as in the Loomis Municipal Code Section 13.46.020.

"Controlled substance" means a drug or substance of which possession and use are regulated under the California Controlled Substances Act (Health and Safety Code section 11000 et seq.). This definition does not include any drug or substance for which the individual found to have consumed or possessed such substance has a valid prescription issued by a licensed medical practitioner authorized to issue such a prescription.

"Gathering" means any party, event or other meeting where a group of three or more persons have assembled or are assembling for a social occasion or social activity, whether it causes a substantial disturbance to the quiet enjoyment of private property or not.

"Juvenile" means any person under eighteen (18) years of age.

"Legal guardian" means either a person who, by court order, is the guardian of the juvenile; or a public or private agency with whom a juvenile has been placed by the court.

"Minor" is any person under twenty-one (21) years of age.

"Parent" means a person who is a natural parent, adoptive parent, foster parent, step-parent, one who acts in loco parentis for a juvenile, or anyone else who would be liable under Civil Code section 1714.

"Private property" means any property, place, or premises, whether occupied on a temporary or permanent basis, whether occupied for residential or other purpose, and whether owned, leased, rented, or used with or without compensation, including, but not limited to, a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a restaurant, bar, hall, or meeting space that is not owned and controlled by a public entity.

"Response cost" means the costs associated with response by law enforcement or other emergency response providers to a gathering, as those costs are defined in a schedule of costs adopted by the County Board of Supervisors.

"Responsible person(s)" means a person or persons with a right of possession in the private property where a gathering occurs or is hosted including, but not limited to:

1. An owner of the private property;
2. A tenant or lessee of the private property;
3. Anyone who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering;
4. The parent or legal guardian of anyone who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering if such a person is a juvenile.

7.18.030 Hosting, permitting, or allowing a gathering where minors consume alcoholic beverages, cannabis, or other controlled substances prohibited.

A. Except as permitted by law, it is unlawful for any responsible person to host, knowingly permit, or allow, tacitly or otherwise, a gathering to take place on private property, where any minor possesses or consumes an alcoholic beverage, cannabis, or other controlled substance.

B. Except as provided in subsection E, below, whenever a minor consumes any alcoholic beverage, cannabis, or controlled substance at a gathering on private property, it shall be prima facie evidence that a responsible person had the requisite knowledge specified in subsection A, above.

C. A responsible person has the duty to prevent the possession and consumption of alcoholic beverages, cannabis, or controlled substances by minors. If he or she did not take reasonable steps to prevent the consumption or possession of alcoholic beverages, cannabis, and controlled substances by the minor, each such responsible person shall be jointly and severally liable.

D. A responsible person shall not be in violation of this chapter if he or she seeks immediate assistance from any law enforcement agency to remove any person who refuses to abide by the responsible person's lawful efforts to prevent the possession and consumption of alcohol, cannabis, or controlled substances by a minor, or to terminate the gathering because the responsible person has been unable to prevent minors from consuming or possessing alcoholic beverages, cannabis, or other controlled substances despite having taken reasonable steps to do so. A responsible person shall not be in violation of this chapter solely because he or she seeks medical assistance to provide care for a person in immediate danger due to the accidental or intentional overdose of alcohol, cannabis, or a controlled substance.

E. This section shall not apply to any location or place regulated by the California Department of Alcoholic Beverage Control.

F. This section shall not apply to: (1) a parent or legal guardian who provides an alcoholic beverage at a family gathering to a minor under the parent or legal guardian's immediate care; (2) a parent or legal guardian who provides cannabis to a minor who is legally qualified to use cannabis under state law; (3) to any person who provides an alcoholic beverage to a minor as part of a religious activity; or (4) to a parent or legal guardian who provides a controlled substance to a minor who has a valid prescription for that substance from a licensed medical practitioner.

7.18.040 Dispersal of gathering.

Any law enforcement officer who determines that a violation of Section 7.18.030 has occurred and where that violation results in the disturbance of the public peace, safety, and welfare, shall have the authority to command all those attending the gathering to disperse immediately or to direct any responsible person to immediately disperse the gathering.

7.18.050 Separate violation for each incident.

Each incident where a law enforcement officer or other emergency responder

intervenes in a gathering for a violation of Section 7.18.030 shall constitute a separate offense.

7.18.060 Violation.

A. Notwithstanding any other provision of this code to the contrary, violation of the provisions of this section shall constitute, at the discretion of the district attorney, an infraction or misdemeanor punishable pursuant to the provisions of Government Code Section 25132.

B. All remedies set forth in this chapter are cumulative and the use of one or more remedies shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

7.18.070 Enforcement authority.

The Placer County Sheriff's Department and Placer County District Attorney are authorized to administer and enforce this chapter.

7.18.080 Response costs.

A. Each responsible person shall be jointly and severally liable for response costs incurred when law enforcement or other emergency response providers respond to a gathering where at least one minor unlawfully consumed alcoholic beverages, cannabis, or controlled substances. The amount of response costs shall be deemed a debt owed by the responsible person. Any person owing response costs shall be liable in a civil action brought in the name of the Placer County Sheriff's Department for such response costs, including reasonable attorney fees.

B. Notice of response costs. A notice of the response costs shall be mailed via first class mail to the responsible person. The notice shall contain the following information: (1) the name of the responsible person being held liable for the payment of the response costs; (2) the address of the private property where the gathering occurred; (3) the date and time of the gathering; (4) a description of the law enforcement or emergency service provider(s) who responded; (5) an itemized list of the response costs for which the responsible person is being held liable; and (6) identification of the right and method to appeal the imposition or amount of response costs.

C. Payment shall be remitted to the Placer County Sheriff's Department within thirty (30) calendar days from the date such notice was mailed. The payment of any such costs shall be stayed upon the filing of a timely appeal.

7.18.090 Administrative monetary penalties.

As an alternative to punishment as an infraction, the sheriff may assess an administrative monetary penalty pursuant to California Government Code Section 53069.4. Such a monetary penalty is in addition to response costs. Administrative penalties shall be assessed in accordance with the procedures set forth in in this section. Unless otherwise stated, administrative monetary penalties shall be the maximum amounts specified in Government Code Section 36900.

7.18.100 Failure to pay response costs and/or administrative penalties.

A. Any person who fails to pay any response costs or administrative penalty imposed pursuant to this chapter on or before the date such costs or penalty are due shall also be liable in any action brought by the Placer County Sheriff's Department or the Town for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorney fees. Such collection costs are in addition to any required fees, penalties, interest, and late charges.

B. Notwithstanding the procedures set forth in this section, the Placer County Sheriff's Department shall have the ability and discretion to enforce violations of this chapter, to impose necessary conditions, to forgive portions of a debt or penalty owed to the Town under this chapter, and to coordinate collection and enforcement efforts.

7.18.110 No duty to enforce.

Nothing in this chapter shall be construed as imposing on the Town any duty to issue any violations of this chapter, and the Town shall not be held liable for failure to issue a citation for violation of this chapter.

7.18.120 Severability.

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

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