

ORDINANCE NO. 4126

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA AMENDING CHAPTER 34, ARTICLE III, OF THE POMONA CITY CODE ENACTING A SOCIAL HOST ORDINANCE REGULATING LOUD AND UNRULY GATHERINGS

WHEREAS, the City of Pomona (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;

WHEREAS, the occurrence of loud or unruly gatherings on private property where alcoholic beverages 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;

WHEREAS, property owners and landlords have failed to prevent the occurrence or reoccurrence of loud and unruly gatherings on private property, which seriously disrupts the quiet enjoyment of neighboring residents;

WHEREAS, problems associated with loud or unruly gatherings, including those which serve alcoholic beverages to or are consumed by underage persons, are difficult to prevent and deter unless the City has legal authority to direct the host or responsible person to disperse the gathering;

WHEREAS, control of loud or unruly gatherings on private property 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 hosting, 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.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. Chapter 34, Article III, Division 3 entitled “Social Host Ordinance,” is hereby added to the Pomona City Code to read as follows:

DIVISION 3. SOCIAL HOST ORDINANCE

Sec. 34-187. Definitions.

For the purpose of this Ordinance, the following terms shall have the following meanings:

“*Alcohol*” means any 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 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.

“*Juvenile*” means any person under eighteen years of age.

“*Underage Person*” means any person under twenty-one years of age.

“*Loud or Unruly Gathering*” means any party or gathering of two or more persons at or on a residence or other private gathering of two or more persons at or on a residence or other private property upon which loud or unruly conduct occurs. Such loud and unruly conduct includes, but is not limited to:

- (i) excessive noise prohibited under Section 18-301 *et seq.* of the Pomona City Code;
- (ii) excessive traffic;
- (iii) obstruction of public streets or crowds that have spilled into public streets;
- (iv) service to or consumption of alcohol or alcoholic beverages by any underage person, except as permitted by state law;
- (v) assaults, batteries, fights, domestic violence or other disturbances of the peace;
- (vi) vandalism;
- (vii) litter; and
- (viii) any other conduct which constitutes a threat to the public health, safety, quiet enjoyment of residential property or the general welfare.

A loud and unruly gathering shall constitute a public nuisance.

“*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:

- (i) an owner of the residence or other private property;
- (ii) a tenant or lessee of the residence or other private property;
- (iii) the landlord of another person responsible for the gathering;

- (iv) the person(s) in charge of the residence or other private property;
- (v) the person(s) who organizes, supervises, officiates, conducts, or controls the gathering or any other person(s) accepting responsibility for such a gathering.

If a 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 Section 14-171 *et seq.* of the Pomona City Code. To incur liability for response costs imposed by the Pomona City Code, 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.

“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.

Sec. 34-188. Responsibility for Proper Property Management.

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

Sec. 34-189. Penalties for Violation of Ordinance.

- (a) It shall be a misdemeanor for any responsible person to knowingly conduct, aid, allow, permit, condone or otherwise facilitate a loud or unruly gathering at a residence or other private property, unless charged as an infraction by the District Attorney, City Attorney or City Prosecutor.
- (b) Fines for a violation charged as an infraction.
 - (1) A first violation of this Section shall be punishable by a \$100 fine.
 - (2) A second violation of this Section at the same residence or other private property, or by the same responsible person, within a twelve month period shall be punishable by a fine of \$200.
 - (3) A third or subsequent violation of this Section at the same residence or other private property, or by the same responsible person, within a twelve month period shall be punishable by a fine of \$500.
- (c) The fines prescribed at subsection (b) are in addition to any response costs that may be assessed pursuant to Section 14-171 *et seq.* of the Pomona City Code.

- (d) The second, third or subsequent violation fines prescribed at subsection (b)(2) and (b)(3) 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 at subsection (b) is a “rolling schedule” meaning that in calculating the fine payable the Police Department, City Attorney, City Prosecutor, or District Attorney 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 Ordinance 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 that residence or other private property.

SECTION 2. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

SECTION 3. The City Council finds that the additions made to Chapter 34, Article III of the Pomona City Code are enacted to preserve and mitigate threats to public peace, health and safety and general welfare by enhancing the enforcement of laws relating to loud and unruly gatherings. Therefore, it can be seen with certainty that the adoption of this Ordinance will not have a significant adverse effect on the environment and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to section 15061(b)(3) of the CEQA Guidelines.

SECTION 4. The City Clerk shall attest to the passage of this ordinance, causing it to be posted as required by law, and it shall be in full force and effect thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED THIS 7TH DAY OF DECEMBER, 2009.

ATTEST:

CITY OF POMONA:

Marie Michel Macias, City Clerk

Elliot Rothman, Mayor

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading on November 16, 2009 and adopted at second reading at a regular meeting of the City Council of the City of Pomona held on the 7th of December, 2009.

AYES: COUNCILMEMBERS: Soto, Carrizosa, Lantz, Saunders, Atchley, Rodriguez
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: Rothman
ABSTAIN: COUNCILMEMBERS: None

Marie Michel Macias, City Clerk