



CITY COUNCIL AGENDA

Department: City Clerk Item No: 5
 Prepared By: Jo Seibert, City Clerk Meeting Date: October 28, 2003
 Approved By: Rita L. Geldert, City Manager *R. L. Geldert* Agenda Location: Consent Calendar

SUBJECT: SECOND READING OF ORDINANCE NO. 2003-26

RECOMMENDATION: Adopt Ordinance No. 2003-26 entitled, "An Ordinance of the City of Vista, California, Amending Title 9, Adding Chapter 9.32 of the Vista Municipal Code Prohibiting the Hosting of Parties, Gatherings or Events Where Minors are Unlawfully Consuming Alcoholic Beverages or Controlled Substances."

PRIOR CITY COUNCIL ACTION: On October 14, 2003, introduced Ordinance No. 2003-26 on the Consent Calendar (Vote: 4-1, Gronke opposed).

STATEMENT ON THE SUBJECT: At introduction, Ordinance No. 2003-26 was amended to provide that the first offense can be charged as either an infraction or a misdemeanor, and subsequent offenses will be charged as misdemeanors.

EXHIBITS:

1. Ordinance No. 2003-26, social host ordinance.

COUNCIL ACTION: Approved above recommendation, Ordinance No. 2003-26.
 Vote: 4-0 (Campbell absent)

Tracking No. 2835-03-10

Maria Lillian, Asst.
Maria Lillian, Asst.
 City Clerk

Page 1 of 5

ORDINANCE No. 2003-26

**AN ORDINANCE OF THE CITY OF VISTA, CALIFORNIA AMENDING
TITLE 9, ADDING CHAPTER 9.32 OF THE VISTA MUNICIPAL CODE
PROHIBITING THE HOSTING OF PARTIES, GATHERINGS OR
EVENTS WHERE MINORS ARE UNLAWFULLY CONSUMING
ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES**

WHEREAS, the City of Vista ("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 citizens; and

WHEREAS, the City finds that the unlawful consumption of alcohol or controlled substances by minors at parties, gatherings or events on private property is harmful to the minors themselves and to the communities where such parties are held; and

WHEREAS, the City further finds such parties, gatherings or events where alcohol or controlled substances are unlawfully consumed by minors contribute to increase alcohol or drug abuse by minors, physical altercations, neighborhood vandalism, and excessive noise disturbances; and

WHEREAS, abating such parties or gatherings where alcohol or controlled substances are unlawfully consumed by minors by law enforcement will benefit and protect the health, safety and general welfare of the community,

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

SECTION 1. Chapter 9.32 of the Vista Municipal Code is added to read as follows:

Chapter 9.32

**Consumption of Alcohol or Controlled Substances by
Minors at Parties, Gatherings or Events**

Sections:

- | | |
|-----------------|--------------------------------------|
| 9.32.010 | Purpose and intent. |
| 9.32.020 | Definitions. |
| 9.32.030 | Prohibition. |
| 9.32.040 | Penalties. |
| 9.32.050 | Reservation of legal options. |

9.32.010 Purpose and intent.

The City Council finds and determines that minors often consume alcoholic beverages or use controlled substances at parties, gatherings or events 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 illegal conduct and fails to stop it. The City Council further finds and determines that persons are more likely to properly supervise or stop the unlawful consumption of alcohol or controlled substances by minors at such parties, gatherings or events on property under their control if they are held responsible for abetting or tolerating such conduct. It is the purpose of this Chapter to impose criminal liability on persons who control the property on which such parties, gatherings or events occur and who fail to properly supervise or stop minors from unlawfully consuming alcohol or controlled substances.

9.32.020 Definitions.

The words and phrases used in this Chapter have the meanings set forth in this Section.

"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 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.

"Control" shall mean any form of dominion including ownership, tenancy, or other possessory right.

"Controlled substances" shall include all narcotics or drugs, the possession of which is illegal under the laws of the State of California as defined under the Penal Code, Health and Safety Code and related statutes.

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

"Party, gathering, or event" means a group of persons who have assembled or are assembling for a social occasion or social activity.

"Person(s) responsible for the event" includes, but is not limited to: (1) The person(s) who owns, rents, leases, or otherwise has control of the premises where the party, gathering or event takes place; (2) the person(s) in charge of the premises; or (3) the person(s) who organized the event.

9.32.030 Prohibition.

Except as permitted by Article 1, Section 4, of the California Constitution, no person shall permit, allow, or host a party, gathering or event at his or her place of residence or other private property, place or premises under his or her control where three (3) or more persons are present and where he or she knows or should reasonably know alcoholic beverages and or controlled substances are being unlawfully consumed by any minor.

9.32.040 Penalties.

(a) Except as otherwise provided in subsection (b) of this section, any person violating section 9.32.030 is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one thousand dollars (\$1000) and/or imprisonment of not more than six (6) months.

(b) Notwithstanding any provision to the contrary, the City Attorney shall have the discretion to reduce to an infraction any act made unlawful pursuant to subsection (a) to this section, or to substitute administrative citation remedies pursuant to Chapter 1.13, if the City Attorney determines such a reduction is warranted in the interest of justice. The factors the City Attorney shall consider in determining whether to reduce the charge to an infraction or substitute administrative remedies shall include, but not be limited to, the following:

- (1) The number of individuals attending the party, gathering or event.
- (2) The number of minors attending the party, gathering or event.
- (3) The source of the alcoholic beverages or controlled substances.

9.32.050 Reservation of legal options.

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 law enforcement officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this chapter.

SECTION 2. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter 9.32, 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 Chapter 9.32 or any part thereof. The City Council of the City of Vista declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter 9.32 irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this Chapter are declared to be severable.

SECTION 3. This ordinance shall be effective on the thirty first day following the date of its adoption.

PASSED AND ADOPTED after second reading at a regular meeting held on the _____ day of _____, 2003, following a first reading at a meeting on the 14th day of October, 2003, by at least three votes as follows:

AYES:

NOES:

ABSTAIN:

MORRIS B. VANCE, Mayor

ATTEST:
Jo Seibert, City Clerk

APPROVED AS TO FORM:
J. Wayne Dernetz, City Attorney

By: 

By: _____

AGENDA REPORT COVER SHEET

TRACKING NO. 2235

CITY COUNCIL COMMUNITY DEV. COMMISSION BSD JPFA

Subject: 2nd Reading of Ord Meeting Date: 10-21-03
 Location, if applicable: _____ Follow-Up Item: Yes No
 Dept/Div Submitting Item: Clerk Last Agenda Date: 10-14-03
 Person Writing Staff Report: _____ Typist: Leah

- Location on Agenda
- Awards & Presentations
 - Consent Calendar
 - Public Hearings*
 - Discussion
 - Workshop
 - Other: _____

PARTIES NOTIFIED (Not Staff): _____

COMPUTER FILE LOCATION: _____

Publication and Notice Required: 30 Days 14 Days 10 Days 7 Days Other

Time of Public Hearing: _____ *Date of Publication: _____

GENERAL INFORMATION

INTER-DEPT COORDINATION

INITIAL/DATE APPROVAL CATEGORY (circle appropriate category) CORRECTED

_____ **SUBMITTING DEPT:** Department Head's Signature _____

_____ **FINANCE:** Fiscal / Budget & Award of Bid / Capital Improvement Project & Budget Items / Staff / Personnel Positions _____

_____ **RISK MANAGER:** Contracts / Agreements / Grant Deeds / Inter-GVTL or Private Agency Projects & Plans / Specifications / RFP's _____

_____ **PERSONNEL:** Staff / Personnel Positions (new; changed; etc.) _____

_____ **OTHER:** If item does not fit into one of the above, who, besides originating dept., has been consulted on the staff recommendation? _____

Note: Please make sure that the City Attorney has approved in advance any of the following:
 Resolutions / Ordinances / Code Modifications / Contracts / Agreements / Conveyances

Notes / Comments:

By: _____ Date: _____

CEQA

CEQA COMPLIANCE REQUIRED (See Back For Explanation): Not a "Project" within CEQA;

Statutory Exempt or Categorical Exempt: CEQA Guidelines Section _____;

Mitigated / Negative Declaration or EIR/EIS;

Attached or Approved, Lead Agency: _____ Date: _____

CITY CLERK

Special Instruction For City Clerk: (mailing, copies)

CITY MANAGER'S USE

CORRECTIONS NEEDED (Return original mark-up copy to the City Manager's Office)

Needs Review: City Attorney / Risk Manager / Finance

See Notes on Report

Resolution / Ordinance / Agreement needs City Attorney Signature By: _____ Date: _____

Notes / Comments:

By: _____ Date: _____

Copies: Summary City Attorney Clerk 10-17-03 BW

Assistant City Manager Approval: RD Date: 10/17/03

City Manager Approval: [Signature] Date: 10/20/03