

ARTICLE IV. - SOCIAL HOSTING

Sec. 6-131. - Findings and intent.

The mayor and the city council finds and declares as follows:

- (a) In 2007, the U.S. Surgeon General issued a report entitled "The Surgeon General's Call to Action To Prevent and Reduce Underage Drinking," which can be found at <http://www.surgeongeneral.gov/topics/underagedrinking/calltoaction.pdf>. ("Surgeon General's Call to Action").
- (b) "Early alcohol consumption by some young people will result in an alcohol use disorder—that is, they will meet diagnostic criteria for either alcohol abuse or dependence." Surgeon General's Call to Action, at page 4.
- (c) "[A] higher percentage of youth in 8th, 10th, and 12th grades used alcohol in the month prior to being surveyed than used tobacco or marijuana, the illicit drug most commonly used by adolescents." Surgeon General's Call to Action, at page 5.
- (d) Various surveys have found that: approximately ten percent of children who are nine to ten years old have started drinking alcoholic beverages; nearly 33 percent of youth start drinking alcoholic beverages before the age of 13; more than ten percent of youth who are 12 to 13 years old and over 33 percent of youth who are 14 to 15 years old reported drinking a whole alcoholic beverage in the year before they were surveyed, and the peak years of alcohol initiation are when youth are in 7th and 8th grades. Surgeon General's Call to Action, at page 6.
- (e) While adolescents typically drink alcoholic beverages less often than adults, when they do drink alcoholic beverages, adolescents tend to drink more alcoholic beverages at each event than adults. Surgeon General's Call to Action, at pages 6—7.
- (f) Persons who are less than the age of 21 often possess or consume alcoholic beverages at social parties or gatherings held at or on private residences and other private property under control of a person who either has provided the alcoholic beverages or who knows or reasonably should know of such conduct, but fails to take steps to prevent it.
- (g) "Annually, about 5,000 people under age 21 die from alcohol-related injuries involving underage drinking." Surgeon General's Call to Action, at page 10.
- (h) Underage drinking "[p]lays a significant role in risky sexual behavior, including unwanted, unintended, and unprotected sexual activity, and sex with multiple partners. Such behavior increases the risk of unplanned pregnancy and for contracting sexually transmitted diseases (STDs), including infection with HIV, the virus that causes AIDS." Surgeon General's Call to Action, at page 10.
- (i) Underage drinking "[i]ncreases the risk of physical and sexual assault." Surgeon General's Call to Action, at page 10.
- (j) Underage drinking "[c]an cause a range of physical consequences, from hangovers to death from alcohol poisoning." Surgeon General's Call to Action, at page 11.
- (k) Underage drinking, "[c]an cause alterations in the structure and function of the developing brain, which continues to mature into the mid- to late twenties and may have consequences reaching far beyond adolescence." Surgeon General's Call to Action, at page 11.
- (l) Underage drinking, "[c]reates secondhand effects that can put others at risk. Loud and unruly behavior, property destruction, unintentional injuries, violence, and even death because of underage alcohol use afflict innocent parties. For instance, about 45 percent of people who die in car crashes involving a drinking driver under the age of 21 are people other than the driver." Surgeon General's Call to Action, at page 11.

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- (m) Law enforcement agency responses to disturbances involving underage consumption of alcoholic beverages at parties or gatherings at or on private residences or other private property frequently require the use of extensive public resources. Further, when law enforcement personnel respond to such disturbances it limits their ability to respond to other service calls in the community, thereby placing the community at increased risk. Law enforcement is not currently reimbursed for their expenses when called to a party or gathering at or on a private residence or other private property.
- (n) The prohibitions found in this article are reasonable and expected to deter the possession and consumption of alcoholic beverages by persons under the age of 21 by holding responsible persons who encourage, are aware of, or should be aware of, the illegal conduct, yet fail to take steps to prevent it. In addition, the revenue received by the city, after cost reimbursement to responding law enforcement agency, will be directed toward law enforcement strategies and prevention programs in the city.

(Ord. No. 2012-14, 12-17-12)

Sec. 6-132. - Title.

This article shall be referred to as the "Kennesaw Social Hosting Ordinance."

(Ord. No. 2012-14, 12-17-12)

Sec. 6-133. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, or as set forth in section 6-1 of this Code, except where the context clearly indicates a different meaning.

Dwelling unit means, without limitations, any of the following:

- (1) Any single and multi-family residence including, but not limited to, any apartment, cabin, condominium, duplex, house, or log cabin, and the land on which it is located, whether owned, leased, rented, or occupied for no compensation by the occupant or occupants;
- (2) Any mobile home and the land upon which the mobile home is located, whether or not rent is paid for the mobile home, for the land upon which the mobile home is located, or for both;
- (3) Any recreational vehicle, whether located on privately-owned or publicly-owned property, and whether rent or not is paid for the recreational vehicle, and the land upon the recreational vehicle is located.

Gathering means an assembled group of people for the purpose of a social occasion or activity.

Legal guardian is a person who is lawfully vested with the power and charged with the duty of taking care of an underage person.

Other private property.

- (1) The term "other private property" includes the following locations:

- a. A hotel or motel room;
- b. An assembly hall or meeting room;
- c. A common room of a dwelling unit used for a party (e.g., a recreation room of an apartment building or a common room of a condominium complex);
- d. A site in a privately-owned campground;

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- e. A privately-owned vacant lot; or
 - f. Privately-owned land or real estate of any type.
- (2) Such locations constitute "other private property" under all of the following conditions:
- a. The location is occupied by one or more persons on a temporary or permanent basis;
 - b. The location is occupied as a dwelling, permanent residence, or temporary residence, for a party or for any other social function;
 - c. The location is owned, leased, rented, or used with or without compensation.

Parent means any person who is a natural parent, an adoptive parent, a foster parent, a step-parent, or who a person who stands in loco parentis.

Party means a gathering or event at which two or more persons assemble or gather for a social occasion or activity.

Person who has a right of possession means, with respect to a private residence or other private property, as follows:

- (1) Owner of the dwelling unit, private residence, or other private property;
- (2) The record owner of the title to the property as of the time of the party regardless of where that person currently resides;
- (3) Tenant or lessee of the dwelling unit, private residence, or other private property;
- (4) Landlord of another person who has a right of possession in the dwelling unit, private residence, or other private property;
- (5) The person or persons who are in charge of the dwelling unit, private residence, or other private property; or
- (6) Social host.

Private residence means the following:

- (1) A dwelling unit, whether occupied on a temporary basis, whether occupied as a dwelling or for a party or other social function, and whether owned, leased, rented, or used with or without compensation;
- (2) Any other item on the same land parcel as the dwelling unit, which includes, but is not limited to any of the following: an animal pen, an animal shed, a barn, a boat dock, a boat house, a cabana, an equipment shed, a free-standing office, a garage, a gazebo, a granary, a hot tub, a hunting cabin, a corn crib, a sauna, a stable, a studio, a swimming pool, a private office, a shed, a silo, a tent, a tool shed, a tree-house, a tractor, or a vehicle of any type or nature;
- (3) Other items or areas accompanying or on the same land parcel as the dwelling unit, whether improved or unimproved, such as a yard (whether fenced or unfenced), patio, outdoor grilling or eating area, open fields, jetty, pier, dock, or lake shore;
- (4) Water bodies contiguous to or on the same land parcel as a dwelling unit, such as a basin, bayou, brook, creek, dam, lagoon, lake, marsh, pond, river, stream, or swamp.

Reasonable steps means steps that include, but are not limited to:

- (1) Controlling access to alcoholic beverages;
- (2) Controlling the quantity of alcoholic beverages;
- (3) Verifying the legal minimum drinking age of persons at the party or gathering by inspecting drivers licenses or other government-issued identification cards all of those persons in attendance; and
- (4) Supervising and monitoring the activities of underage persons at the party or gathering.

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Social host means:

- (1) The person or persons who organize, supervise, officiate, conduct or control a party or gathering at or on or at a dwelling unit, a private residence, or other private property owned, leased, or otherwise controlled by that person or those persons;
- (2) The person or persons receiving money or any other type of consideration for granting access to a party or gathering at or on a dwelling unit, a private residence, or other private property owned, leased or otherwise controlled by that person.

Underage person means any person under the age of 21.

(Ord. No. 2012-14, 12-17-12)

Sec. 6-134. - Prohibition.

- (a) It shall be a violation of this article for any person who has a right of possession of a dwelling unit, a private residence, or other private property to knowingly host, permit, or allow a party or gathering to take place or continue at or on such private residence or other private property if any underage person at the party or gathering possesses or consumes any alcoholic beverage and the person knows or reasonably should know, after taking all reasonable steps to prevent alcoholic beverage possession or consumption by the underage person, that the underage person is possessing or consuming any alcoholic beverage at the party or gathering.
- (b) It shall be a violation of this article for a parent or legal guardian to allow any underage person under the care of that parent or legal guardian to allow to attend a party or other social gathering if that parent or legal guardian knows or reasonably should know that the underage person will possess or consume any alcoholic beverage at that party or social event.
- (c) It is the duty of any person having a right of possession of a dwelling unit, a private residence, or other private property, who knowingly hosts, permits or allows a party or gathering at or on the dwelling unit, the private residence, or other private property, to take all reasonable steps to prevent the possession or consumption of alcoholic beverages by any underage person at the party or gathering. A breach of this duty shall be a violation of this article.
- (d) Any violation of O.C.G.A. § 3-3-23, as amended, shall also be a violation of this article.

(Ord. No. 2012-14, 12-17-12)

Sec. 6-135. - Protected activities.

- (a) Nothing in this article should be interpreted to prohibit legally protected practices held at or on a dwelling unit, a private residence, or other private property that includes the possession and/or consumption of alcohol by persons under the age of 21:
 - (1) As part of religious practices on private property; or
 - (2) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state and the consumption occurs on private property pursuant to and in accordance with that prescription; or
 - (3) When the parent or legal guardian of the underage person physically gives the alcohol to that underage person when in their own residence and while in their presence and as permitted under O.C.G.A. § 3-3-23, as amended.
- (b) Notwithstanding the exemptions for protected activities found in section 6-135(a) of this article, if an underage person leaves said private property intoxicated where he or she was provided the alcohol and is found in public, then said furnishers of alcoholic beverages to that underage person shall be held

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responsible in the same manner as furnishers of alcoholic beverages to underage persons at nonprotected activities.

(Ord. No. 2012-14, 12-17-12)

Sec. 6-136. - Separate violation for each incident.

Each incident in violation of section 6-134 shall constitute a separate offense.

(Ord. No. 2012-14, 12-17-12)

Sec. 6-137. - Enforcement authority.

The city police department, the city attorney, and any other person designated by the mayor and city council are authorized to administer and enforce the provisions of this article. The city police department, the city attorney, and any other person designated by the mayor and the city council may exercise any enforcement powers provided by law.

(Ord. No. 2012-14, 12-17-12)

Sec. 6-138. - Enforcement remedies.

(a) Criminal penalties.

- (1) Consistent with O.C.G.A. § 36-32-10(a), the first violation of O.C.G.A. § 3-3-23 shall also be a violation of this article. Any person who violates O.C.G.A. § 3-3-23 shall be punished by a fine of not more than the maximum fine for which the Georgia Statutes provide for a violation of O.C.G.A. § 3-3-23.
- (2) Any parent who violates section 6-134(b) of this article may be assessed the maximum penalty for which the city Ordinances and Georgia Statutes provide for a misdemeanor.

(b) Civil penalties.

- (1) Any person who violates section 6-134(a), (b) and/or (c) of this article has committed a public nuisance constituting an immediate threat to public health, safety and welfare, warranting summary abatement and is guilty of a civil violation.
- (2) On the violation of section 6-134(a), (b) and/or (c), the violator shall be assessed a civil penalty for each such violation of not more than the maximum allowed by the city ordinances and the Georgia State Statutes.
- (3) Violations of section 6-134 of this article shall be noticed by citation, issued by the city police department. The citation shall also give notice of the right to request a hearing to challenge the validity of the citation, the time for requesting that hearing, and that the person has a right to appeal.

(Ord. No. 2012-14, 12-17-12)