

CHAPTER 9.38

SOCIAL HOST/HOUSE PARTY

9.38.010 Purpose and Intent.

The City Council finds and determines that youth often obtain alcoholic beverages while attending parties held at private residences or at other such premises, which are under the control of a person(s) who is aware of or should be reasonably aware of the said illegal activity and fails to stop it. The City Council further finds and determines that person(s) who are held responsible for abetting or tolerating such conduct will be more likely to properly supervise or stop such activity on property under their control. It is the purpose of this Chapter to impose criminal liability on persons who control the property on which such parties occur and who fail to properly supervise or stop the illegal activity. It is the further purpose of this Chapter to impose civil liability for the recovery of the costs of enforcement services and to provide for the recovery of reasonable attorney's fees in the event of litigation. [Ordinance 843]

9.38.020 Definitions.

Terms used in this chapter shall have the meaning set forth in this section and given to them by State law except as expressly provided herein.

A. "Adult" shall mean a person who is twenty-one (21) years of age or older.

B. "Control" shall mean any form of dominion including ownership, tenancy, or other possessory right, including persons who organize or host a gathering, party or event.

C. "Party or House Party" shall mean a social gathering at a residence, property or premises.

D. "Residence, Property or Premises" shall mean a hotel or motel room, home, yard (including patio area/deck, pool area, ocean seawall), apartment, condominium, or other dwelling unit, or hall or meeting room, structure, vacant lot, or any other property, commercial or private, or any other land accessible to the public, whether occupied on a temporary or permanent basis, whether occupied as a dwelling utilized for a party or other

social function, and whether owned, leased, rented, or used with or without compensation.

E. "Enforcement Services Response Costs" are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering, including, but not limited to: (1) salaries and benefits of law enforcement, code enforcement, fire, or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative costs attributable to such response(s); (2) the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering; (3) the cost of repairing any City equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at, leaving the scene of a gathering; and (4) any other allowable costs related to the enforcement of any of the provisions of this Chapter.

F. "Minor" shall mean a person who is less than twenty-one (21) years of age.

G. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

H. "Alcoholic beverage" has the same meaning as that set forth in the California Business and Professions Code section 23004.

I. "Guardian" means: (1) a person who, under court order, is the guardian of a person of minority age; or (2) a public or private agency with whom a minor has been placed by the court.

J. "Parent" means a person who is a natural parent, adoptive parent or step parent of another person.

K. "Gathering or Event" means a group of three (3) or more persons who have assembled or are assembling for a social occasion or social activity.

9.38.030 Consumption of alcohol by minor prohibited in public place, place open to public, or place not open to public.

Except as permitted by state law, it is unlawful for any minor to:

A. Consume at any public place or any place open to the public any alcoholic beverage; or

B. Consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of an alcoholic beverage by a minor who is being supervised by his or her parent or legal guardian with no more than 3 minors present.

9.38.040 Hosting - Allowing a party, gathering, or event where minors obtain, possess or consume alcoholic beverages is prohibited.

A. It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the possession or consumption of alcoholic beverages by any minor present at the gathering. Reasonable steps include, but are not limited to: controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages while at the gathering; and supervising the activities of minors at the gathering in order to detect and prevent any unlawful possession, consumption or ingestion of alcohol by minors.

B. It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor obtains, possesses or consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection (A) of this Section.

C. This section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or legal guardian, as permitted by Article I, Section 4, of the California Constitution.

9.38.050 Protected Activities.

The provisions of this Chapter shall not apply to legally protected religious activities or gatherings of family members with not more than three (3) non-family members.

9.38.060 Repeat Offenses Within One (1) Year.

Any person, firm, or corporation who has been determined to have any additional violation(s) related to the regulations stated in the sections of this Chapter within one (1) calendar year from the first violation shall incur a separate, but additional, charge for repeat offenses.

9.38.070 Enforcement; Penalty.

A. Each violation of this Chapter constitutes a separate offense.

B. A charge under this Chapter may be prosecuted either as a misdemeanor or an infraction.

C. Any person, firm or corporation convicted of a misdemeanor for violating this Chapter may be punished by imprisonment in the County Jail for a period of time not exceeding six (6) months or by a fine not exceeding one thousand dollars (\$1,000) or both.

9.38.080 Civil Liability for Enforcement Services.

When a house party or gathering prohibited by DMMC 9.38.030 and 9.38.040 occurs and a police officer, sheriff deputy, park ranger, fire/emergency medical services, community services officer, or code enforcement officer, or other enforcement personnel is called to the scene, the person(s) having control of the gathering or house party at the residence or premises may be liable for the Enforcement Services Response Costs incurred by the City for providing enforcement services.

9.38.090 Prima Facie Evidence.

Whenever a person who has control, hosts or organizes a gathering or party is present when a minor obtains, possesses or consumes any alcoholic beverage, it shall be prima facie evidence that the person knew or should have known that the minor obtained, possessed, or consumed an alcoholic beverage at the party or gathering.

9.38.100 Reimbursement for Cost of Enforcement Services.

The City of Del Mar may seek administrative fees and Enforcement Services Response Costs associated with enforcement of Sections 9.38.030 and 9.38.040, through all remedies or procedures provided by statute, ordinance, or law.

9.38.101 Reservation of Legal Options.

Sections 9.38.030 and 9.38.040 shall not limit the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by Sections 9.38.030 and 9.38.040, nor shall they limit the City of Del Mar or the People of the State of California's ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of DMMC Sections 9.38.030 and 9.38.040.