

ORDINANCE NO. 352

AN ORDINANCE OF THE CITY OF ROLLING HILLS ADDING A NEW CHAPTER 9.58 (SOCIAL HOST LIABILITY FOR PARTIES AT WHICH UNDERAGE DRINKING OCCURS) OF ARTICLE VII (OFFENSES BY OR AGAINST MINORS) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE CITY'S MUNICIPAL CODE TO IMPOSE LIABILITY ON PERSONS WHO FACILITATE OR ALLOW THE CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS AT ANY PARTY, GATHERING OR EVENT AT A PRIVATE RESIDENCE; AND AMENDING SECTION 1.08.010 AND ADDING SECTIONS 1.08.030 THROUGH 1.08.090 TO CHAPTER 1.08 (GENERAL PENALTY) TO TITLE 1 (GENERAL PROVISIONS) OF THE ROLLING HILLS MUNICIPAL CODE TO CREATE AN ADMINISTRATIVE CITATION PROCESS FOR CODE VIOLATIONS

The City Council of the City of Rolling Hills does hereby ordain as follows:

**Section 1.** A new Chapter 9.58 (Social Host Liability for Parties at which Underage Drinking Occurs) of Article VII (Offenses By Or Against Minors) of Title 9 (Public Peace, Morals, and Welfare) is hereby added to the Rolling Hills Municipal Code to read as follows:

**Chapter 9.58**

**Social Host Liability for Parties at which Underage Drinking Occurs**

<b>Sections</b>	
<b>9.58.010</b>	<b>Purpose and Intent</b>
<b>9.58.020</b>	<b>Definitions</b>
<b>9.58.030</b>	<b>Social host liability for parties at which underage drinking occurs</b>
<b>9.58.040</b>	<b>Exceptions</b>
<b>9.58.050</b>	<b>Notice to responsible person</b>
<b>9.58.060</b>	<b>Cost reimbursement to the City</b>
<b>9.58.070.</b>	<b>Penalties.</b>

**9.58.010. Purpose and intent.**

The City Council finds and determines that minors sometimes obtain alcoholic beverages at parties held at private premises. The purposes of this chapter are as follows:

- A. Protect the public health, safety and general welfare;
- B. Discourage and decrease underage drinking by imposing a civil fine on persons responsible for gatherings where alcohol is consumed by or served to underage persons; and
- C. Facilitate the enforcement of laws prohibiting the service to and consumption of alcoholic beverages by underage persons.

**9.58.020. Definitions.**

For the purposes of this chapter, the following definitions shall apply:

- A. "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half (½) of one percent (1%) or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
- B. "Residence or other private property" shall mean a home, yard or other dwelling unit, or a guesthouse, pool house, barn or other similar accessory structure whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function venue, and whether owned, leased, rented or used with or without compensation.
- C. "Responsible person" includes the following persons, whether or not present at a gathering in violation of this chapter:

1. A person or persons with a right of possession of the residence or other private property at which a gathering is conducted;
2. Each person who has an ownership interest in the premises. In the event the property is rented, the landlord shall qualify as a Responsible Person where the landlord knew or reasonably should have known of a prior gathering at the same premises;
3. Each person who, although not an owner, nevertheless occupies or has a legal right or legal obligation to exercise possession or control over the premises
4. Any person who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering; or
5. The parent or legal guardian of an underage person, where the underage person is the host of a gathering in violation of this chapter.

D. "Underage person" is any person under the age of twenty-one (21).

**9.58.030. Social host liability for parties at which underage drinking occurs.**

It shall be a violation of this chapter, and a public nuisance constituting an immediate threat to public health and safety warranting summary abatement, for any responsible person to conduct or allow in a residence or other private property any party, gathering or event at which an underage person consumes alcoholic beverages, where the responsible party knows or reasonably should know that an underage person has obtained or may consume an alcoholic beverage. Prior knowledge of the gathering is not pre-requisite to a finding that any specific individual is a responsible person as defined by this section. In the event the responsible person is an underage person, then the underage person, and their parents or legal guardian, shall be jointly and severally liable for any penalties incurred pursuant to this chapter.

**9.58.040. Exceptions**

This chapter shall not apply to possession or consumption of an alcoholic beverage under the supervision of a parent or guardian in connection with a cultural or religious activity.

**9.58.050. Notice to responsible person.**

When a law enforcement officer makes an initial response to a party, gathering or event at which underage consumption of alcoholic beverages occurs, the officer shall provide a written notice to all identified responsible persons at the time of the initial response. This notice shall include the following information:

- A. The official has determined that a party, gathering or event at which underage consumption of alcoholic beverages exists;
- B. The responsible person(s) will be fined for a violation of this chapter, pursuant to Section 9.58.070;
- C. If the condition is not abated and an additional response is required of law enforcement or emergency service providers, such as emergency personnel or fire, to abate the nuisance, the responsible persons(s) will be billed for any response costs incurred, pursuant to Section 9.58.060; and
- D. The responsible person(s) are entitled to request a hearing to appeal the fine and response costs pursuant to the procedures set forth in Section 1.08.090(H) for appealing administrative citations.

**9.58.060 Cost reimbursement to the City.**

- A. The person or persons responsible for any party, gathering or event described in Section 9.58.030 or on whose property the gathering is held, or if such person is a minor then the parents or legal guardians of the minor, shall be jointly and severally liable for the following costs attributable to the event:

1. The actual cost to the City of law enforcement services beyond the initial response by a Sheriff's deputy necessary to abate the conditions described in Section 9.58.030;
  2. Damage to public property resulting from such law enforcement response; and
  3. Injuries to law enforcement personnel incurred in such law enforcement response.
- B. The Sheriff's Department shall accurately compute the cost of providing such services in accordance with the schedule of rates and charges for personnel and equipment contained in the law enforcement services agreement with the City and advise the City Manager of such costs, as well as any other costs of damage to public property or injuries to personnel resulting from the law enforcement response. The person responsible for the event as above described shall be billed for these costs by the City Manager upon notice of the charges from the Sheriff and payment shall be due and payable within fifteen days (15) of the billing date. Should the amount due not be paid, the City may collect the debt, as well as any costs incurred in collecting the debt due to nonpayment, pursuant to any available provision of law.

**9.58.070. Penalties.**

- A. The city council shall establish a schedule of administrative fines for any violation of this chapter.
- B. In addition to the administrative fines described in this chapter, the responding law enforcement officer, may issue an order requiring the gathering to be disbanded and may cite and/or arrest any law violators under any other applicable ordinances and state statutes.

**Section 2.** The following Sections are hereby added to Chapter 1.08 (General Penalty) of Title 1 (General Provisions) of the Rolling Hills Municipal Code to read as follows:

**1.08.030 Violation – Subject to administrative citation when.**

Any person violating any provision or failing to comply with any of the mandatory requirements of Chapter 9.58, shall be subject to the administrative penalty provisions of this Chapter.

**1.08.040 Administrative Penalty.**

An administrative penalty shall be assessed by means of an administrative citation issued by an enforcement officer and shall be payable directly to the City. Penalties shall be set forth in a penalty schedule established by resolution of the City Council. A portion of each penalty shall constitute reimbursement for the City's administrative expenses in issuing and processing the citation. Penalties shall be collected in accordance with the procedures specified in this chapter. Payment of a penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement by the City. In the case of violations of the building, plumbing, mechanical or electrical codes, an administrative citation shall not be issued until after the responsible party has been provided a notice and a reasonable opportunity to correct the violation, and has failed to do so.

**1.08.050 Service procedures for issuing administrative citations.**

An administrative citation may be issued to a responsible party by an enforcement officer for violation of those sections set forth in Section 1.08.030 as follows:

- A. *By Personal Service.* The person on whom the citation is served is required to confirm receipt by signing a copy of the citation, but his or her failure to do so shall have no effect on the citation's validity or enforceability; or
- B. *By Regular First-Class Mail.* Service shall be deemed effective when the citation is deposited in the United States mail; or
- C. *By Posting on Property.* If the enforcement officer is unable to serve the citation under subsections (A) or (B) above, by posting a copy of the citation on any real property within the City in which the City has knowledge that the responsible party has a legal interest. Service under this subsection shall be deemed effective on the date when the notice is posted; or

D. *By Publication.* If the enforcement officer cannot serve the citation by any of the above methods, the enforcement officer may publish the citation in a newspaper likely to give actual notice to the party subject to the citation. The publication shall be once a week for four successive weeks in a newspaper published at least once a week.

**1.08.060 Contents of administrative citation.**

Administrative citations shall contain all of the following information:

- A. The date and the location of the violation and the approximate time the violation occurred;
- B. The code section violated and a description of how the section was violated;
- C. The action required to correct the violation;
- D. The consequences of failing to correct the violation;
- E. The amount of penalty imposed for the violation;
- F. The procedure to contest the citation;
- G. The signature of the enforcement officer and the signature of the responsible party, if that person can be located and will sign the citation, as set forth in Section 1.08.050.

**1.08.070 Satisfaction of administrative citation.**

Upon receipt of a citation, the responsible party must do one of the following:

- A. *Pay the Penalty. Pay the Penalty.* Pay the fine to the City within thirty (30) days from the date of the citation. All fines assessed shall be payable to the City. Payment of a fine shall not excuse or discharge a failure to correct continuing violations nor shall it bar further enforcement action by the City. Payment of the penalty waives the responsible party's right to the administrative hearing and appeal process pursuant to Section 1.08.090; or
- B. *Remedy the Violation.* If the violation is a first-time correctable offense, is deemed by the enforcement officer not to create an immediate threat to health and safety, and the responsible party remedies it within the time indicated on the citation; or
- C. *Request an Administrative Hearing.* If the responsible party chooses to contest the citation, the party shall do so no later than thirty (30) days after service of the citation. The request shall be submitted in writing as directed on the citation and shall include a statement of reasons why the citation is being contested. The request shall be accompanied by a deposit in the full amount of the penalty or written proof of financial hardship, which at a minimum must include tax returns, financial statements, bank account records, salary records, or similar documentation demonstrating that the responsible party is unable to deposit the penalty. A hearing will not be scheduled until a full amount of the penalty is deposited, or the City finds the responsible party financially unable to do so and waives the deposit requirement.

In the event the responsible party fails or refuses to select and satisfy any of the alternatives set forth in subsection (A), (B) or (C) above, then the penalty shall be immediately due and owing to the City and may be collected in any manner allowed by law for collection of a debt. Commencement of an action to collect the delinquent penalty shall not preclude issuance of additional citations to the responsible party should the violations persist.

**1.08.080 Issuing permits or licenses.**

If an enforcement officer issues an Administrative Citation because the responsible person lacks a required permit or license required by this code and the fine is delinquent, the City shall not issue the permit or license until the delinquent fine, and any applicable penalties and interest, are paid. Similarly, no permit or license shall be renewed until any and all outstanding administrative citations have been paid in full, regardless of the violation that triggered the administrative citation.

**1.08.090 Administrative hearings and appeal process.**

- A. *Prehearing Dismissal of Citation.* The City Manager may dismiss an administrative citation at any time in the interest of justice or if the citation is determined to have been issued in error, in which event any deposit made shall be refunded. Alternatively, the City Manager and the individual may voluntarily enter into a compliance agreement whereby the individual agrees to adhere to the requirements for compliance specified in the agreement and the City agrees to dismiss the citation upon satisfactory correction.
- B. *Time for Administrative Hearing.* The administrative hearing shall be scheduled no later than ninety (90) days after receipt of the request for a hearing to contest the citation. The responsible party will be notified in writing at least ten (10) days prior to the date of the hearing by first class mail of the date and time of the hearing.
- C. *Appointment of Administrative Hearing Officer.* The hearing shall be conducted by an administrative hearing officer appointed by the City Manager to perform such hearings.
- D. *Request for Continuance of Hearing.* The responsible party may request one continuance of the hearing, but in no event may the hearing begin later than ninety (90) days after receipt of the request for hearing from the responsible party.
- E. *Failure to Attend Administrative Hearing.* The individual to whom an administrative citation is issued, or that person's representative, may attend the hearing in person, or in lieu of attending may submit an Appearance by Written Declaration on a form provided by the City for that purpose.
1. If the cited individual or his or her representative fails to attend the scheduled hearing, or fails to submit an Appearance by Written Declaration on the form provided by the City for that purpose, he or she shall be deemed to have waived his or her right to an administrative hearing. Under these circumstances, the administrative hearing officer shall dismiss the challenge to the administrative citation, and shall issue a written notice to that effect. An individual whose challenge to an administrative citation is dismissed under this section shall be deemed not to have availed himself or herself of the right to an administrative hearing as provided in this chapter.
  2. An individual who has been issued an administrative citation and who has requested an administrative hearing to challenge the citation as provided in this chapter may request in writing that his or her challenge to the citation be dismissed and the hearing cancelled. Upon receipt of such request, the administrative hearing officer shall dismiss the challenge to the administrative citation, cancel the pending hearing, and issue a written notice to that effect. Any individual who requests the dismissal of a challenge to an administrative citation under this section shall be deemed never to have availed himself or herself of the right to an administrative hearing as provided in this chapter.
- F. *Procedures at Administrative Hearing.* Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his or her case and to cross-examine witnesses. The City bears the burden of proof at an administrative hearing to establish a violation. The citation is prima facie evidence of the violation and the enforcement officer who issued the citation is not required to participate in the hearing. The administrative hearing officer shall use preponderance of the evidence as the standard of evidence in deciding the issues. Evidence shall be submitted under penalty of perjury.
- G. *Decision of an Administrative Hearing Officer.* At the conclusion of the hearing or within fifteen (15) days thereafter, the administrative hearing officer shall render a decision as follows:
1. Determine that the violation for which the citation was issued occurred, and impose a fine in the amount set forth in the penalty schedule, and if the violation has not been corrected as of the date of the hearing, order correction of the violation; or
  2. Determine that the violation for which the citation was issued occurred, but that the responsible party has introduced credible evidence of mitigating circumstances warranting imposition of a lesser penalty than that prescribed in the penalty schedule, or no penalty at all, and imposing such lesser fine, if any, and if the violation has not been corrected as of the date of the hearing, ordering that the violation be corrected; or

3. Determine that the violation for which the citation was issued did not occur or that the condition did not constitute a violation of the code.

The administrative hearing officer shall issue a written decision entitled "Administrative Order" no later than fifteen (15) days after the date on which the administrative hearing concludes. The Administrative Order shall be served upon the responsible party by first class mail, or if that method fails, by any of the other methods set forth in Section 1.08.050. The Administrative Order shall become final on the date of mailing or other service, and shall notify the responsible party of his or her right to appeal as provided in subsection (H) of this section. The Administrative Order shall also: (i) either set a deadline for compliance with its terms, in the event that the responsible person fails to file an appeal, in no event less than twenty (20) days from the date of mailing or other service; or (ii) if the hearing officer determines as described in subsection (G)(2) or (G)(3) immediately above, and the responsible party has deposited the penalty with the City, order a partial or full refund of the deposit.

If the violation is a continuing violation of the City's building, plumbing, mechanical, electrical or zoning code, the Administrative Order shall provide that the responsible person has not more than thirty (30) days from mailing or other service of the Administrative Order to correct the violation.

- H. *Appeal the Administrative Order.* If an administrative order is rendered in favor of the City, the responsible person may seek judicial review of the administrative order in the Los Angeles County Superior Court, by filing an appeal of the administrative order pursuant to, and paying the fee required by, Government Code § 53069.4 within twenty (20) days after service of the administrative order. Pursuant to Government Code § 53069.4, the appealing party must serve a copy of the notice of appeal in person or by first-class mail upon the City Clerk. If no notice of appeal is filed within the twenty (20) Day period, the administrative hearing officer's decision is final.
- I. *Failure to Comply with Administrative Order.* In the absence of a timely appeal to the Superior Court, failure to comply with a final administrative order directing the abatement of a continuing violation by the date specified in the order shall be a misdemeanor for each day thereafter, or any portion thereof, that the violation is maintained or permitted. In the event of a timely appeal to the Superior Court pursuant to subsection (H) of this section, and provided the City prevails thereon each day, or any portion thereof, that a continuing violation is maintained or permitted after a court-ordered abatement date shall be a misdemeanor. Filing a misdemeanor action does not preclude the City from pursuing any other remedies to gain compliance provided in this Code or under state law. For purposes of this subsection (I), a "continuing violation" shall mean a single, ongoing condition or activity in Violation of the Municipal Code.

**Section 3.** Section 1.08.010 (Violation – Misdemeanor when) of Chapter 1.08 (General Penalty) of Title 1 (General Provisions) of the Rolling Hills Municipal Code is hereby amended to read as follows:

**1.08.010 - Violation—Misdemeanor when.**

- A. Any person violating any provision or failing to comply with any of the mandatory requirements of the ordinances of the City shall be charged with a misdemeanor, unless the violation is made an infraction by ordinance.
- B. Any person who violates the same provision, or fails to comply with the same requirement, of the sections of this code set forth in Section 1.08.030 more than three times within a twelve month period shall be charged with a misdemeanor for each violation committed thereafter within that same twelve month period. Any person who violates or fails to comply with the sections of this code set forth in Section 1.08.030 and who possesses no photo identification or refuses to identify him or herself to an enforcement officer, making it impossible to issue an administrative citation, shall be charged with a misdemeanor.

**Section 4.** **Effective Date.** This ordinance shall take effect thirty (30) days after the date of its passage; and prior to fifteen (15) days after its passage, the City Clerk shall cause a copy of this ordinance to be published in accordance with the provisions of the law.

**Section 5.** Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or its application to any person or circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 6.** Certification and Posting. The City Clerk shall cause this Ordinance to be posted in three (3) public places in the City within fifteen (15) days after its passage, in accordance with the provisions of Section 36933 of the Government Code. The City Clerk shall further certify to the adoption and posting of this Ordinance, and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of the Council of this City.

PASSED, APPROVED AND ADOPTED this 22<sup>nd</sup> day of May, 2017.

  
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JAMES BLACK  
MAYOR

ATTEST:

  
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HEIDI LUCE  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) §§  
CITY OF ROLLING HILLS )

I certify that the foregoing Ordinance No. 352 entitled:

AN ORDINANCE OF THE CITY OF ROLLING HILLS ADDING A NEW CHAPTER 9.58 (SOCIAL HOST LIABILITY FOR PARTIES AT WHICH UNDERAGE DRINKING OCCURS) OF ARTICLE VII (OFFENSES BY OR AGAINST MINORS) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE CITY'S MUNICIPAL CODE TO IMPOSE LIABILITY ON PERSONS WHO FACILITATE OR ALLOW THE CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS AT ANY PARTY, GATHERING OR EVENT AT A PRIVATE RESIDENCE; AND AMENDING SECTION 1.08.010 AND ADDING SECTIONS 1.08.030 THROUGH 1.08.090 TO CHAPTER 1.08 (GENERAL PENALTY) TO TITLE 1 (GENERAL PROVISIONS) OF THE ROLLING HILLS MUNICIPAL CODE TO CREATE AN ADMINISTRATIVE CITATION PROCESS FOR CODE VIOLATIONS

was approved and adopted at a regular meeting of the City Council on May 22, 2017 by the following roll call vote:

AYES: Councilmembers Dieringer, Wilson and Mayor Black.

NOES: Councilmember Mirsch.

ABSENT: Councilmember Pieper.

ABSTAIN: None.

and in compliance with the laws of California was posted at the following:

Administrative Offices.



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HEIDI LUCE  
CITY CLERK