ORDINANCE NO. 2019-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, AMENDING AND RESTATING CHAPTER 9.32 OF THE VISTA MUNICIPAL CODE CONCERNING SOCIAL HOST CRIMINAL AND CIVIL LIABILITY, AND LIABILITY FOR LAW ENFORCEMENT/RESPONSE SERVICES FOR PARTIES, GATHERINGS AND EVENTS WHERE THE CONSUMPTION OF ALCOHOL, CANNABIS, OR OTHER CONTROLLED SUBSTANCES BY MINORS OCCURS

The City Council of the City of Vista does ordain as follows:

1. Findings. The City Council hereby finds and declares all of the following:

   A. The City Council desires to amend and restate Chapter 9.32 of the Vista Municipal Code to clarify that cannabis is to be included as a substance that cannot be consumed by a Minor at parties, gatherings, or events, thus making it illegal to allow an environment where cannabis, alcohol, or other controlled substances are consumed by Minors.

   B. The City Council finds that public safety and other City responses to disturbances involving Minors' consumption of alcoholic beverages, cannabis, and/or other controlled substances at private parties frequently require the use of valuable public safety and other City resources, limiting the ability of those resources to respond to other service calls in the community. It therefore further desires to provide for civil and criminal liability, including the recovery of response services at parties, gatherings, or events where Minors are consuming Alcohol, Cannabis, or other controlled substances.

2. Code Amendment

   A. Chapter 9.32 of the Vista Municipal Code is amended and restated to read as follows:

   "Chapter 9.32

   Civil Liability and Liability for Law Enforcement/Response Services at Parties, Gatherings and Events; Consumption of Alcohol, Cannabis, or Other 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 Civil Liability and Cost Recovery
   9.32.060 Reservation of Legal Options
Section 9.32.010   Purpose and Intent

A. The City Council finds and determines that Minors often consume alcoholic beverages, cannabis, or other 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.

B. The City Council further finds and determines that persons are more likely to properly supervise or stop the unlawful consumption of alcohol, cannabis, or other controlled substances by Minors at such parties, gatherings or events on property under their control if they are held responsible for abetting, allowing or tolerating such conduct.

C. Law enforcement responses to disturbances involving Minors' consumption of alcoholic beverages, cannabis, and/or other controlled substances at private parties frequently require the use of valuable law enforcement resources, limiting law enforcement’s ability to respond to other service calls in the community.

D. It is the purpose of this chapter to provide for criminal and civil liability, including reimbursement to the City of the actual cost of enforcement/response services described in this chapter, on persons who control the property on which such parties, gatherings or events occur and fail to properly supervise or stop Minors from unlawfully consuming alcohol, cannabis, or other controlled substances.

Section 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 one or when diluted, mixed, or combined with other substances.

"Cannabis" shall mean, except as specified herein, all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

"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 federal Controlled Substances Act and the State of California as defined under the Penal Code, Health and Safety Code and related statutes.

"Enforcement/Response Services" include all enforcement and other response services provided by law enforcement, fire department, and/or City personnel for responding to, or in remaining at, a party, gathering or event where alcohol, cannabis, or other controlled substances are being unlawfully consumed by Minors.
"Enforcement/Response Services Costs" include the salaries and benefits of law enforcement, fire department, and/or City personnel for the amount of time spent in responding to, or in remaining at, the party, gathering or event, and the administrative costs attributable to the incident; the actual cost of any medical treatment to injured law enforcement personnel, fire department personnel, and/or City personnel; the cost of repairing any damaged City equipment or property; and the cost arising from the use of any damaged equipment in responding to or remaining at the party, gathering or event.

"Marijuana" shall have the same meaning as "Cannabis."

"Minor" means any person under 21 years of age, except where otherwise provided herein.

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

"Parent or Guardian" means a person who is a natural parent, adoptive parent, foster parent, step parent, or a legal guardian appointed by a court order, of a Minor.

"Social Host" refers to persons who (1) allow or permit a party, gathering, or event where alcohol, cannabis, or other controlled substances are unlawfully consumed by Minors on property the person(s) own, rent, lease or otherwise control; (2) are in charge of the premises where the event takes place; or (3) organize the party, gathering, or event.

Section 9.32.030 Prohibition

A. Except as permitted by Article I, Section 4, of the California Constitution, no Social Host shall permit, allow, or host a party, gathering, or event where three or more persons are present and where he or she knows or should reasonably know alcoholic beverages, cannabis, and or other controlled substances are being unlawfully consumed by any Minor.

B. It is the duty of any Social Host to take all reasonable steps to prevent the consumption of alcoholic beverages, cannabis or other controlled substances by any Minor at the party, gathering or event, except as legally prescribed. Reasonable steps include, but are not limited to: 1) controlling access by Minors to alcoholic beverages, cannabis or other controlled substances at the gathering; 2) 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, cannabis, or other controlled substances at the gathering; and, 3) supervising the activities of Minors at the gathering.

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

Section 932.040 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 $1,000 and/or imprisonment of not more than six 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; and
3. The source of the alcoholic beverages, cannabis, or other controlled substances.

Section 9.32.050 Civil Liability and Cost Recovery

A. Pursuant to California Civil Code section 1714.1, any act of willful misconduct of a Minor under the age of 18 that results in injury or death to another person or in injury to the property of another shall be imputed to the parent or guardian having custody and control of the Minor for all purposes of civil damages, and the parent or guardian having custody and control may be jointly and severally liable with the Minor for any damages resulting from the willful misconduct.

B. Under this chapter, a Social Host may be liable for injuries sustained by third parties, including persons providing Enforcement/Response Services, as a result of the Minor guest's negligence.

C. Under this chapter, a Social Host shall be liable for all Enforcement/Response Services Costs. If a Social Host is a Minor under the age of 18, the costs shall be deemed owed to the City by their parent(s) or guardian(s). All Enforcement/Response Services Costs shall be deemed a debt owed to the City and recoverable in a civil action, including reasonable attorney fees and costs.

Section 9.32.060 Reservation of Legal Options

A. The City does not waive its right to seek reimbursement for Enforcement/Response Services Costs through other legal remedies or procedures, including criminal restitution, nor shall anything in this chapter limit the City of Vista's or the People of the State of California's ability to initiate and prosecute any criminal offense arising out of the same circumstances.

B. 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."

[Continued on page 5.]
3. **Effective Date.** This Ordinance shall be effective on the thirty-first day following the date of its adoption.

4. **Adoption.** INTRODUCED AND ADOPTED at a meeting of the City Council held on August 13, 2019, by the following vote:

   **AYES:** Mayor Ritter, Rigby, Franklin, Green, Contreras

   **NOES:** None

   **ABSTAIN:** None

   By: [Signature]

   **APPROVED AS TO FORM:**
   **DAROLD PIEPER, CITY ATTORNEY**
   By: [Signature]

   **ATTEST:**
   **KATHY VALDEZ, CITY CLERK**
   By: [Signature]
CERTIFICATION

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2019-10 to be posted on August 15, 2019, at the following locations within the City of Vista: 1) the Reference Desk of the Vista Branch of the San Diego County Public Library, 700 Eucalyptus Avenue; 2) the Lobby Counter at the Gloria E.McClellan Senior Center, 1400 Vale Terrace Drive; and 3) the City Clerk’s Office, 200 Civic Center Drive.

Kathy Valdez, City Clerk