ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING SECTIONS 7-148 THROUGH 7-148.13 OF THE OXNARD CITY CODE CONCERNING ALCOHOL CONSUMPTION BY MINORS

WHEREAS, the City Council is concerned that minors often obtain alcoholic beverages at parties held at private premises; and

WHEREAS, the City Council is concerned that persons who hold or allow parties where alcoholic beverages are available and where minors are present are not properly supervising said minors; and

WHEREAS, the City Council believes that police action is necessary at gatherings on private property where alcoholic beverages are consumed by minors when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public; and

WHEREAS, the City Council is concerned that police officers are often required to make multiple responses to the location of a gathering where alcoholic beverages are consumed by minors in order to disperse uncooperative participants, causing a drain on public safety resources and in some instances, leaving other areas of the City with delayed police response; and

WHEREAS, the City Council believes that the abatement of gatherings on private property where alcohol is consumed by minors will result in a decrease in abuse of alcohol by minors, physical altercations and injuries, neighborhood vandalism, and excessive noise disturbance, thereby improving public safety; and

WHEREAS, the City Council believes that persons who allow minors to obtain alcoholic beverages at parties held at private premises will be more likely to properly supervise or stop such parties on property under their control if they are held responsible for the conduct of such minors.

Now, therefore, the City Council of the City of Oxnard does ordain as follows:

Part 1. Sections 7-148 through 7-148.13 are hereby added to read as follows:

"SEC. 7-148. ALCOHOL CONSUMPTION BY MINORS PROHIBITED – PURPOSE AND INTENT.

The City Council finds and determines that minors often obtain alcoholic beverages at parties held at private premises. The City Council further finds and determines that persons who will be held responsible for abetting or tolerating such

conduct will be more likely to properly supervise or stop such parties on property under their control.

SEC. 7-148.1. DEFINITIONS.

For purposes of Sections 7-148 through 7-148.13, the following terms shall have the following meanings:

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

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

(C) "Residence" or "premises" shall mean a house, yard, apartment, condominium, or other dwelling unit, a hotel or motel room, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or for living space or for a party, meeting, or other social function, and whether owned, leased, rented, or used with or without compensation.

(D) "Enforcement services" shall mean the salaries and benefits of police officers or other code compliance personnel for the amount of time actually spent in responding to or in remaining at the residence or premises and the administrative costs attributable to the incident, the actual cost of any medical treatment to injured police officers or other code compliance personnel as a result of injuries suffered in responding to or in remaining at the residence or premises, the cost arising from the use of any City equipment in responding to or remaining at the residence or premises, and the cost of repairing any damaged City equipment or property used in responding to or in remaining at the residence or premises.

(E) "Minor" shall mean a person who is less than 21 years of age.

7-148.2. 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 shall be a violation 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 his or her parent or legal guardian in connection with the consumption of the alcoholic beverage is supervising that minor.

7-148.3. HOSTING, PERMITTING, OR ALLOWING A PARTY, GATHERING, OR EVENT WHERE MINORS CONSUMING ALCOHOLIC BEVERAGES PROHIBITED.

(A) Except as permitted by Article 1, Section 4, of the California Constitution, it shall be a violation for any person to host, permit, or allow 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 two or more minors are present and alcoholic beverages are being consumed by any minor.

(B) This section shall not apply to conduct involving the use of alcoholic beverages, which occurs exclusively between a minor child and his or her parent or legal guardian.

(C) This section shall not apply to any location or place regulated by the California Department of Alcohol and Beverage Control.

7-148.4. PROTECTED ACTIVITIES.

The provisions of Sections 7-148.2 and 7-148.3 shall not apply to legally protected religious activities.

7-148.5. FINES.

An enforcement officer may issue a civil citation for a violation of Section 7-148.2 or a violation of Section 7-148.3. Any person who violates said sections is subject to a fine in accordance with Section 7-56 of Article III of Chapter 7 of this Code.

7-148.6. CIVIL LIABILITY FOR ENFORCEMENT SERVICES.

When a party, gathering, or event prohibited by Section 7-148.3 occurs and police officers or code compliance officers are called to the scene, the person(s) having control of the residence or premises shall be liable for the cost of providing enforcement services. If the person having control is a minor and if a parent or legal guardian is served with a copy of the civil citation issued to the minor, the parent or legal guardian of that minor shall be liable for the costs incurred for said enforcement services up to the limits allowed by State law.

7-148.7. REIMBURSEMENT FOR COST OF ENFORCEMENT SERVICES.

The actual cost of enforcement services described in Section 7-148.6 shall be deemed a debt owed to the City recoverable in a civil action and shall be recoverable in a civil action, including reasonable attorney fees and costs.

7-148.8. RESERVATION OF LEGAL OPTIONS.

The City of Oxnard does not waive its right to seek reimbursement for actual costs of enforcement services through other legal remedies or procedures. The procedure provided for in Section 7-148.9 is in addition to any other statute, ordinance, or law, civil or criminal. This section in no way limits the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by Sections 7-148.2 or 7-148.3.

7-148.9. ADMINISTRATIVE HEARINGS.

(A) A person who receives a civil citation for a violation of Section 7-148.2 or Section 7-148.3 may request an administrative hearing.

(B) A request for an administrative hearing shall be made on an administrative hearing request form and shall include the grounds for requesting an administrative hearing.

(C) Any request for an administrative hearing shall be filed with the City Manager within 30 days of the issuance of the civil citation. The request shall be accompanied by a deposit of the fine amount imposed in the civil citation.

(D) Unless the hearing was otherwise continued, a person requesting an administrative hearing shall attend the hearing on the date, time, and location specified in the civil citation. Failure to attend the hearing shall constitute an abandonment of the request for an administrative hearing.

7-148.10. HEARING PROCEDURES.

(A) The administrative hearing shall be conducted by a hearing officer on the date, time, and location specified in the civil citation.

(B) The City Manager shall ensure that all information relevant to the civil citation is provided to the hearing officer prior to the hearing date. The City Manager shall provide the person who received the civil citation with a copy of all information provided to the hearing officer.

(C) The person who received the civil citation shall be allowed to testify and to present evidence relevant to any financial hardship or to the violation cited.

(D) The civil citation and any other reports prepared by the enforcement officer concerning the violation and provided to the hearing officer shall be accepted by the hearing officer as prima facie evidence of the code violation and of the facts stated in such documents.

(E) Neither the enforcement officer nor any other representative of the City shall be required to attend an administrative hearing. The hearing officer shall not require that the enforcement officer submit any evidence other than a copy of the civil citation. The enforcement officer may, in his/her discretion, appear at an administrative hearing and/or submit additional evidence.

(F) If a request is made by the person who received the citation or a representative of the City setting forth good cause for a continuance, the hearing officer may continue an administrative hearing.

(G) If a continuance is granted, a new hearing date shall be set within 45 days and shall be specified in the notice of continuance. If a continuance is denied, the administrative hearing shall proceed as scheduled. The decision of the hearing officer to grant or deny a continuance shall be final and is not subject to judicial review.

(H) An administrative hearing shall be conducted informally without strict adherence to the legal rules of evidence.

(I) Failure of the person who received the civil citation to appear at a hearing shall constitute an abandonment of the hearing and a failure to exhaust administrative remedies concerning the violation set forth in the civil citation. Failure to appear by the person who received the citation shall be noted on the notice of decision by the hearing officer which will be mailed to said person.

7-148.11. DECISION.

(A) The hearing officer shall issue a notice of decision within five working days of the conclusion of the administrative hearing either upholding or dismissing the civil citation. The decision of the hearing officer shall be final.

(B) The hearing officer may not increase or reduce any fine specified in the civil citation.

(C) The notice of decision shall be personally delivered or mailed to the person who received the civil citation.

(D) If the hearing officer dismisses the civil citation, the City shall, within 30 days of the date of the notice of decision, refund to the person who received the civil citation any fine deposited with the City.

7-148.12. JUDICIAL REVIEW.

(A) The person who received the civil citation may seek judicial review of the hearing officer's decision by filing an appeal with the Ventura County Superior Court Clerk within 20 calendar days after said person receives a copy of the notice of decision in accordance with Cal. Gov't Code section 53069.4. Any appeal filed with the superior court shall contain a proof of service showing that a copy of the appeal was served upon the City. The person who received the citation must pay the appropriate filing fees.

(B) Judicial review is not available for an abandonment of an administrative hearing by a person who received a civil citation by failing to appear at the administrative hearing or failing to deposit the appropriate fine amount.

(C) Within 15 days of any request, the City Attorney or his/her designee shall forward to the superior court, the appropriate notice of decision and civil citation for any matter appealed to the superior court. If the superior court reverses any decision of the hearing officer, the City shall refund the superior court filing fee and any fine deposit paid by the person who received the citation.

7-148.13. COLLECTION OF DELINQUENT FINES.

(A) The City Manager may pursue any and all legal and equitable remedies for the collection of delinquent fines, including interest and penalties.

(B) Any delinquent fines, interest, and penalties may be recovered as a lien or special assessment against the property of the person who received the citation.

(C) Prior to recording a lien or special assessment, the City Manager shall prepare a cost report itemizing the amount owed by the person who received the citation.

(D) The City Manager shall notify the person who received the citation of the time, date, and location that the City Council shall consider any cost report imposing a lien or special assessment on property of said person.

(E) At a public hearing, the City Council shall consider the cost report with any objections of the person who received the citation liable to be assessed for the costs stated in the report. The City Council may modify the cost report as appropriate.

(F) Upon approval by the City Council, the City Manager shall file a certified copy of the cost report with the County Auditor. The City Manager shall request the

auditor to enter each assessment on the county tax roll and to collect the amount of the assessment at the time and in the manner of ordinary municipal taxes."

Part 2. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. ____ was first read on _____, 20__ and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

_____
Dr. Thomas E. Holden, Mayor

ATTEST:

_____
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

for
_____
Gary L Gillig, City Attorney