

ORDINANCE NO. 1004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER AMENDING TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE LANCASTER MUNICIPAL CODE BY ADDING CHAPTER 9.22 (“NUISANCE GATHERINGS AND SOCIAL HOST ACCOUNTABILITY”) RELATING TO UNRULY GATHERINGS

WHEREAS, the City Council of the City of Lancaster finds and declares its commitment to sustain and protect the health, safety and welfare of the citizens of the City of Lancaster; and

WHEREAS, the City Council further finds and declares that unruly gatherings, including but not limited to those where alcoholic beverages are consumed by underage persons, pose a hazard to public health, safety, the quiet enjoyment of property and the general welfare; and

WHEREAS, the City Council further finds and declares that gatherings at which underage persons and/or others consume alcoholic beverages may result in physical altercations, violent crimes including sexual offenses, automobile accidents, neighborhood vandalism and excessive noise disturbance; and

WHEREAS, the City Council further finds and declares that unruly gatherings are often the result of inadequate, or a lack of, adult supervision; and

WHEREAS, the City Council further finds and declares that unruly gatherings frequently require a response by numerous law enforcement personnel, limiting their ability to respond to other service calls in the City; and

WHEREAS, the City Council believes that an effective way to protect the public health, safety and welfare of the citizens of the City of Lancaster is to adopt regulations intended to reduce the occurrence of inadequately supervised and unruly gatherings by holding responsible those persons who allow, encourage, are aware of or should be aware of such gatherings;

WHEREAS, it is the intent of the City Council to authorize the City of Lancaster to deter persons from allowing unruly gatherings by assessing administrative penalties against such persons;

THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Lancaster Municipal Code Title 9 is hereby amended by adding Chapter 9.22, as follows:

9.22.010 Title.

This chapter shall be known as the City of Lancaster's Nuisance Gatherings and Social Host Accountability ordinance.

9.22.020 Findings and Purpose.

The City Council finds and declares as follows:

- A. Unruly gatherings, including but not limited to those where alcohol is consumed by underage persons, pose a hazard to public health, safety, the quiet enjoyment of property and the general welfare.
- B. Gatherings at which underage persons and/or others consume alcoholic beverages may result in physical altercations, violent crimes including sexual offenses, automobile accidents, neighborhood vandalism and excessive noise disturbance.
- C. Unruly gatherings frequently require a response by numerous law enforcement personnel, limiting their ability to respond to other service calls in the city.
- D. Unruly gatherings are often the result of inadequate, or a lack of, adult supervision.
- E. It is the purpose and intent of this chapter to protect the public health, safety and general welfare by reducing the occurrence of inadequately supervised and unruly gatherings, by holding persons responsible who allow, encourage, are aware of or should be aware of such gatherings, including but not limited to those where alcoholic beverages are consumed by underage persons.
- F. It is further the purpose and intent of this chapter that the city deter persons from allowing unruly gatherings by assessing administrative penalties against such persons.

9.22.030 Definitions.

"Alcoholic beverage" has the same meaning as in the California Business and Professions Code section 23304 or any successor section.

"City" means the City of Lancaster.

"Code" means the Lancaster Municipal Code.

"City Manager" means the City Manager of the City of Lancaster and his or her designee(s). For purposes of this chapter, the director of the City's Department of Public Safety is a designee.

"Enforcing officer" means a public officer or employee authorized by this chapter or designated by the City Manager to enforce the provisions of this chapter.

"Gathering" means a party, assembly or other social event attended by two or more persons.

“Responsible person” means any person with a recorded ownership interest in, or a right of possession, control or use of a residence or other property at which a gathering is conducted. For purposes of this chapter, “responsible person” includes, but is not limited to, the following:

- A. Owner of the premises where a gathering takes place;
- B. Tenant of the premises where a gathering takes place;
- C. Person organizing and/or hosting a gathering;
- D. Person receiving money or consideration for granting access to a gathering;
- E. Parent or legal guardian of a person under the age of eighteen (18) years who is also a responsible person.

“Underage drinking” means and includes possessing or consuming alcoholic beverages by an underage person and/or serving or providing alcoholic beverages to an underage person. For purposes of this chapter, the service, possession or consumption of alcoholic beverages which occurs between an underage person and his or her parent or legal guardian or which occurs as part of a legally protected religious activity does not constitute underage drinking.

“Underage person” means any person under the age of twenty-one (21) years.

“Unruly conduct” means and includes disturbing the peace, disorderly conduct, and other activities, behavior or conduct that threatens the public health, safety or general welfare and/or interferes with the quiet enjoyment of property. For purposes of this chapter, “unruly conduct” includes, but is not limited to, fights, assaults or batteries; sexual offenses; vandalism; public intoxication; possession or consumption of controlled substances by, or service of controlled substances to, underage persons; crowds of people who have spilled over into public streets; obstruction of public streets; excessive noise, as defined in city or state law; and excessive traffic.

“Unruly gathering” means a gathering at which underage drinking and/or unruly conduct occurs.

9.22.040 Enforcement.

Any Los Angeles County Sheriff’s deputy, Lancaster public safety officer, Lancaster community services officer, and any other public officer or employee designated by the City Manager shall be authorized to issue administrative citations in accordance with this chapter.

9.22.050 Prohibition; Duty; Knowledge.

A. It is unlawful for any responsible person, as defined in this chapter, to conduct, host, permit or allow a gathering if the person knows or reasonably should know that underage drinking or unruly conduct is occurring or has occurred.

B. It is the duty of a responsible person to take all reasonable steps to prevent underage drinking and unruly conduct at a gathering. Reasonable steps include, without limitation: controlling access to alcoholic beverages; controlling the quantity of alcoholic beverages to an amount that can be monitored and to which access can be effectively controlled; verifying the age of persons at the gathering by inspecting drivers' licenses or other government-issued identification cards; supervising the activities of underage persons at the gathering; and removing persons from the premises who engage in underage drinking or unruly conduct or who enable or encourage such to occur.

C. A responsible person shall not be in violation of subsection A if he or she has taken all reasonable steps to prevent an unruly gathering and seeks assistance from law enforcement or city personnel to either: (i) remove any attendee of a gathering who engages in, enables or encourages underage drinking or unruly conduct, or (ii) terminate the gathering because the person has been unable to prevent underage drinking or unruly conduct despite having taken all reasonable steps to prevent it, provided that the responsible person has sought such assistance before any other person makes a complaint to law enforcement or city personnel.

D. A responsible person who is present at the property at the time of an unruly gathering shall be deemed to have actual or constructive knowledge that underage drinking or unruly conduct is occurring or has occurred.

E. A responsible person who is not present at the property at the time of an unruly gathering may be deemed by an enforcing officer to have actual or constructive knowledge of, and to have permitted, underage drinking or unruly conduct: (i) if such person has previously been given verbal warning and/or an administrative citation or other written notice concerning an unruly gathering; or (ii) based on the totality of the circumstances as determined by the enforcing officer.

9.22.060 Public Nuisance; Violation.

A. The City Council finds and declares that an unruly gathering constitutes a public nuisance, subject to abatement by all reasonable means including, but not limited to, an order requiring the gathering to be disbanded and the citation and/or arrest of any person violating this chapter or any other applicable local or state law.

B. Any person who violates any provision of this chapter, or who fails to comply with any obligation or requirement of this chapter, is guilty of a misdemeanor.

9.22.070 Administrative Citations.

A. Any enforcing officer, as defined in this chapter, may issue an administrative citation to a person when the officer has determined, through personal observation or after undertaking standard law enforcement investigatory actions, that the person is a responsible person, as defined in this chapter, who has conducted, hosted, permitted or allowed an unruly gathering.

B. Within five (5) days after issuance of a citation, an officer shall submit a copy of the citation and a written statement of facts to the City Manager. Alternatively, the officer may elect to submit the written statement of facts to the City Manager, who may then issue the citation.

C. An administrative citation may be personally given to the responsible person, or the responsible person may be served by first class mail to an address which is either: (i) indicated on any form of identification presented to the officer, or (ii) discovered by the officer during the course of his or her standard law enforcement investigatory actions. The date a citation is placed in a U.S. Postal Service mail receptacle shall be the date of service. A declaration of service shall be made by the person mailing the administrative citation showing the date and manner of service by mail and reciting the name and address of the citation addressee. Failure of any responsible person to receive an administrative citation by mail shall not invalidate any citation issued pursuant to this chapter.

D. The citation shall be in a City-approved format, and shall include the following information:

1. The date, location and approximate time of the unruly gathering;
2. A brief description of the activities, conduct or behavior at the location that constituted an unruly gathering;
3. A statement describing the right to appeal the citation;
4. A statement advising that the fine shall be paid to the City within thirty (30) days from the date of the administrative citation, procedure for payment, and the consequences of failure to pay.

E. The penalty amounts of administrative citations issued pursuant to this chapter shall be as follows:

1. For the first administrative citation, the penalty shall be five hundred dollars (\$500.00);
2. For the second and any subsequent administrative citation, the penalty shall be one thousand dollars (\$1,000.00).

F. The failure of any person to pay a penalty assessed by administrative citation within the time specified on the citation constitutes a debt to the city, which may be collected in accordance with Chapter 1.16 of this Code or in any other manner allowable by law.

9.22.080 Right of appeal from an administrative citation.

A. A person who has been issued an administrative citation pursuant to this chapter may contest the citation by filing a written appeal on a City-approved form with the City Manager within ten (10) calendar days from the date of the citation. The basis for the appeal must be specified in detail on the appeal form. There shall be no filing fee for the appeal, however, a deposit in the amount of the citation must be paid at the time the appeal is filed. If the citation is dismissed as a result of the appeal hearing, the deposit shall be returned to the appellant within thirty (30) days from the date of the written appeal decision.

B. Failure of the City Manager to receive a timely appeal constitutes a waiver of the right to contest a citation; in this event, the citation is final and binding.

C. As soon as practicable after a timely appeal is filed, the City Manager shall fix a date, time and place for a hearing. The hearing shall be conducted by an independent and impartial hearing officer. Written notice of the time and place for the hearing shall be served by first class mail, at the return address indicated on the appeal form, at least ten (10) calendar days prior to the date of the hearing.

D. An appellant may request, in writing, that the City Manager reschedule the hearing if the request is made at least twenty-four (24) hours prior to the hearing. The City Manager shall grant one continuance of the hearing date.

E. Failure of an appellant to appear at the scheduled hearing shall constitute the appellant's waiver of the right to appeal and a forfeiture of the citation amount deposited at the time the appeal was filed.

F. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. The City bears the burden of proof to establish, by a preponderance of evidence, that the appellant conducted, hosted, permitted or allowed an unruly gathering. The officer issuing the administrative citation and/or submitting the written statement of facts shall not be required to appear at the hearing. The hearing officer shall accept testimony by declaration under penalty of perjury relating to the commission of the offense, as set forth in the issuing officer's statement of facts, and shall consider any other relevant evidence concerning the commission of the offense that the City Manager may present at the hearing. The hearing officer shall also take the testimony of the appellant, and/or his or her witnesses, and will consider any other credible relevant rebuttal evidence the appellant may wish to present. The appellant may represent himself or herself or be represented by anyone of his or her choice, including counsel, at his or her sole expense. The appellant may bring an interpreter to the hearing at his or her sole expense.

G. The hearing officer shall make findings based on the record of the hearing, and shall prepare a written decision, based on those findings, to either uphold or dismiss the citation. A copy of the written decision shall be served on the appellant by first class mail within ten (10) days after the hearing. If the citation is dismissed, the City shall refund the amount of the citation deposit to the appellant within thirty (30) days from the date of the decision.

H. The decision of the hearing officer is final and conclusive, subject only to review by the superior court in accordance with the time limits set forth in Government Code Section 53069.4 and/or Code of Civil Procedure Section 1094.6.

9.22.090 Remedies Not Exclusive.

An administrative citation assessed pursuant to this chapter shall not prejudice or adversely affect any other civil, administrative or criminal action that may be brought to abate an unruly gathering or to seek compensation for damages suffered. A civil or criminal action may be brought concurrently with any other process regarding the same violation.

9.22.100 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted this chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

SECTION 2. That the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

I, Britt Avrit, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the ____ day of _____, 2015, and placed upon its second reading and adoption at a regular meeting of the City Council on the ____ day of _____, 2015 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 1004, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)
