

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA,
MARICOPA COUNTY, ARIZONA, ADOPTING NEW TITLE 6,
CHAPTER 24 OF THE MESA CITY CODE RELATING TO SOCIAL
HOST LIABILITY.

WHEREAS, the Mayor and Council desire to raise awareness of the consequences of underage drinking and consumption of illegal drugs; and

WHEREAS, the Mayor and Council have determined that underage drinking and consumption of illegal drugs are activities that pose a threat to the public health, safety, quiet enjoyment of residential property and general welfare, and constitute a public nuisance; and

WHEREAS, the Mayor and Council have determined that social hosts have a duty to ensure that spirituous liquor is not served to, consumed by, or possessed by minors on property over which they have possession or control, and that illegal drugs are not consumed or possessed by any person on property over which they have possession or control; and

WHEREAS, the Mayor and Council recognize that law enforcement, fire and other emergency responders often need to respond to disperse social gatherings where underage drinking and/or illegal drug use is occurring, resulting in expenditure of public safety resources, delayed response to emergency, and/or higher priority calls.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA:

SECTION 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

SECTION 2. That Title 6 of the Mesa City Code of Ordinances, Mesa, Arizona, is hereby amended by adding a new Chapter 24 that reads as follows:

CHAPTER 24

SOCIAL HOSTS

6-24-1 PURPOSE OF CHAPTER.

The purpose of this Chapter is to protect the health, safety, and welfare of the citizens of the City of Mesa by reducing the occurrence of underage drinking of alcoholic beverages and/or illegal drug use by holding social hosts civilly and/or criminally responsible for permitting, causing, allowing, facilitating, or hosting a party, gathering, or event at their place of residence, or at other property under their ownership/possession or control, where alcoholic beverages are being served to, in the possession of, or consumed by any minor, or where illegal drugs are being served to, in the possession of, or consumed by any person. It is the intent of this Chapter to hold social hosts strictly liable for the underage drinking or illegal drug use activity that occurs on their property.

6-24-2 DEFINITIONS.

In this Chapter, the following words and phrases shall have the meanings stated in this Section unless the context otherwise requires:

- (A) **ALCOHOLIC BEVERAGE** means any spirituous liquor as defined in A.R.S. § 4-101(31), including ethyl alcohol, wine, beer, and any liquid or solid containing alcohol.
- (B) **MINOR OR UNDERAGE PERSON** means any person under twenty-one (21) years of age.
- (C) **PARTY CREW** means any association of three (3) or more persons who act in concert to promote, sponsor, advertise, manage or facilitate any party, gathering or event at which (a) admission is charged or donations accepted for entry, and (b) alcohol and/or drugs are provided as part of, or in addition to, the cost of admission.
 - (1) Members of Party Crews may self-identify as such through:
 - i. self-admission;
 - ii. clothing or colors;
 - iii. advertisements, including, but not limited to, pamphlets, business cards, party flyers, and/or online videos/postings.
 - (2) Members of Party Crews will realize an economic gain as a result of their involvement in the party, gathering or event.

- (D) PARTY, GATHERING OR EVENT means a group of two or more persons who have assembled or gathered, or are assembling or gathering, at a residence or other property for a social occasion or a social activity.
- (E) PROPERTY means private real property, including but not limited to a dwelling, home, place of residence, yard, vacant land, apartment, apartment building, condominium, townhouse, hotel or motel room, or a hall, clubhouse or other meeting place, regardless of whether the location is owned, leased, rented, occupied or used with or without compensation.
- (F) SOCIAL HOST or RESPONSIBLE PERSON means:
- (1) Any person who owns, occupies, rents, leases, or has physical control of the property where a party, gathering, or event takes place, including an agent of such person.
 - (2) Any person who resides with the owner of the residence or property where a party, gathering, or event takes place.
 - (3) Any manager or employee working at a commercial property where a party, gathering, or event takes place.
 - (4) Any promoter(s), organizer(s), or host(s) of an event where a party, gathering, or event takes place.
 - (5) Any other person who exhibits or claims to have control over the property, including but not limited to, any member, associate, affiliate or partner of any entity, the structure of which meets the definition of a Party Crew, and whose purpose is to realize an economic gain resulting from the promotion, sponsoring, advertisement, management or facilitation of any party, gathering or event where:
 - a. admission is charged or donations are accepted for entry, and
 - b. alcohol and/or drugs are provided as part of or in addition to the cost of admission.

6-24-3 EXEMPTIONS.

This Chapter shall not apply to a parent or legal guardian of a minor or underage child who is providing an alcoholic beverage to the minor or underage child pursuant to A.R.S. § 4-249.

6-24-4 UNLAWFUL PARTY, GATHERING, OR EVENT.

It is a violation of this Chapter for any social host or responsible person to permit, cause, allow, facilitate, or host a party, gathering or event where alcoholic beverages and/or illegal drugs are provided to, served to, possessed by, or consumed by any minor or underage person, regardless of whether the social host is aware of such activity.

6-24-5 PRESUMPTIONS.

- (A) It may be presumed that the owner(s) of the property on which a party, gathering, or event occurs has permitted, caused, allowed, facilitated, or hosted the party, gathering, or event if the owner(s) are physically present at the party, gathering or event.
- (B) It may be presumed that the resident(s) of the property on which the party, gathering, or event occurs has permitted, caused, allowed, facilitated, or hosted the party, gathering, or event if the resident(s) is physically present at the party, gathering or event.
- (C) If the property is leased, it may be presumed that the lessee of the property on which the party, gathering, or event occurs has permitted, caused, allowed, facilitated, or hosted the party, gathering or event if the lessee is physically present at the party, gathering or event.

6-24-6 JOINT AND SEVERAL RESPONSIBILITY.

An owner, resident, promoter, organizer, host, or person in physical possession of property on which a party, gathering or event occurs may be found jointly or severally responsible for any violation of this Chapter.

6-24-7 ENFORCEMENT.

The Mesa Police Department is authorized to enforce the provisions of this Chapter. An officer responding to a party, gathering or event where minors are being served, possessing or consuming alcoholic beverages and/or illegal drugs may abate the party, gathering or event by any reasonable means, including, but not limited to, citation and/or an order to disperse.

6-24-8 VIOLATION AND PENALTY.

- (A) A social host found to be in violation of this Chapter shall be subject to the following penalties:

- (1) A first violation of this Chapter shall result in a civil penalty of two-hundred and fifty dollars (\$250) which may be waived if the responsible person(s) attend a four-hour course designated by the Mesa Municipal Court to increase alcohol and drug awareness for minors and their parent(s)/guardian(s) and /or other adults as applicable. The responsible person(s) shall be required to pay the full cost of such course.
 - (2) A second violation of this Chapter within thirty-six (36) months of a first violation by the same social host(s) or at the same property shall result in a civil penalty of one-thousand dollars (\$1,000).
 - (3) A third or subsequent violation of this Chapter within thirty-six (36) months of the previous violation of this Chapter is a class one (1) misdemeanor, punishable by up to six months in jail, a fine of two-thousand five hundred (\$2,500) dollars plus applicable surcharges and fees, and three (3) years' probation.
- (B) In applying the thirty-six (36) month provision of sub-paragraphs (2) and (3) of this section, the date(s) of violation shall be the date(s) that the party, gathering or event occurred.
- (C) The Mesa Municipal Court shall have jurisdiction over violations of this Chapter. When the only violations cited are civil, the violations shall be commenced and adjudicated pursuant to the Arizona Rules of Procedure in Civil Traffic and Civil Boating Violation Cases. Criminal violations and citations stating both criminal and civil violations of law shall be commenced and adjudicated pursuant to the Arizona Rules of Criminal Procedure.

6-24-9 REMEDIES CUMULATIVE; ACTIONS; RELATIONSHIP TO OTHER LAWS.

The remedies provided under this Chapter are cumulative, and shall not restrict the City of Mesa from any other remedy to which it is entitled under law or equity. Nothing in this Chapter shall be deemed to preclude the imposition of any criminal penalty under state law or the Maricopa County Code. Nor shall anything in this chapter be deemed to conflict with any penalty or provision under state law, or to prohibit any conduct authorized by the state or federal constitution.

6-24-10 APPEALS.

A party aggrieved by the Mesa Municipal Court decision may appeal to the Superior Court pursuant to A.R.S. § 12-124(A). Appeals of civil violations shall be taken pursuant to the provisions and within the time set forth in the Arizona Rules of Procedure in Civil Traffic and Civil Boating Violation Cases. Appeals of criminal violations shall be taken pursuant to the

provisions and within the time set forth in the Arizona Superior Court Rules of Appellate Procedure – Criminal.

SECTION 3. That the Mesa City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and if any provision of this Ordinance is held to be unenforceable or unconstitutional by a court of competent jurisdiction, the remaining provisions shall remain in effect.

SECTION 5. That this ordinance will take effect ninety (90) calendar days after its adoption and it is accordingly so ordained.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this _____ day of _____, 201__.

APPROVED:

Mayor

ATTEST:

City Clerk