ORDINANCE NO. 1189

AN ORDINANCE OF THE CITY OF SAUSALITO AMENDING TITLE THIRTEEN OF THE SAUSALITO MUNICIPAL CODE BY ADDING CHAPTER 13.32, SOCIAL HOST ACCOUNTABILITY

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

SECTION 1. Chapter 13.32 is hereby added to Title Thirteen of the City of Sausalito Municipal Code to read as follows:

"CHAPTER 13.32 SOCIAL HOST ACCOUNTABILITY"

Section

13.32.010 Legislative Purpose

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13.32.040 Definitions

13.32.050 Prohibition of Loud or Unruly Gatherings Where Alcohol Is Served to, Consumed by or in the Possession of Underage Persons

13.32.060 Enforcement

13.32.070 Cost Recovery Fee for Public Safety Services

13.32.010 Legislative Purpose

The purposes of this Ordinance are:

(a) to protect the public health, safety and general welfare;

(b) to promote the reduction of underage drinking by imposing an administrative fine on persons responsible for loud or unruly gatherings where alcohol is consumed by, served to or in the possession of underage persons;

(c) to facilitate the enforcement of laws prohibiting the service to, consumption of or possession of alcoholic beverages by underage persons;

(d) to offset the municipal costs associated with providing fire, police, and other emergency services to loud or unruly gatherings, by imposing a civil fee upon social hosts and/or landowners who knowingly allow such loud or unruly gatherings to occur on their premises, at their residences, or at rented facilities where alcoholic beverages are served to, consumed by, or in the possession of underage persons.

13.32.020 Legislative Findings

The City Council finds as follows:

(a) The City of Sausalito, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws, which promote the public health, safety and general welfare of its residents;

(b) The occurrence of loud or unruly gatherings on private property where alcoholic beverages are served to, consumed by or in the possession of underage persons is harmful to the underage persons themselves and is a public nuisance;

(c) Local jurisdictions throughout the County of Marin have made numerous and substantial efforts to enforce underage drinking laws. Despite these efforts, alcohol use by youth remains a serious problem in the County, contributing significantly to the incidence of adolescent crime, addiction, sexual assault, truancy, driving under the influence of alcohol, and motor vehicle crashes involving alcohol and causing injury and/or death;

(d) Underage persons often obtain alcoholic beverages at gatherings 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 service to, possession by, and/or consumption of alcohol by underage persons. Persons responsible for the occurrence of loud or unruly gatherings on private property over which they have possession or control have failed to ensure that alcoholic beverages are not served to, consumed by or possessed by underage persons at these gatherings;

(e) Residents have failed to prevent the occurrence or reoccurrence of loud or unruly gatherings, including those where alcoholic beverages are served to, consumed by or possessed by underage persons, on private property, which seriously disrupts neighboring residents' quiet enjoyment of their property;

(f) Control of loud or unruly gatherings on private property where alcoholic beverages are served to, consumed by or in the possession of underage persons is necessary when such activity is determined to be a public nuisance;

(g) Persons held responsible for abetting or allowing loud or unruly gatherings where alcohol is served to, consumed by or in the possession of underage persons will be more likely to properly supervise or to stop such conduct at gatherings held on property in their possession or under their control;

(h) In the past and present, law enforcement, fire and other emergency response services personnel have responded and are required to respond, sometimes on multiple occasions, to loud or unruly gatherings on private property at which alcoholic beverages are served to, consumed by or in the possession of underage persons, and responses to such gatherings result in a disproportionate expenditure of public safety resources of the City, which are underwritten by general municipal taxes paid to the City by its taxpayers and residents, and also result in a delay of responses to regular and emergency calls to the rest of the City;

(i) Problems associated with loud or unruly gatherings at which alcoholic beverages are served to, consumed by or in the possession of underage persons are difficult to prevent or deter unless the City has the legal authority to issue an administrative citation for an administrative fine;

(j) The intent of this Ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare.

(k) Section 25658 of the State of California Business and Professions Code makes it unlawful for a person under the age of twenty-one (21) years to purchase or attempt to purchase, or consume alcoholic beverages and makes it unlawful for any person to sell any alcoholic beverage to any person under the age of twenty-one (21) years;

(l) According to local, state and federal surveys, alcohol is overwhelmingly and consistently the most widely used drug at all adolescent age levels. A child who begins alcohol use prior to age fifteen (15) is four times as likely to experience alcohol dependence than one who refrains from alcohol use until age twenty (20) or older;

(m) This City Council of the City of Sausalito therefore determines that this Ordinance is a reasonable and necessary means to protect and promote the health, safety, and general welfare of the youth and other residents of the City of Sausalito.

13.32.030 Title

This Ordinance shall be known as the "Social Host Accountability Ordinance."

13.32.040 Definitions

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

(a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(b) "Alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, liquor, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

(c) "Juvenile" means any person less than eighteen (18) years of age.

(d) "Loud or unruly gathering" means a party or gathering of two or more persons at a residence or on other private property or rented public property upon which loud or unruly conduct occurs. Such loud or unruly conduct constitutes a public nuisance and includes but is not limited to:

(1) excessive noise;

(2) excessive traffic;

(3) obstruction of public streets and/or the presence of unruly crowds that have spilled into public streets;

(4) public drunkenness or unlawful public consumption of alcohol or alcoholic beverages;

(5) assaults, batteries, fights, domestic violence or other disturbances of the peace;

(6) vandalism;

(7) litter; or

(8) any other conduct which constitutes a threat to the public health, safety, or quiet enjoyment of residential property or the general welfare.

(e) "Minor" means any person less than twenty-one (21) years of age.

(f) "Person responsible for the event" means and includes, but is not limited to:

(1) the person who owns, rents, leases or otherwise has control of the premises where the gathering occurs; and/or

(2) the person in charge of the premises; and/or

(3) the person who organized the event. If the person responsible for the event is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable for the cost recovery fee for public safety services pursuant to this chapter.

(g) "Cost Recovery Fee for Public Safety Services" means the costs associated with responses by law enforcement, fire and other emergency response providers to loud or unruly gatherings, including but not limited to:

(1) the portion of the cost of salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with the loud or unruly gathering(s), and the administrative costs attributable to such response(s) including attorney fee's and court costs;

(2) the cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured responding to, remaining at or leaving the scene of a loud or unruly gathering; and

(3) the cost of the use of any City equipment or property, and the cost of repairing any City equipment or property damaged, in responding to, remaining at or leaving the scene of a loud or unruly gathering.

(h) "Underage person" means any person less than twenty-one (21) years of age and shall have the same meaning as "minor," defined in subsection (e) above.

13.32.050 Prohibition of Loud or Unruly Gatherings Where Alcohol Is Served to, Consumed by or in the Possession of Underage Persons

Except as permitted by Article 1, Section 4, of the California Constitution, no person shall knowingly suffer, permit, or host a gathering at his or her place of residence or other private or public property, place or premises under his or her control where two or more persons under the age of 21 are present, where the gathering is loud or unruly, and where alcoholic beverages are in the possession of, being consumed by, or served to any underage person.

13.32.060 Enforcement

(a) Any person who violates section 13.32.050 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed $1000.00 per violation.

(b) A public safety officer may issue an administrative citation for a violation of section 13.32.050 pursuant to chapter 13.30 of the Sausalito Municipal Code. The procedures in chapter 13.30 shall be followed, and:

(1) A first violation of section 13.32.050 shall result in an administrative citation with a $750.00 fine. A second violation shall result in an administrative citation with a $850.00 fine. A third or subsequent violation shall result in an administrative citation with a $1000.00 fine for each violation.

(2) In the event that the responsible person who is in violation of section 13.32.050 is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable for any fine imposed by the hearing officer.

(3) In addition to a fine, the hearing officer may require community service for a violation of section 13.32.050.

13.32.070 Cost Recovery Fee for Public Safety Services

(a) In addition to any fine imposed on the person(s) responsible for the event for a violation of section 13.32.050, the person(s) responsible for the event will be liable for the cost of providing public safety services for a second or follow-up response by public safety personnel, after a first warning to the person(s) responsible for the event to abate the nuisance and that a second or follow-up response on the same date or on any later date will result in liability for the cost of providing public safety services.

(b) The amount of the cost recovery fee for public safety services under this section shall be calculated pursuant to 13.32.040(g) of this chapter.

SECTION 2. SEVERABILITY. If any article, section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The City Council of the City of Sausalito hereby declares that it would have adopted each article, section, and sentence thereof,

irrespective of the fact that any one or more of said provision be declared unconstitutional or invalid.

SECTION 3. EFFECTIVE DATE. This ordinance shall be effective 30 days from and after the date of its passage.

SECTION 4. Pursuant to California Government Code section 36933, within 15 days after adoption of this ordinance the City Council shall publish a summary of this ordinance with the names of those City Council members voting for and against the ordinance and the City Clerk shall post a certified copy of the full text of the adopted ordinance along with the names of those City Council members voting for and against the ordinance at City Hall.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito, State of California, held this 26th day of February, 2008 by the following vote:

AYES:	Councilmembers:	Albritton, Kelly, Leone, Weiner, Mayor Belser
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

MAYOR OF THE CITY OF SAUSALITO

ATTEST:

DEPUTY CITY CLERK