ORDINANCE NO. O-02-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLTON ADDING CHAPTER 9.15 TO THE COLTON MUNICIPAL CODE TO PROHIBIT THE HOSTING OF GATHERINGS AT WHICH ALCOHOLIC BEVERAGES AND/OR OTHER HARMFUL SUBSTANCES ARE CONSUMED BY MINORS

WHEREAS, the City of Colton ("City"), 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 citizens; and

WHEREAS, citizens of the City have complained to the Colton Police Department about violent and unruly behavior at residences or other locations that have been the subject of multiple police calls; and

WHEREAS, Chapter 8.12 of the Colton Municipal Code permits recovery of costs associated with the City's enforcement or abatement nuisances in accordance with state law; and

WHEREAS, the City Council finds that unsupervised parties on private or public property where alcohol is consumed by minors constitute nuisances and are harmful to the minors themselves and to the communities where such parties are held; and

WHEREAS, in addition to alcohol, consumption of other substances that are harmful to minors frequently occur at such parties and gatherings, including marijuana and other controlled substances, inhalants and tobacco products; and

WHEREAS, the Colton Police Department's ability to abate gatherings where alcohol or other harmful substances are consumed by minors on private and public property will result in a decrease in abuse of alcohol and other harmful substances by minors, as well as decreases in physical altercations and injuries, neighborhood vandalism, and excessive noise disturbance, thereby improving public safety; and

WHEREAS, problems associated with such gatherings are difficult to resolve unless the Colton Police Department has the legal authority to effectively direct the host to disperse the group; and

WHEREAS, control of large parties, gatherings or events on private or public property where minors are consuming alcohol or other harmful substances is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public; and

WHEREAS, police officers frequently have been required to make calls to a location of a party, gathering, or event in order to disperse uncooperative participants, causing a drain of manpower and resources and in some cases, leaving other areas of the City with inadequate police protection.

WHEREAS, the purpose of this Chapter is to address the problems identified above and protect the public health, safety and general welfare by enhancing the enforcement of laws prohibiting the consumption of alcohol and other harmful substances by minors and reducing the costs of providing police services to parties, gatherings, or events requiring a response, by requiring hosts to ensure minors are not consuming alcoholic beverages or other harmful substances.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.15 is hereby added to the Colton Municipal Code to read as follows:

"Chapter 9.15

Host Obligations to Protect Minors from Alcoholic Beverages at Gatherings

9.15.010 Definitions

9.15.020 Host Obligations

9.15.030 Violation; Penalty

9.15.040 Collection of Enforcement Costs

9.15.010 Definitions

As used in this Chapter, the following words and phrases have the meanings set forth in this Section:

A. "Alcohol" shall have the same meaning as in California Business and Professions Code section 23003, as it may be amended from time to time, or any successor section.

B. "Alcoholic Beverage" shall have the same meaning as in California Business and Professions Code section 23004, as it may be amended from time to time, or any successor section.

C. "Controlled Substance" shall mean any controlled substance listed in the California Uniform Controlled Substances Act (California Health and Safety Code section 11000 et seq.) or the federal Controlled Substances Act (21 USC 801 et seq.), as they may be amended from time to time.

D. "Gathering" means a group of two (2) or more persons who have assembled or are assembling for a social occasion or social activity at a residence or on other public or private property.

E. "Guardian" means: (1) a person who, under court order, is the guardian of the person of a Minor; or (2) a public or private agency with whom a Minor has been placed by the court.

F. "Harmful Substances" shall include all of the following, as defined in this Chapter: Alcohol, Alcoholic Beverage, Controlled Substance, Inhalant, Marijuana and Tobacco Products.

G. "Inhalant" includes but is not limited to any aerosol or aerosol spray, any volatile solvent including but not limited to toluene or any substance or material containing toluene, any gas including but not limited to nitrous oxide or any substance containing nitrous oxide, nitrites (commonly known as "poppers," "snappers," or "whippets"), and any other chemical substance or chemical compound that is inhaled for the purpose of becoming intoxicated.

H. "Marijuana" shall have the same meaning as in California Health and Safety Code section 11018 or United States Code, Title 21, section 802, as they may be amended from time to time, or any successor sections.

I. "Minor" means any person under 21 years of age for purposes of Alcohol, Alcoholic Beverages, Controlled Substances, Inhalants and Marijuana, and under the age of 18 years of age for purposes of Tobacco Products.

J. "Parent" means a person who is a natural parent, adoptive parent, or step-parent of another person.

K. "Premises" means any residence or other private property, individual unit or place, including any commercial or business premises.

L. "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

M. "Tobacco Products" shall have the same meaning as in Chapter 9.22 of this Municipal Code.

9.15.020 Host Obligations

A. Except as permitted by state law, it is unlawful for any person to permit, allow, or host a Gathering at his or her place of residence or other private property, public place, or any other premises under his or her control where any Harmful Substances have been consumed by a Minor, if such person either knows or reasonably should know that a Minor has consumed any Harmful Substances.

B. Any person who permits, allows or hosts a Gathering shall be rebuttably presumed to have actual or constructive knowledge that Minors have consumed Harmful Substances if such person is present at the premises of the Gathering at the time any Minor consumes a Harmful Substance, or if that person has not taken all reasonable steps necessary to prevent the consumption of Harmful Substances by Minors, as set forth in subdivision Section 9.15.020(E) below.

C. This Section shall not apply to Gatherings where religious services and/or activities protected by Article I, Section 4 of the California Constitution are exercised, nor shall

the prohibition apply to conduct involving the use of alcoholic beverages exclusively between a Minor and his or her Parent or Guardian.

D. This Section shall not apply to any location or place regulated by the California Department of Alcohol and Beverage Control.

E. It is the duty of any person who permits, allows or hosts a Gathering at his or her place of residence, other private property, public place, or any other premises under his or her control, where Minors will be present, to take all reasonable steps to prevent the consumption of Harmful Substances by any Minor at the Gathering. Reasonable steps shall include, at a minimum, the following: (1) preventing any access by Minors to any Harmful Substances at the Gathering; (2) controlling access to Alcoholic Beverages and Tobacco Products at the Gathering; (3) controlling the quantity of Alcoholic Beverages and Tobacco Products at the Gathering to an amount which can be monitored and its access controlled effectively; (4) verifying the age of persons who consume Alcoholic Beverages or Tobacco Products at the Gathering by inspecting drivers licenses or other government-issued identification cards; (5) prohibiting the use of Controlled Substances and Marijuana at the Gathering; (6) prohibiting the defined use of Inhalants at the Gathering (e.g. inhaled for the purpose of becoming intoxicated); and (7) monitoring the activities of all persons at the Gathering, including Minors.

F. A person who hosts a Gathering shall not be in violation of this Chapter if he or she, before any other person makes a complaint to the Colton Police Department or other law enforcement agency, seeks assistance from the Colton Police Department or other law enforcement agency to either: (1) remove any person who refuses to abide by the host's rules or requirements with respect to his or her performance of the duties imposed by this Chapter; or (2) terminate the Gathering because the host has been unable to prevent Minors from consuming Harmful Substances, despite having taken all reasonable steps to do so.

9.15.030 Violation; Penalty

A. Criminal violations of this Chapter shall be misdemeanors and shall be punishable as set forth in Chapter 8.02 of this Code.

B. Amounts of fines and/or penalties for violations of this Chapter shall be established by resolution of the City Council.

C. Nothing in this Chapter in any way limits any other remedy that may be available to the City, or any penalty that may be imposed by the City.

9.15.040 Collection of Enforcement Costs

As provided for in Section 8.02.010 of this Code, every violation of this Chapter 9.15 shall be deemed to be a public nuisance and abated by the City. The City may seek reimbursement for actual costs associated with the enforcement of this Chapter pursuant to Chapters 8.02 and 8.12 of the Colton Municipal Code, as well as any other applicable law."

SECTION 2: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council of the City of Colton hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrases be declared unconstitutional.

SECTION 3: This Ordinance shall take force and effect thirty (30) days after its adoption.

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SECTION 4: The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published in a newspaper of general circulation printed and published within the City of Colton in accordance with law.

PASSED, APPROVED, AND ADOPTED this 21st day of February, 2012.

SARAH S. ZAMORA, Mayor

ATTEST:

EILEEN C. GOMEZ, CMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss.
CITY OF COLTON)

I, EILEEN C. GOMEZ, City Clerk of the City of Colton, do hereby certify that foregoing Ordinance No. O-02-12 was duly and regularly adopted by the City Council of the City of Colton at a regular meeting thereof on the 21st day of February, 2012 and that the same was passed and adopted by the following vote, to wit:

AYES:	COUNCIL MEMBER:	Toro, Gonzales, Yzaguirre, Oliva, Bennett, Perez, and Mayor Zamora
NOES:	COUNCIL MEMBER:	None
ABSENT:	COUNCIL MEMBER:	None
ABSTAIN:	COUNCIL MEMBER:	None

Eileen C. Gomez, CMC
City Clerk