



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: District Attorney,
Sheriff, CEO
Department No.: 021, 032, 012
For Agenda Of: 8/14/07, 8/21/07,
8/28/07
Placement: Set Hearing
Estimated Tme: 15 minutes on 8/21/07
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Christie Stanley, District Attorney
Director(s) Bill Brown, Sheriff
Michael F. Brown, County Executive Officer
Contact Info: Margaret O'Malley, Office of the District Attorney, 568.2391
Kelly Scott, Sheriff's Department, 681.4325
Terri Maus Nisich, County Executive Office, 568.3400
SUBJECT: Amended Ordinances for Isla Vista

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Sheriff's Department, District
Attorney, Fire Department
As to form: Yes

Recommended Actions:

That the Board of Supervisors set a hearing on August 14, 2007 to:

- (A) Consider adopting an ordinance to amend Section 36-6 of the Nuisance Party Ordinance on August 21, 2007 (First Reading), estimated 15 minutes.
- (B) Consider adopting an ordinance to amend Sections 6-70.01 and 6.107 and add sections 6-108 and 6-109 of the Santa Barbara County Code Chapter 6 (Loud Music Ban) on August 21, 2007 (First Reading), estimated 15 minutes.
- (C) Consider adopting an ordinance to amend Section 36-6 of the Nuisance Party Ordinance on August 28, 2007 (Second Reading), to become effective 30 days after its passage and adoption, estimated 5 minutes.
- (D) Consider adopting an ordinance to amend Sections 6-70.01 and 6.107 and add sections 6-108 and 6-109 of the Santa Barbara County Code Chapter 6 (Loud Music Ban) on August 28, 2007 (Second Reading), to become effective 30 days after its passage and adoption, estimated 5 minutes.

Summary Text:

In an effort to increase the safety of the Isla Vista community during the Halloween celebration as well as reduce County costs associated with responding to incidents that occur during this timeframe, a working group consisting of various stakeholders has been developing possible strategies to mitigate the negative outcomes associated with Halloween. One such proposal consists of revising existing County ordinances as described below.

1. Nuisance Party Ordinance, Section 36-6 (Attachment 1)

Adopted by the Board in 2002, the Nuisance Party Ordinance declares that a social gathering constitutes a public nuisance when three or more violations of local or state law or ordinance occur. The proposed revisions would amend Section 36-6 of Chapter 36 of the Nuisance Party Ordinance to include additional violations pertaining to fires, public nudity, urinating in public and furnishing alcohol to a minor. While enacted specifically for Halloween, the amended ordinance will be effective year-round for the Isla Vista community, which includes the area bounded by, and including, El Colegio Road, Camino Majorca to Storke Road, Ocean Road to Stadium Road and the Pacific Ocean in the unincorporated area of Isla Vista. In addition, furnishing alcohol to minors [Business & Professions Code Section 25658], has been added as a violation of the ordinance and constitutes a public nuisance in and of itself without there being any additional criminal violation.

2. Santa Barbara County Code, Chapter 6 Outdoor Festival (Attachment 2)

The proposed revisions pertain to Santa Barbara County Code Chapter 6 (Amusements), which prohibits "outdoor festivals" and other musical activity in the evening and the following morning of October 26th, 27th, 28th, 29th, 30th, and 31st and November 1st, 2nd, 3rd and 4th between the hours of 6:00 P.M. of such date and 7:00 A.M. of the following date, within the area bounded by, and including, El Colegio Road, Camino Majorca to Storke Road, Ocean Road to Stadium Road and the Pacific Ocean in the unincorporated area of Isla Vista. Violation of Section 6-70.1 is currently punishable as an infraction. However, Sheriff's deputies rarely cite persons under this section. Rather than continue to criminalize the conduct an administrative fine is being proposed. Amendment of Section 6-70.01 includes the issuance of a citation and the creation of a fine and appeal procedure. Section 6-107 imposes administrative fines and outlines the appeal process. Two additional sections are proposed to be added regarding collection of the fines (new Section 6-108) and judicial review (new Section 6-109).

Background: This item is before the Board to adopt amendments to ordinances pertaining to public nuisances and loud music bans as a method of enhancing public safety in the Isla Vista community, especially during Halloween. These ordinances address underlying factors that contribute to unsafe conditions, namely:

- Alcohol related arrests predominate in Isla Vista, particularly on weekends, including violations such as minors in possession of alcohol, open container violations and public intoxication.
- Violent crimes causing injury to both the public and to law enforcement officers, as well as vandalism and public and private property damage, regularly occur in Isla Vista.
- Live bands, parties, and loud music draw persons to Isla Vista, causing extremely crowded conditions, excessive and disturbing noise, and uncontrollable litter and waste. The situation hampers law enforcement and public safety efforts and creates a hostile environment and diminished quality of life for the public and law enforcement officers.
- Crowded conditions in Isla Vista prevent law enforcement, fire and public safety personnel, members of the public, residents and others from having access to public streets, creating hazardous and unsafe conditions. On most Friday and Saturday nights, fire and medical personnel are not able to access Del Playa with their emergency vehicles, and victims must be walked or carried to Sabado Tarde for treatment.

▪ Isla Vista presents unique public health and safety problems for law enforcement due to the crowded conditions, loud music, and “party” atmosphere, and such activity constitutes a serious and immediate threat to the public health and safety. Prohibiting nuisance parties is necessary to control the crowded conditions, reduce the costs associated with law enforcement in Isla Vista, prevent injuries to the public, law enforcement officers, and other public safety personnel, and limit vandalism and damage to public and private property.

The Nuisance Party Ordinance currently cites 20 criminal violations that constitute a public nuisance and they are listed in the attached ordinance. Three additional violations are proposed to be added to the existing list:

- (1) Fires: Health and Safety Code Section 41800: “Except as otherwise provided in this chapter, no person shall use open outdoor fires for the purpose of disposal or burning of petroleum wastes, demolition debris, tires, tar, trees, wood waste, or other combustible or flammable solid or liquid waste; or for metal salvage or burning of motor vehicle bodies.
- (2) Public Nudity: Santa Barbara County Code Section 24-15: “(a) It is hereby declared a public nuisance and unlawful for any person to appear on any beach, park, street or in any other public place or place open to the public or exposed to public view, including specifically a view from any private residence or any portion of the real property in the immediate vicinity of such private residence, whether such place is publicly or privately owned, unclothed or in such a state of undress as to expose, in the case of a female, any portion of her breasts below the areolas thereof or in the case of any male or female, any part of his or her pubic or anal region or genitalia. (b) The provisions of this section shall not apply to any acts which take place wholly within a fully enclosed building or any portion thereof; and nothing contained herein shall be construed to prohibit any act or acts which are expressly authorized or prohibited by the Penal Code of the state. (c) Violations of this section shall be an infraction punishable by a fine in the sum of fifty dollars for a first violation; a fine in the sum of one hundred dollars for a second violation of this section within one year after the first violation; and a fine in the sum of two hundred fifty dollars for each additional violation within one year after a second violation and within one year after any subsequent violation of this section thereafter. (Ord. No. 2507, § 1; Ord. No. 2564, § 1; Ord. No. 2931, § 1)”
- (3) Urinating in Public: Santa Barbara County Code Section 24-15: “It shall be unlawful and a misdemeanor for any person to urinate or defecate in or upon any street, sidewalk, alley, plaza, park, beach, public building or public maintained facility, or any place open to the public or exposed to public view. This section shall not be construed so as to prohibit the use for urination or defecation the lawfully constructed restroom facilities designed for the sanitary disposal of human waste. (Ord. No. 4467 § 1)”

Furthermore, if a social gathering or party results in the furnishing of alcoholic beverages to minors under the age of 21, it would be deemed a public nuisance and subject to a citation.

Santa Barbara County Code Chapter 6 proposes amendments which would provide for the issuance of citations for violations of the “outdoor festivals” and other musical activities during specified days that coincide with Halloween. Violation of Section 6-70.1 during Halloween would be subject to administrative fines as set forth in Government Code Section 25132 as follows:

(a) Violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a county ordinance may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action.

(b) Every violation determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year.

(c) Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding five hundred dollars (\$500) for a second violation of the same ordinance within one year; (3) a fine not exceeding one thousand dollars (\$1,000) for each additional violation of the same ordinance within one year of the first violation.

An administrative appeals process is also explained in the amended Chapter 6 and includes the filing of a written appeal to the Sheriff's Department ten working days after the citation, the hearing of the appeal by a person appointed by the County (hearing examiner) between 20-45 days after the request and final review by the Santa Barbara County Superior Court.

The proposed amendments have been vetted through a working group that consists of affected County Departments (District Attorney, Sheriff's Department, Public Works, Counsel, County Executive Office and Third District), other agencies (City of Goleta, Santa Barbara City College) and representatives from the University of California Santa Barbara.

Fiscal and Facilities Impacts:

Budgeted: No

Fiscal Analysis:

Narrative: County departments do not foresee any significant additional costs associated with implementing or enforcing these proposed amendments. However, the administrative fines are intended to assist departments in recouping any additional costs incurred, such as a hearing officer. The expectation is that the proposed amendments will enable the County to, over time, decrease its costs associated with responding to and prosecuting incidents that arise within Isla Vista, especially during Halloween.

Staffing Impacts:

Legal Positions:
N/A

FTEs:
N/A

Special Instructions:

Direct the Clerk of the Board to publish these ordinances in a newspaper of general circulation within fifteen days after the Board adopts the ordinances (scheduled for August 28, 2007).

Attachments:

Attachment 1: An Ordinance of the Board of Supervisors Amending Section 36-6 of Chapter 36, Adding Additional Violations

Attachment 2: An Ordinance of the Board of Supervisors Amending Sections 6-70.01 and 6.107 and Adding Section 6-108 and 6-109 of Chapter 6.

Authored by:

Amended Ordinances for Isla Vista

August 14, 2007

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Sharon Friedrichsen, Assistant to the CEO, 568.3107

CC:

Supervisor Brooks Firestone, Third District

Bill Brown, Sheriff

Christie Stanley, District Attorney

Chief Scherrei, County Fire Department

Stephen Underwood, County Counsel