




**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: BOS
Department No.: 011
For Agenda Of: May 11, 2010
Placement: Administrative
Estimated Time: 2 Hours on June 1st
Set hearing for June 1st
Continued Item: Yes
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Board Member(s) Supervisor Joseph Centeno, 5th District Supervisor 
Contact Info: Susan Paul, Assistant CEO/HR Director 568-2817
SUBJECT: Consider the Establishment of a Social Host Ordinance for the County of Santa Barbara

County Counsel Concurrence

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

As to form: N/A

Recommended Actions:

That the Board set a hearing on June 1, 2010 to consider recommendations regarding adding Chapter 48 to the County Code known as the "Santa Barbara County Social Host Ordinance" as follows:

- a) Consider the introduction (first reading) of an Ordinance entitled, "An Ordinance of the Board of Supervisors of the County of Santa Barbara Adding Chapter 48 to Prohibit Underage Drinking," (Attachment A); and
- b) Set a hearing for June 15, 2010 to consider the adoption (second reading) of the Ordinance entitled, "An Ordinance of the Board of Supervisors of the County of Santa Barbara Adding Chapter 48 to the County Code to Prohibit Underage Drinking" and direct that the Sheriff not cite anyone for an additional 60-day period to allow for community education.

Summary Text:

Social Host Ordinances (SHO) hold individuals (parents and/or other adults such as older siblings) responsible for underage drinking occurring on residential property they own, rent, lease, or otherwise control. While laws prohibiting furnishing alcoholic beverages to underage

persons target those who provide alcoholic beverages to underage persons, social host liability laws target those who provide the *venue* at which underage drinking occurs.

While there are misdemeanor underage drinking laws (ie: furnishing alcohol to a minor), Social Host Ordinances supplement existing laws, are within law enforcement powers, and do not conflict with underage drinking laws. Relevant statutes concerning underage drinking are contained in the California Business and Professions Code §25658 and §25662 (Attachment B). Social Host Ordinances give law enforcement an additional tool to control underage drinkers and allow them to deal with private parties where underage drinking occurs. The proposed Social Host Ordinance does not affect law enforcements' responsibility to enforce existing laws or allow greater access to people's places of residence than otherwise exists under State law.

More than 150 cities and/or counties and approximately 24 states have adopted Social Host Ordinances. In Santa Barbara County, the Cities of Carpinteria and Santa Barbara have adopted Social Host Ordinances. In Ventura County, the County and all ten cities within the County have adopted Social Host Ordinances. The City of San Luis Obispo has also adopted an Ordinance.

On May 20, 2008, the Board of Supervisors approved policy direction to establish a Countywide Social Host Ordinance and directed staff to take the necessary steps to return with a draft Social Host Ordinance for the Board's consideration.

On May 5, 2009, the Board considered the establishment of a Social Host Ordinance to prohibit underage drinking. During the hearing, a number of issues and questions were raised. These included concerns about the definition of responsible party, response costs, weak consequences, costs to the County, and the definition of a "premise." In addition, questions were raised regarding exempting a portion of the County and whether there were existing ordinances that could address the underage drinking.

The proposed Social Host Ordinance for the County of Santa Barbara is a Countywide Ordinance covering the unincorporated areas of the County.

Background:

The original effort to develop a Social Host Ordinance for the County of Santa Barbara stemmed from growing community concerns with underage drinking in the County. Community organizations, including the Fighting Back Steering Committee and the Fighting Back Public Policy Task Forces in Santa Barbara and Santa Maria and many others surfaced these concerns.

The one-year process to develop the draft Ordinance for Santa Barbara County considered by the Board in May 2009, included meetings with an extensive number of stakeholder groups an individual members of the community, and also included working closely with County Counsel, the Sheriff, ADMHS, and other key County departments, as well as obtaining input from landlords in the community, UCSB students, and others.

As noted in this letter, a number of issues and questions were raised during the May 2009 Board Hearing. Ultimately the Board did not adopt the Ordinance. Since that time, a group named Prevention Partners made up the S.H.O. Task Force that worked with stakeholders throughout the community to redraft the Social Host Ordinance. Task Force members are listed below:

- Santa Ynez Valley Coalition to Promote Drug Free Youth
- S.B. County Alcohol and Drug Advisory Board
- Council on Alcoholism and Drug Abuse
- Santa Barbara Fighting Back
- Future Leaders of America

The groups listed above worked on the direct research and redrafting of the Ordinance. The S.H.O. Task Force met with interest groups from throughout the community, the Sheriff, and UCSB students on three occasions. The SHO Ordinance has also been reviewed by County Counsel.

Following is a SHO comparison chart that depicts the concerns raised in 2009 and how these items are addressed in the current item:

SOCIAL HOST ORDINANCE (SHO) COMPARISON

May 2009 SHO Language Concerns	May 2010 Proposed SHO Solutions
1. Definition of "responsible person" is too broad and includes landlords, landowners, and parents who may not be present at or aware of social gathering. Multiple tenants who may not be present or aware of gathering should not be responsible.	(48-2 B) Defines responsible host more specifically as a person who knowingly hosts or permits unlawful gathering. (48-2D & F) Defines knowingly and control respectively.
2. Unintended consequences.	(48-2 A; 48-3 A) Provides language to exempt those persons who take reasonable corrective actions.
3. Concern with response costs – unclear.	(48-4 B) Excluded from proposed Ordinance.
4. Weak Consequences – need for progressive fine structure.	(48-4 B) First offense requires a penalty of \$500 and the requirement of mandatory counseling, educational, or other program. The 2 nd and 3 rd offenses have progressive fines. 4 th offense is a misdemeanor.
5. Concern for parents supervising own children, religious ceremonies, and family events.	(48-3 C) Exceptions are specified for religious practices and family gatherings.
6. Need for public education and prevention campaign.	(Section 4) Provides time for broad and deep education campaign to maximize deterrence over punishment – 90 day grace period.
7. Should be more inclusive to include homes, rental	(48-2E) The definition of "premise" includes additional places in

properties, hotels, warehouses, halls, vacant land, and other properties under control of host.	definition. Ordinance is directed at limiting places where drinking takes place to reduce availability and therefore usage and must be inclusive of places where underage drinking actually takes place.
8. Need to simplify and clarify who is responsible.	(48-2) Simplified definition of "responsible person" and clarified terms including knowingly, control, and private premises.
9. Costs to the County.	Penalty fees are set to pay for the cost of the enforcement of the ordinance.
ISSUES UNIQUE TO ISLA VISTA	
1. Are there other ordinances currently in existence to meet objective?	Research shows that there is not any other law Countywide that deals with underage drinking in private settings. The Sheriff concurs. The Nuisance Ordinance does not address the same issues as the SHO.
2. Could ordinance exempt I.V. since their current public nuisance ordinance is in effect?	Yes, IV could be exempt from the proposed ordinance; however underage drinking is a problem Countywide and especially prevalent in 18-21 year olds. Exempting one area from the SHO defeats the purpose of a Countywide Ordinance aimed at reducing underage drinking. The Nuisance Ordinance does not address the same issues as the SHO.

Reasons to Consider a Social Host Ordinance (SHO):

State and local communities across the nation are working to implement regulations, statutes, and ordinances that address the complex issues surrounding underage drinking. The reasons for this movement are many:

- 1) Alcohol is the drug of choice for youth¹ and the leading cause of death among teenagers.² The 2003 National Survey on Drug Use and Health reports approximately 10.9 million persons aged 12 to 20 drank alcohol in the month prior to the survey (29% of this age group). Nearly 7.2 million (19.2%) were binge drinkers and 2.3 million (6.1%) were heavy drinkers.³
- 2) Alcohol is involved in the deaths of more teens than all other illicit drugs combined by a four-to-one ratio.⁴ Underage drinking is a factor in nearly half of all teen automobile crashes and 50 to 65 percent of youth suicides.⁵

¹ Teen Tiplers: America's Underage Drinking Epidemic (2002)
National Center on Addiction and Substance Abuse

² American Medical Association, Office of Alcohol/Drug Abuse (2001)

³ National Institute on Alcoholism and Alcohol Abuse

⁴ Drug Strategies, 1999

⁵ Grant, B.F., and Dawson, D.A. (1997) "Age of Onset of Alcohol and Its Association Within DSM-IV Alcohol Abuse and Dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey." Journal of Substance Abuse, 9:103-110

- 3) Alcohol abuse is linked to as many as two-thirds of all sexual assaults and date rapes of teens and college students and it contributes significantly to homicides, suicides, and fatal injuries.² It is a major factor in unprotected sex among youth.²
- 4) According to the National Institute of Health, youth who drink before age 15 are far more likely to develop alcohol addiction than those who start drinking at 21.⁵
- 5) Studies indicate that most underage drinking does not occur in commercial establishments.⁶ In fact, at the local and national levels, house parties have repeatedly been identified as the primary source through which youth gain access to alcohol.^{6,7}
- 6) National research shows that approximately 51% of minors reported drinking at friends' houses.⁶

Impacts of Underage Drinking on Adolescents:

While many believe underage drinking is an inevitable "rite of passage" from which adolescents can easily recover because of their resilience, the exact opposite is true. The brain changes dramatically during adolescence and growth can be seriously inhibited by alcohol consumption. The damage alcohol can cause to the adolescent brain is often long-term and irreversible. Even short-term, moderate drinking impairs learning and memory far more among youth than adults.⁸ Adolescents need to drink only half as much to suffer the same negative side effects.⁹

*A Practical Guide to Preventing and Dispersing Underage Drinking Parties (PIRE, undated)*⁶ articulates why regulating underage drinking parties and other gatherings is an important priority and why social host liability laws should be considered ***an essential law enforcement strategy*** for deterring these gatherings:

"Many people dismiss underage drinking as a normal 'rite of passage' in adolescence. However, it is important to remember that alcohol is one of the most common contributors to injury, death, and criminal behavior among youth (US Department of Health and Human Services, 1992). Underage alcohol use can have immediate and potentially tragic consequences as well as long-range harmful consequences, such as increased risk for chronic addiction (Grant and Dawson, 1977).

⁶ Pacific Institute for Research on Evaluation (1999.) *A Practical Guide to Preventing and Dispensing Underage Drinking Parties*. Phone (877) 355-1287

⁷ Mayer, R.R., Forsten, J.C., Murray, D.M., and Wagner, A.C. (1998). *Social Settings and Situations of Underage Drinking: Journey of Studies on Alcohol*, 59 (2), 207-215

⁸ Brown, S.A., Tapert, S.F., Granholm, E&Delis, D.C. (2000). "Neurocognitive Functioning of Adolescents: Effects of Protected Alcohol Use." *Alcoholism: Clinical and Experimental Research*, 24 (2) 164-171

⁹ Pyapali, G.K, Turner D.A., Wilson, W.A. & Swartzwelden, S.H. (1999). "Age and Dose Dependent Effects of Ethanol on the Induction of Hippocampal Long-Term Potentiation." *Alcohol* 19(2): 107-11

Enforcement activities to limit youth access to alcohol are critical to reducing underage drinking and its often tragic consequences.”

Additional factors that contribute to youth alcohol consumption include:

- Weak or non-existent alcohol laws and policies;
- Easy access to alcohol;
- Inconsistent enforcement of laws and policies;
- Alcohol advertising and promotion;
- Lack of perceived risk and understanding of alcohol problems; and
- Community norms that are tolerant of underage drinking.

Social Host Ordinances can play a big role in addressing these factors and can contribute to lessening the impact of underage drinking on adolescents in the community.

Youth Drinking - Community Impacts:

There are significant community impacts related to underage drinking. For instance, the economic cost of alcohol use by youth in California including traffic crashes, violent crimes, burns, drowning, suicide attempts, fetal alcohol syndrome, alcohol poisoning, and treatment is more than \$6.5 billion per year.⁶ Additionally, The National Academies Institute of Medicine’s seminal report entitled, *Reducing Underage Drinking: A Collective Responsibility* released in 2003, documents the wide ranging and devastating consequences of adolescent and young adult alcohol consumption, estimating the national annual cost of underage drinking to be at least \$53 billion. *Reducing Underage Drinking* urges states and localities to enact comprehensive strategies to reduce underage alcohol consumption. These strategies include strengthening social host liability laws to deter underage drinking parties and other gatherings.

Santa Barbara County Statistics and Information

Locally, California Healthy Kids data gathered from 7th, 9th, and 11th graders throughout the County show that alcohol remains a serious issue. In 2004, 35% of 11th graders reported obtaining alcohol at parties where parents were present. In 2006-2007, 37.7% reported drinking alcohol at home. In focus groups conducted by Santa Barbara City Alcohol and Drug Prevention Programs, 91% of teens admitted that “home” is the number one place to obtain and consume alcohol. Additionally, adolescent participation in alcohol and drug treatment programs throughout the County has continued to climb from 363 youth in 1999 to 1,772 in 2004,

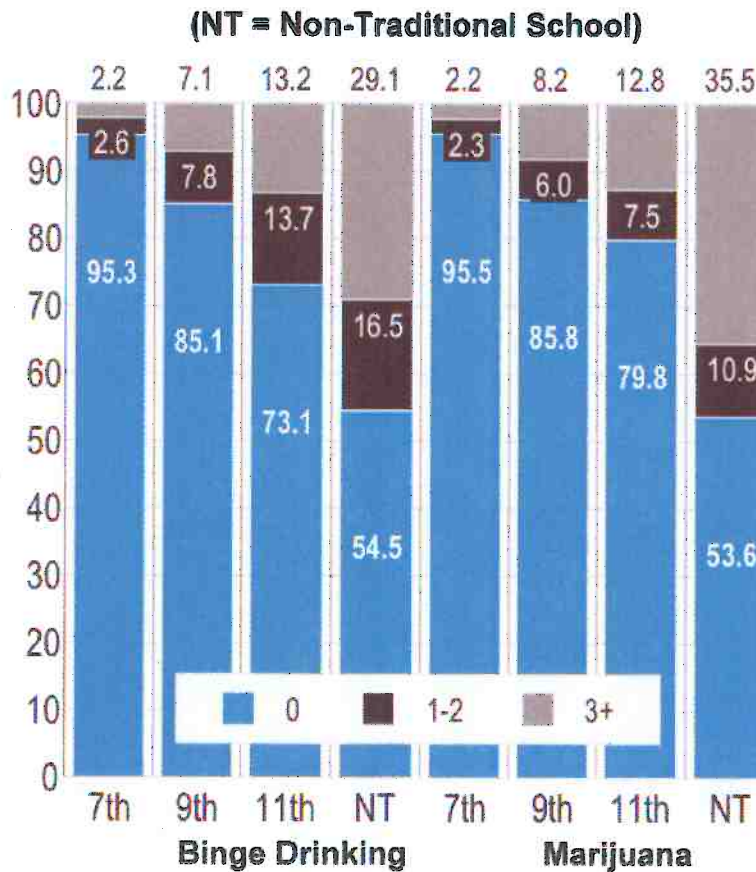
indicating that alcohol and other drug use is a significant problem among the local youth population.

The Alcohol, Drug, and Mental Health Services Department (ADMHS) also tracks alcohol and substance abuse patterns among the County's youth. Data supplied by ADMHS reveals that both 9th graders and 11th graders report using alcohol to a significantly greater degree than marijuana:

Substance	9th Graders	11th Graders
Alcohol Use (Lifetime)	26%	45%
Marijuana Use (Lifetime)	17%	29%

The following chart provided by ADMHS provides a more in-depth comparison of alcohol and marijuana use among Santa Barbara 7th, 9th, and 11th graders as well as those in non-traditional schools and shows the growth in use from 7th grade to 11th grade:

Percent of Students Reporting Binge Drinking and Marijuana Use (Past Month) by Grade and Number of Days of Use



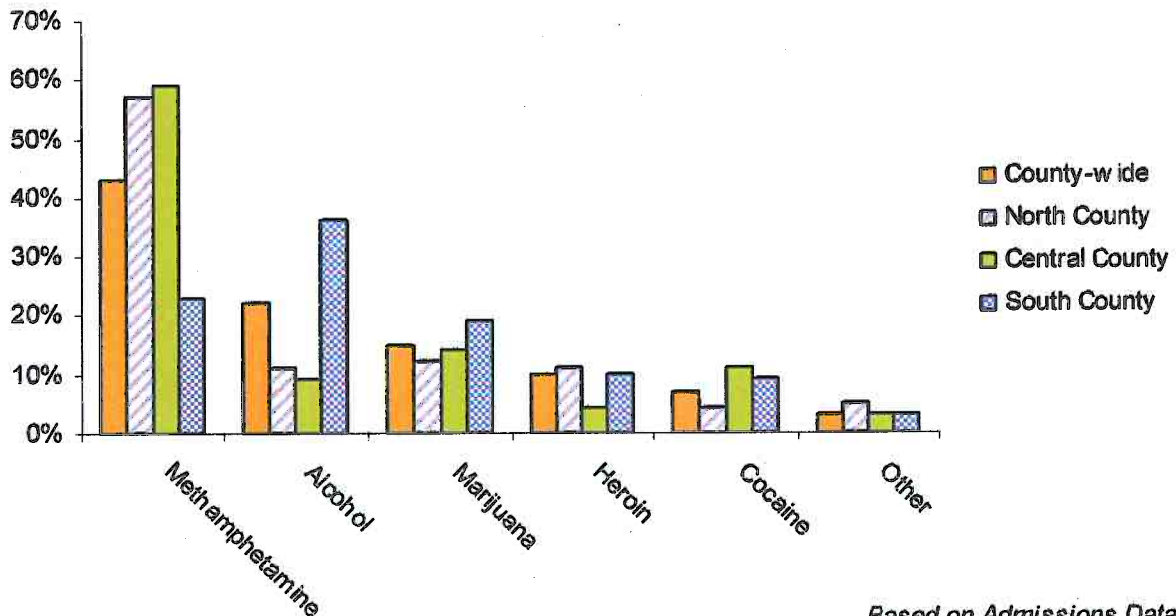
Taken from: Santa Barbara County's Children's Scorecard, 2006-2007.

Website: <http://www.countyofsb.org/kidsnet/documents/Scorecards/2006-Scorecard.pdf>

The number one setting for underage drinking and/or binge drinking remains "the home." Local surveys done with youth throughout Santa Barbara County show that young people not only drink in the home setting (i.e. at parties), but report that alcohol is easily accessible in the home setting. Many of the youth surveyed said parties were unsupervised or, if there was supervision, parents tolerated underage drinking. ADMHS data confirms the most common source for obtaining alcohol is the home:

Source of Alcohol	9th Graders	11th Graders
Home	20%	24%
Parties	5%	4%
Friends	8%	7%

Additionally, the following ADMHS data shows alcohol and drug use in Santa Barbara County:



ADMHS reports that over 80% of all adolescent clients report using alcohol and that there are a significant number of minor clients in County alcohol abuse treatment programs:

County Region	# of Minor Clients
Central	53
South	415
North	45
Total	513

Another key indicator for Santa Barbara County is derived from data provided by the Santa Barbara County Sheriff's Department. It depicts alcohol-related arrests or citations issued in 2008. (The numbers do not include warnings or the number of parties which law enforcement dispersed.)

Code Violation	Violation	# of Violations
25662 B&P*	Minor Possession of Alcohol	1,490
25658 B&P	Furnish Alcohol to Minor	49
647 (F) PC**	Public Intoxication	1,293
23152 VC***	Drunk Driving	412
36-3 County Ordinance	Open Container in Public	740
24-34 County Ordinance	Public Urination	225
40-2 County Ordinance	Amplified Music After Hours	328
415 PC	Disturbing the Peace	261

* Business & Professions Code

** Penal Code

*** Vehicle Code

How a Social Host Ordinance Can Help:

According to current research, social host liability laws are among the most effective forms of public policy in reducing binge drinking and drinking and driving.¹⁰ By addressing the illegal and unsafe supply of alcohol to youth, lawmakers, and courts around the country are recognizing that underage drinking is a serious threat to the health and safety of their communities and are taking steps to reduce it. In fact, social host liability laws are being implemented across the nation to impose civil penalties, usually in the form of monetary damages. Arizona, Alabama, Florida, Kansas, Illinois, Michigan, Maryland, Pennsylvania, New Jersey, Massachusetts, Maine, South Carolina, Oregon, Washington, Ohio, New Hampshire, and Hawaii all impose criminal

¹⁰ Stout, E.M., Sloan, F.A., Liang, L.&Davies, H.H. (2000). "Reducing Harmful Alcohol-Related Behaviors: Effective Regulatory Methods." Journal of Studies on Alcohol.

liability for hosting underage drinking parties.¹¹ Delaware, Georgia, Idaho, Indiana, North Carolina, New Mexico, and Vermont have also implemented Social Host laws. A listing of Social Host Ordinances in California is contained in Attachment C.

Generally, Social Host Ordinances contain several key elements:

- The ability for law enforcement to issue a citation with fines attached to any host who permits underage drinking in his or her home;
- Escalating fines for repeat offenders; and
- Defining unlawful gatherings on private property where alcohol is served to minors.

County of Santa Barbara – Updated Draft Social Host Ordinance:

The key elements of the County of Santa Barbara Draft Social Host Ordinance are as follows:

- Defines a party, gathering, or event subject to the Ordinance;
- Defines unlawful gathering;
- Provides exemptions for legally-protected religious parties and family gatherings;
- Prohibits “unlawful gatherings” where alcoholic beverages are in the possession of, or consumed by, any minor;
- Describes penalties for violations of the Ordinance which include civil penalties:
 - First violation - \$500, which may be waived upon submission of proof of completion of a County-recognized counseling, educational, or other program within 90 days of receipt of the notice of violation;
 - Second violation - \$1,000;
 - Third violation - \$2,000;
 - Subsequent violations by the same responsible person shall be a misdemeanor with a \$1,000 fine, and possible imprisonment; and
- Provides an administrative appeal process for the Violation and for Civil Penalties.

¹¹ Prichard, O. (March 31, 2003). “A Growing Number of States Seek to Send a Strong Message That Prison Time Will Result.” Philadelphia Inquirer.

The following chart depicts the similarities between the Ordinances put into effect by the County of Santa Barbara Draft Ordinances and those put into effect by, the County of Ventura, the City of Santa Barbara, and the City of Carpinteria:

Ordinance Elements	May 2009 Ordinance Provisions				2010 Proposed Ordinance
	Santa Barbara County	Ventura County	City of Santa Barbara	City of Carpinteria	
Defines a "gathering" subject to the Ordinance, including the number of participants	5 or more	2 or more	5 or/ 2 or more minors	2 or more	2 or more
Defines adults responsible for underage drinking	X	X	X	X	X
Defines juveniles/minors covered by Ordinance	X	X	X	X	X
Prohibits gatherings in which minors possess or consume alcohol	X	X	X	X	X
First Violation Civil Penalties	\$250	\$1000*	\$1000	\$500	\$500
Second Violation Civil Penalties	\$500	\$1000*	\$2000	\$1000	\$1000
Third Violation Civil Penalties	\$1000	\$1000*	\$2000	\$1000	\$2000
Rolling/cumulative fine schedule	X	X	X	X	X
Response/Recovery Costs		X		X	Not specifically*
Penalties for Underage Persons		X			
Provides process for waiver or reduction of Civil Penalties for completion of counseling/educational program	X		X	X	X
Provides administrative appeal process	X	X	X		X
Provides for judicial review	X	X			X
Makes violation a misdemeanor					X

* Captured in penalty structure

Conclusion:

Alcohol-related statistics furnished by ADMHS and the Sheriff's Department provided earlier in this Board Letter demonstrate significant alcohol-related incidents occurring throughout the County, and California's Healthy Kids data shows significant growth in adolescent alcohol abuse and participation in alcohol and drug programs in Santa Barbara County.

These and other data support the need for a Social Host Ordinance for Santa Barbara County. Current laws have not sufficiently addressed the issue of underage drinking. A Social Host Ordinance can serve as a deterrent to uncontrolled house parties and the resulting problems and can reinforce community norms that define underage drinking as unacceptable in the community. It will give law enforcement a new and potentially more effective tool to deal with underage drinking at private parties where underage drinking occurs.

Attachments:

- Attachment A -** Draft Social Host Ordinance: An Ordinance of the Board of Supervisors Adding Chapter 48 to the Santa Barbara County Code to Prohibit Underage Drinking
- Attachment B -** Relevant Statutes of the California Business and Professions Code, §25658, and §25662
- Attachment C -** Listing – Social Host Ordinances

DRAFT ORDINANCE NO. _____

Revised 3/30/10

AN ORDINANCE OF THE BOARD OF SUPERVISORS ADDING CHAPTER 48 TO THE SANTA BARBARA COUNTY CODE TO PROHIBIT UNDERAGE DRINKING.

The Board of Supervisors of the County of Santa Barbara does hereby ordain as follows:

Section 1. Findings.

The Board of Supervisors hereby finds, determines, and declares that:

- (a) The County of Santa Barbara 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 unlawful, loud or unruly gatherings on private premises where alcoholic beverages are served to or consumed by underage persons is harmful to the underage persons themselves and a threat to public health, safety, quiet enjoyment of residential property and general welfare;
- (c) Underage persons often obtain alcoholic beverages at gatherings that occur on premises that are under the control of a person who knows, or should know of the underage service and/or consumption. Persons responsible for gatherings on private premises over which they have control have failed to ensure that alcoholic beverages are neither served to nor consumed by underage persons at these parties;
- (d) Problems associated with unlawful, loud or unruly gatherings at which alcoholic beverages are served to or consumed by underage persons are difficult to prevent and deter in the absence of the ability of law enforcement to prevent such unlawful and unruly gathering;
- (e) Control of unlawful, loud or unruly gatherings on private property where alcoholic beverages are served to or consumed by underage persons is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public;
- (f) The availability of alcoholic beverages to underage persons will be reduced if persons are held responsible for causing or abetting unlawful, loud or unruly gatherings on private premises where alcoholic beverages are served to or consumed by underage persons on private premises under their control;
- (g) Law enforcement, fire and other emergency response services personnel responding to such unlawful, loud or unruly gatherings results in the expenditure of public safety resources of the County;
- (h) The intent of this Ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. Imposing responsibility for the nuisances created by unlawful, loud and unruly gatherings on those persons who sponsor them is necessary to deter and prevent such gatherings.

Section 2. Sections Added.

The following sections are hereby added to Chapter 48 of the Santa Barbara County Code to read as follows:

Sec. 48-1. Title.

The title of this chapter shall be "Santa Barbara County Social Host Ordinance"

Sec. 48-2. Definitions.

The following words and phrases, whenever used in this chapter, shall have the meaning and be construed as defined in this section.

A. PARTY, GATHERING, OR EVENT. A group of two or more persons who have assembled or are assembling for a social occasion or a social activity, at least one of whom is a minor and not a blood relative.

B. PERSON. Any person(s) who owns, rents or otherwise controls premises that knowingly hosts, permits, promotes, organizes, or allows a gathering at which they allow the possession or consumption of alcoholic beverages by any minor on such premises or fails to take reasonable corrective action upon learning of the possession or consumption of alcoholic beverages by any minor on such premises.

C. MINOR. Any person under the age of 21 years.

D. KNOWINGLY. Shall mean aware of, or having reason to be aware of party, gathering or event.

E. PRIVATE PREMISES. Any home, yard, open areas adjacent thereto, and accessory structures; apartment, condominium; hotel or motel room; or a hall or meeting room, or any other dwelling unit whether occupied on a temporary or permanent basis, whether occupied as a dwelling, for a party, or for other social function, and whether owned, leased, rented, or used with or without compensation.

F. CONTROL. The actual or apparent authority and ability to regulate direct or dominate private premises, including but not limited to the control exercised by tenants, lessees, and owners who have notice of underage drinking on their property.

G. ALCOHOLIC BEVERAGE OR ALCOHOL. Shall have the meaning given to that term under State law.

48-3. Unlawful Gatherings on Private Real Property When Alcohol is Served to Minors; Host Presumption; Declaration of Public Nuisance.

A. Unlawful Gatherings. No person(s) shall permit, allow, or host a party, gathering, or event at his or her place of residence or on other private premises under the person(s) control where alcoholic beverages are in the possession of, or consumed by, any minor or fail to take reasonable corrective action upon learning of the possession or consumption of alcoholic beverages by a minor on such premises. Reasonable corrective action shall include but is not limited to:

1. Verifying the age of the persons attending the social gathering by inspecting Drivers Licenses or other government-issued identification cards;
2. Making a prompt demand that such minor either forfeit the alcoholic beverages and refrain from the consumption of such or depart from the premises;

3. If such minor does not comply with such request, either promptly reporting such underage consumption of alcohol to the local law enforcement agency or to any other person having a greater degree of authority over the conduct of such minor.

B. Public Nuisance. It is hereby declared to be a public nuisance for any person to permit, allow, or host a party, gathering, or event at his or her place of residence (or other private premises under his or her ownership or control) where alcoholic beverages are in the possession of, or are being consumed by, any minor.

C. Exceptions

1. Nothing in this chapter should be interpreted to prohibit legally-protected religious practices held on a private residence or other private property that include the possession and or consumption of alcohol by an underage person. If an underage person leaves a religious gathering intoxicated and is found in public however, then said furnishers of alcoholic beverages shall be held responsible in the same manner as furnishers at a non-religious gathering.

2. Nothing in this chapter should be interpreted to prohibit any family gathering held on a private residence or other private property that involves the possession and or consumption of alcoholic beverages by an underage person provided exclusively by the individual's parent or legal guardian who is also present. If an underage person leaves such a family gathering intoxicated and is found in public, however, then said furnishers of alcoholic beverages shall be held responsible in the same manner as furnishers at a non-family gathering. (Article 1, Section 4 of the California Constitution)

48-4. Violation and Penalty.

A. Violation. Any person(s) who knowingly permits, allows, or hosts a party, gathering, or event at their place of residence (or other private property under that person(s) control) where alcoholic beverages are in the possession of, or are being consumed by, any minor on such premises, or fails to take reasonable corrective actions upon learning of the possession or consumption of alcoholic beverages by any minor on such premises shall be liable and responsible for, and shall pay to the County, civil penalties in the amount specified in subsection (B) hereof. Such penalties shall be imposed and collected in the manner specified in Section 48-5 and 48-6. Any person who knowingly violates this section may appeal the violation pursuant to section 48-5 and any civil penalty will be stayed pending the outcome of the appeal.

B. Civil Penalty.

1. A first violation of Section 48-4A shall make the person responsible for the violation liable for a civil penalty of five hundred dollars (\$500.00); and the successful completion of a County-recognized counseling, educational or other program, within ninety (90) days of receipt of-notice of the violation.

2. A second violation of Section 48-4A by the same responsible person shall make the person responsible for the violation liable for a civil penalty of one thousand (\$1,000.00).

3. A third or subsequent violation of Section 48-4A by the same responsible person shall be punishable by a civil penalty of two thousand dollars (\$2,000.00).

4. Any subsequent violation of Section 48-4A by the same responsible person shall be a misdemeanor, punishable by a fine not exceeding \$1000.00 or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

Sec. 48-5. Administrative Appeal.

A. Any person who violates section 48-4A shall be subject to the civil penalties provided for in section 48-4B and shall also be subject to the administrative appeal procedures set forth below.

B. Any person upon whom a civil penalty is imposed pursuant to 48-4B may appeal such civil penalty pursuant to the procedures set forth in this section. The appellant must file a written appeal with the County within ten (10) working days of service of the violation notice or any other date of mailing of a notice of determination of the civil penalty. The written appeal shall contain:

1. A brief statement setting forth the interest the appealing party has in the matter relating to the imposition of the civil penalty;
2. A brief statement of the material facts which the appellant claims supports his or her contention that no civil penalty should be imposed or that a civil penalty of a different amount is warranted;

C. An appeal of a civil penalty imposed for violations of Section 48-4A shall be heard by a person appointed by the County to act as the hearing examiner. The civil penalty appeal hearing shall be set no sooner than twenty (20) days and no later than forty-five (45) days following a request for an appeal hearing. Notice of the appeal hearing shall be mailed at least twelve (12) calendar days before the date set for the hearing. Failure to appear timely will cause the civil penalty to become a final order or decision.

D. In reviewing the penalty, the hearing examiner shall consider all facts relating to the issuance of the citation and the reasons therefore and shall uphold the penalty imposed, eliminate the penalty, or modify it. The decision of the hearing examiner shall constitute the final administrative order or decision of the local agency within the meaning of Government Code section 53069.4(b)(1).

E. The hearing examiner shall serve a copy of his or her written decision on the appellant by first class mail to the address provided by appellant in the written notice of appeal. The hearing examiner's decision shall be deemed served within two days after the date it was mailed to the address provided by the appellant.

F. The costs of the administrative hearing may be assessed to the responsible person in addition to any other fines and penalties in the event that the citation is upheld.

Sec. 48-6. Enforcement and Collection of Administrative Fine.

When a civil penalty becomes a final order under section 48-5 or Government Code section 53069.4, the County may proceed to collect the penalty as set forth in Chapter 24A-8 of this Code.

Sec. 48-7. Judicial Review.

Any person aggrieved by a final administrative order or decision imposing a civil penalty may seek review with the superior court in Santa Barbara County pursuant to Government Code section 53069.4.

Sec. 48-8. Remedies Cumulative; Actions; Relationship to Other Laws.

The remedy provided under this chapter is cumulative, and shall not restrict the County to 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 Santa Barbara 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.

Section 3. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Santa Barbara County Board of Supervisors hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

Section 4. Effective Date.

This ordinance, within fifteen (15) days after its passage and adoption, shall be published once in the Santa Barbara News Press and shall be in full force and effect ninety (90) days after its passage and adoption to allow for a period of education.

California Business and Professions Code Section 25658
25658. Providing alcoholic beverages to persons under the age of 21; prohibition; criminal punishment; law enforcement decoys; additional punishment

25658. (a) Except as otherwise provided in subdivision (c), every Person who sells, furnishes, gives, or causes to be sold, furnished, Or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.

(b) Any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

(c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under the age of 21 years, and the person under the age of 21 years thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a misdemeanor.

(d) Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor.

(e) (1) Except as otherwise provided in paragraph (2) or (3), any person who violates this section shall be punished by a fine of two hundred fifty dollars (\$250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b) shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars (\$1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

(3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine of one thousand dollars (\$1,000), or by both imprisonment and fine.

(f) Persons under the age of 21 years may be used by peace officers in the enforcement of this section to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish alcoholic beverages to minors. Notwithstanding subdivision (b), any person under the age of 21 years who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase an alcoholic beverage. Guidelines with respect to the use of persons under the age of 21 years as decoys shall be adopted and published by the department in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Law enforcement-initiated minor decoy programs in operation prior to the effective date of regulatory guidelines adopted by the department shall be authorized as long as the minor decoy displays to the seller of alcoholic beverages the appearance of a person under the age of 21 years. This subdivision shall not be construed to prevent the department from taking disciplinary action against a licensee who sells alcoholic beverages to a minor decoy prior to the department's final adoption of regulatory guidelines. After the completion of every minor decoy program performed under this subdivision, the law enforcement agency using the decoy shall notify licensees within 72 hours of the results of the program. When the use of a minor decoy results in the issuance of a citation, the notification required shall be given to licensees and the department within 72 hours of the issuance of the citation. A law enforcement agency may comply with this requirement by leaving a written notice at the licensed premises addressed to the licensee, or by mailing a notice addressed to the licensee.

(g) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 272 of the Penal Code and Section 13202.5 of the Vehicle Code.

California Business and Professions Code Section 25662

25662. Possession of beverage by minor; authorization of peace officers to seize beverages; disposition of seized beverages

25662. (a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor and shall be punished by a fine of two hundred fifty dollars (\$250) or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school. A second or subsequent violation shall be punishable as a misdemeanor and the person shall be fined not more than five hundred dollars (\$500), or required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the

violation occurred or where the person resides. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or

her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are participating, persons under the age of 21 years are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

(c) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 13202.5 of the Vehicle Code.

in lieu of fine

and/or counseling program, \$1000 for 2nd offense and/or counseling program, \$2,500 for 3rd offense.

\$500 for 1st offense and/or counseling program, \$1000 for 2nd offense and/or counseling program, \$1000 for 3rd offense

Counseling program in lieu of fine

Carpinteria (2007)

City

CALIFORNIA

X

(reference to general provisions in municipal code)

El Cajon (2003)

City

CALIFORNIA

X

(reference to general provisions in municipal code)

Encinitas

City

CALIFORNIA

(reference to general provisions in municipal code)

Escondido (Adopted 2003, revised 7/07)

City

CALIFORNIA

Up to \$1,000 per incident.

X

(reference to general provisions in municipal code)

La Mesa (Revised 9/26/06.)

City

CALIFORNIA

X

Restates potential for damages under Civil Code section 1714.1 and general negligence standards

Not less than 24 hours.

For 2nd response, maximum penalty of \$600. For 3rd response and beyond, actual costs.

Reference to public nuisance provisions found elsewhere in city code.

Up to 6 months' imprisonment.

Up to \$1,000

M

La Puente (1999)

City

CALIFORNIA

(reference to general provisions in municipal code)

(reference to general provisions in municipal code)

M

Los Altos

City

CALIFORNIA

(Town of) Los Gatos (Approved 5/1/89)

City

CALIFORNIA

\$500 for 1st violation. \$1,000 for 2nd or subsequent violation.

Up to 6 months' imprisonment.

\$1,000

M

(Town of) Mammoth Lakes (2006)

City

CALIFORNIA

Manhattan Beach (eff. 3/20/07)

City

CALIFORNIA

\$1,000 for 1st violation. \$2,000 for 2nd violation w/ 12 months. \$5,000 for 3rd violation w/ 12 months. \$500 minimum penalty for 1st offense. \$1,000 for 2nd offense. \$1,500 for 3rd offense in 12 month period.

Up to 6 months' imprisonment.

\$1,000

X

Modesto (eff. 4/27/07)

City

CALIFORNIA

Moorpark (2006)

City

CALIFORNIA

X

X

X

X

X

X

X

X

X

X

X

\$500 minimum penalty for 1st offense, \$1,000 for 2nd offense, \$1,500 for 3rd offense in 12 month period.

Newman (Approved 8/14/07)

City

CALIFORNIA

X X X X X

(reference to general provisions in municipal code)

M

Novato

City

CALIFORNIA

X

Up to 6 months imprisonment

M

Oceanside (revision eff. 4/4/07)

City

CALIFORNIA

X

X

Ojai

City

CALIFORNIA

X

Oxnard (eff. 2007)

City

CALIFORNIA

Up to \$1,000 if treated as misdemeanor. Up to \$500 if treated as infraction.

I or M

Petaluma (2006 ordinance)

City

CALIFORNIA

X

I or M For 3+ violations w/ 12 mo. pd., M.

Port Hueneme (Adopted 8/8/07, eff. 9/7/07)

City

CALIFORNIA

X

Procedures for emergency abatement may be used.

(reference to general provisions in municipal code)

I or M

Poway

City

CALIFORNIA

X

\$100 minimum fine for 1st

San Diego (added 5-6-2003 by Ord. 19172 N.S.)

City

CALIFORNIA

X

X

offense.
\$200
minimum
fine for
2nd and
subseque
nt
offenses.

(Amended 4-
26-2006 by O-
19482 N.S.
effective 5-26-
2006)

X

X

I

San Marcos
(Adopted
2/14/06)

City

CALIFORNIA

\$250 fine
for 1st
violation
(I). \$500
fine for
2nd
violation
w/i 12
months
(I). \$1,000
for 3rd or
subseque
nt
violation
w/i 12
months
(M).

X

X

I or M

Santa Cruz
(eff. 7/30/05)

City

CALIFORNIA

Procedur
es for
emergenc
y
abatement
it may be
used.

X

X

I or M.
For 3+
violatio
ns w/i
12 mo.
pd., M.

Santa Paula
(Adopted
8/7/06; eff.
9/7/06)

City

CALIFORNIA

X

X

Santa Rosa
(1992)

City

CALIFORNIA

Up to 6
months'
imprison
ment.

\$1,000

X

Santee

City

CALIFORNIA

X

X

Simi Valley

City

CALIFORNIA

Civil penalty
of \$1,000.

\$2,500 for
1st violation
or any
subsequent
violation w/i
first 24

X

X

Thousand
Oaks

City

CALIFORNIA

State	City	Adoption Date	Reference to general provisions in municipal code	Reference to general provisions in municipal code	Hours	Fines determined by resolution	Maximum fine	Other
CALIFORNIA	Vallejo (1999)				\$3,500 for 2nd w/ 1st year but outside 24 hour period after 1st violation.		\$600 fine.	
CALIFORNIA	Ventura (Adopted June 18, 2007.)				\$5,000 for 3rd or subsequent violation w/ 1st year.			
CALIFORNIA	Vista (Adopted 10/14/03)		I or M					X
CALIFORNIA	Waterford (Adopted 5/17/07)		M					X
CALIFORNIA	Contra Costa (1991)							Shall not exceed \$600 for single gathering.
CALIFORNIA	Marin County (2006)							X
CALIFORNIA	Mono (2006)			Up to 6				X

State	County	City	Offense Description	Penalty	Community Service	Training/Counseling	Months Imprisonment	Other
CALIFORNIA	Ventura		fine, 1st violation. \$1,000 civil fine, 2nd or subsequent violation.	\$1,000 penalty				
CALIFORNIA	San Diego (passed 7/25/06)		6 mos to 1 year if minor's consumption caused great bodily harm.					
CALIFORNIA	Gilroy		1st Offense \$250 penalty, 2nd Offense within 12 months \$1,000 penalty, 3rd or subsequent violation within 12 months \$2000 penalty	Not to exceed \$500				
CALIFORNIA	Hayward		1st Offense \$750, 2nd Offense \$1,500, 3rd Offense \$2,500		Community service may be imposed in addition to or in lieu of civil fines and/or response costs	Training, counseling, g. or classes may be imposed in addition to or in lieu of civil fines and/or response costs		
CALIFORNIA	Mission Viejo		Not more than 6 months imprisonment	\$1,000 maximum				

CALIFORNIA

City

Morgan Hill

M

\$1,000
maximum

Not more
than 6
months
imprison
ment

The civil fine
is regardless
of whether
person knew
or should
have known.
1st Offense
\$250, 2nd
Offense
\$500, 3rd
and
subsequent
Offense
\$1,000

The
response
cost is
regardless
of
whether
person
knew or
should
have
known

X

ment