

Community Readiness for Developing and Passing a Social Host Ordinance

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Let Data Drive the Strategy Selection

- Who Needs a SHO?
 - Where does underage drinking occur? Parks? Homes? Safeway parking lot?
 - Where do house parties happen? How do you know?
 - How often are parties taking place?
- What Problems are Generated by Underage Parties?
 - Binge drinking?
 - DUI?
 - Sexual assaults?
 - Neighborhood nuisances?



Community Context

- What Are the Prevailing Norms Regarding Youth Drinking
 - Is there support for "its okay to drink at home under adult supervision?"
 - Is it "okay to for teens to drink as long as they don't drink and drive?"
 - How do you know?
- What Role Do Adults Play in Social Availability for Teens?
 - Tolerate drinking?
 - Provide alcohol?



Possible Elements of Strategy to Pass the Social Host Ordinance

- Development of Community/Parent Pledge
 - Disseminate broadly into community
 - Initiate, then broaden the discussion of teen drinking and adult complicity
 - Use as a community organizing strategy for SHO
- Create a Case Statement
 - Layout the background and rationale for SHO



Community Organizing

- Implement Bottom-Up & Top Down Approach
 - Build base of community members signing pledge as supporters for SHO
 - Recruit support from parent groups (PTA, faith-based, etc)
 - Move through existing boards and community groups for expressed support
 - Work the politicians



Creating the Ordinance


- Craft an Ordinance that Responds to the Data
 - Issues to consider addressing
 - Minors in possession
 - Adults contributing to the delinquency of a minor
 - Public nuisances
 - Determine position on "adults knowingly providing alcohol to underage persons"
 - Draft key elements of ordinance
 - Seek legal clarifications/advice

Lessons & Challenges

- Who are These Troublemakers Anyway
- If There Were More Things for Kids to Do...These Problems Wouldn't Exist
- If We Just Lowered The Drinking Age...
- Responsible Drinking by Teens is the Answer
- As Long as They Don't Drink and Drive
- Better Where I Can Monitor the Situation
- I Drank and I Turned Out OK
- It Will Just Move the Drinking Somewhere Else
- Police Resources
- District Attorney's Attitude
- Etc, Etc, Etc, Etc

**SOCIAL HOST
ORDINANCES**

An Effective Strategy For
Reducing Underage
Drinking Parties On Private
Property



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Evaluation

**THE PROBLEM OF
UNDERAGE DRINKING
PARTIES**

- Primary setting
for underage
drinking by
high school
and college
students
- Alcohol-related
trauma
common result
- Drain on law
enforcement
resources



**WHAT IS SOCIAL HOST
LIABILITY?**

Social host liability refers to
laws that hold *non-*
commercial individuals
responsible for underage
drinking events on property
they own, lease or otherwise
control.

HOST RESPONSIBILITY

- One can be liable as a social host even if the host does not furnish the alcohol to underage persons.
- Social host laws prohibit the host from providing a *location* for a gathering of underage persons who possess or consume alcohol.

TYPES OF SOCIAL HOST LAWS

In general, the hosting of a party on private property at which an underage drinker becomes intoxicated could result in different forms of liability against the social host: criminal liability, civil liability, and response costs recovery.


TYPE 1: STATE SOCIAL HOST CRIMINAL STATUTES

Social host criminal liability involves a state statutory misdemeanor violation, enforced by the state through criminal prosecution and leading to criminal sanctions including possible imprisonment.



STATE SOCIAL HOST CRIMINAL STATUTES

As of 1/1/05, there were 19 state statutes. See NIAAA Alcohol Policy Information System (APIS) at <http://alcoholpolicy.niaaa.nih.gov>.



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Hosting Underage Drinking Parties: Criminal Liability

This policy topic is included in the APIS Highlight on Underage Drinking section. The Highlight's [overview of underage drinking and on the United States](#) provides additional context that may be helpful in understanding this policy topic.

(Period covered: 1/1/1988 through 8/30/2004)

Policy Description


Hosting Underage Drinking Parties: Criminal Liability addresses laws that hold individuals (social hosts) criminally responsible for underage drinking events on property they own, lease, or otherwise control. These laws often are closely linked to laws prohibiting furnishing alcohol to minors, although laws establishing liability for hosting underage drinking parties may apply without regard to who furnishes the alcohol. Hosts who allow underage drinking on their property as well as supply the alcohol consumed or possessed by the minors may be in violation of two distinct laws: furnishing alcohol to a minor and allowing underage drinking to occur on property they control. APIS provides additional information on laws pertaining to furnishing alcohol to minors in the [Furnishing Alcohol to Minors](#) policy topic.

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Map: Hosting Underage Drinking Parties Liability



TYPE 2: STATE SOCIAL HOST CIVIL STATUTES

A civil lawsuit is filed against social host by person injured by guest whom host had allowed to consume alcoholic beverages on host's property. Based on state's negligence statute or prior court decisions, jury/judge decides whether host should pay money damages.



TYPE 3: MUNICIPAL ORDINANCES


Liability occurs at the level of local government in the form of municipal (city or county) ordinances.



MUNICIPAL ORDINANCES (cont.)


Like their state counterparts, some ordinances make the social host liable for a misdemeanor and punishable with jail time.





MUNICIPAL ORDINANCES (cont.)

Other ordinances treat social host liability like minor traffic offense (criminal, but no jail time, fines only).



**SOCIAL HOST RESPONSE
COSTS RECOVERY
MUNICIPAL ORDINANCES**


With RCR, a local government seeks recovery against the host for the cost of law enforcement, fire, or other emergency response services incurred by the government in responding multiple times to the scene of the event.

**SOCIAL HOST RESPONSE
COSTS RECOVERY
MUNICIPAL ORDINANCES**

Response costs mean:

- Salaries of law enforcement or other responders
- Costs of medical treatment for law enforcement or other responders
- Costs of repair of city/county property
- Costs of use of city/county equipment

POLICY BRIEFING 01



Model Social Host Liability Ordinance
With Local Enforcement and Recovery

A Publication of the
Training, Applied Research, and Analysis and Drug Research Division
Ventura County Behavioral Health Department

VENTURA COUNTY LIMITS
www.ventura-countylimits.org

KEY FEATURES OF THE MODEL RESPONSE COSTS RECOVERY ORDINANCE

WHEN ARE RESPONSE COSTS IMPOSED?

Under the ordinance, response costs are imposed when emergency responders are called to return to a given location for a loud or unruly gathering within a twelve-month period of an initial warning.

"Loud or Unruly Gathering"

"Loud or unruly gathering" means a party or gathering of two or more persons at or on a residence or other private property upon which loud or unruly conduct occurs.

"Loud or Unruly Gathering"

- Excessive noise
- Excessive traffic
- Obstruction of public streets or crowds that have spilled into public streets
- Public drunkenness or unlawful public consumption of alcohol or alcoholic beverages
- Service to or consumption of alcohol or alcoholic beverages by any underage person, except as permitted by state law
- Assaults, batteries, fights, domestic violence or other disturbances of the peace
- Vandalism
- Litter
- Any other conduct which constitutes a threat to public health, safety, quiet enjoyment

AGAINST WHOM ARE RESPONSE COSTS IMPOSED?

Recognizes that persons responsible for the occurrence of loud or unruly gatherings on private property over which they have possession or control have a duty to ensure that alcoholic beverages are not served to, or consumed by, underage persons at these parties.

PARENTS/MINORS



"Responsible persons" include parents and underage persons who host the parties.

LANDLORD/TENANT RESPONSIBILITIES

"Responsible persons" include
landlords, absentee landlords, and
tenants.




UNDERAGE DRINKING PARTY AS A PUBLIC NUISANCE


- Recognizes that the occurrence of an underage drinking party is a threat to public health, safety, quiet enjoyment of residential property and general welfare, and thus constitutes a public nuisance.
- Recognizes that "responsible persons" have a duty not to create a public nuisance, i.e., the occurrence of underage drinking parties on their private property.

SWIFT CIVIL PROCESS, NOT LENGTHY CRIMINAL PROCESS


- The model ordinance is drafted as a civil law, using or supplementing a municipality's existing public nuisance abatement process to recover response costs.
- Theoretically, the civil abatement process is swift and immediate, consistent with deterrence theory.
- Compare criminal proceedings, which are lengthy.



- Prosecuting parents and property owners as criminals may not be an effective deterrent to most problems of underage drinking parties and their consequences.
- Penalty under model ordinance is monetary.



- Requiring parents, landlords, and social hosts to pay for response costs resulting from an out of control party may seize the attention of those persons who are in the best position to stop underage drinking parties on private property.
- Compare criminal proceedings, which involve lengthy court proceedings and possibility of imprisonment.



The model social host law applies the legal doctrine of "strict liability." With "strict liability," knowledge of the party or of the occurrence of underage drinking at the party is not required in order to impose response costs against the host or property owner. On the other hand, "knowledge" is usually a component of criminal proceedings where the possible penalty includes jail time.

Response Costs Recovery Ordinances: Enhancing Their Effectiveness

Additional local controls can enhance effectiveness or compliment response costs recovery ordinance, creating comprehensive local control package:

- Noise or other public nuisance ordinance
- Safety plan ordinance (City of Chico, CA)
- Landlord license ordinance (Grand Forks ND, Bloomsburg, PA)
- State laws on underage drinking (APIS)

THANK YOU

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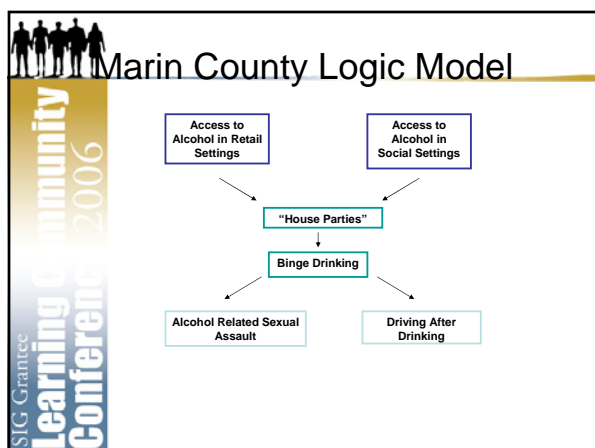





SIG Grantee Learning Community Conference 2006

Overview


- Needs Assessment identified that over 2/3 of Marin youth who drink do so at House Parties
- Resource Assessment identified that there was significant expertise in Marin County for policy interventions






Major Successes To Date

- SIG plan provided necessary data / clarified the nature of the problem
- Issue of house parties was taken up and championed by a Supervisor
- Prior experience/trust working with County Counsel
- Passage of Alcohol Sponsorship Ordinance "softened the ground" for other policy change
- Cadre of youth leaders and adult allies ready for advocacy



Barriers

- General lack of understanding of social host accountability
- "Private property" rights arguments
- Political will
- Law enforcement support
- Somewhat new legal territory



Lessons Learned

- Engage elected officials early and often
- Make it relevant to their local community
- Develop personal relationships
- Provide as much legal information as possible
- Engage media with clear messages

ORDINANCE NO. 3444
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
PROHIBITING ALCOHOL BEVERAGE SPONSORSHIP AND ALCOHOL BEVERAGE
SPONSORSHIP SIGNS AT THE MARIN COUNTY FAIR

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN HEREBY ORDAINS AS FOLLOWS:

SECTION I. Chapter 6.09 of the Marin County Code is hereby added to read as follows:

CHAPTER 6.09

PROHIBITION OF ALCOHOL BEVERAGE SPONSORSHIP AND SPONSORSHIP SIGNS OF ALCOHOLIC BEVERAGES AT THE MARIN COUNTY FAIR

Sections:

6.09.010	Legislative Purpose
6.09.020	Legislative Findings
6.09.030	Definitions
6.09.040	Prohibition of Alcohol Beverage Sponsorship and Sponsorship Signs of Alcoholic Beverages at the Marin County Fair
6.09.050	Penalty for Violation
6.09.060	Severability
6.09.070	Effective Date

6.09.010 Legislative Purpose

The primary purposes of this ordinance are to promote the health, welfare and safety of persons under 21 years of age exposed to certain publicly visible sponsorship and sponsorship signage of alcoholic beverages and to project a wholesome, family-oriented image that does not promote the purchase or consumption of alcoholic beverages at the Marin County Fair by persons less than 21 years of age.

6.09.020 Legislative Findings

The Board of Supervisors of the County of Marin, after completing a legally noticed public hearing, finds the following:

- a) **WHEREAS**, Sections 25658 and 25658.5 of the State of California Business and Professions Code makes it unlawful for a person under the age of 21 years to purchase or attempt to purchase alcoholic beverages and makes it unlawful for any person to sell any alcoholic beverage to any person under the age of 21 years;
- b) **WHEREAS**, according to local, state and federal surveys, alcohol is overwhelmingly and consistently the most widely used drug at all adolescent age levels.¹ A child who begins alcohol use prior to age 14 is four times as likely to experience alcohol dependence than one who refrains from alcohol use until age 20 or older;²
- c) **WHEREAS**, the United States Supreme Court has recognized repeatedly that children deserve special solicitude because they lack the ability to assess and analyze fully the information presented through commercial media. Although much of the case law specifically deals with obscenity, it is clear that children deserve special solicitude on issues including alcohol advertising;³
- d) **WHEREAS**, the federal courts and independent studies have recognized that there is a positive relationship between both alcoholic beverage advertising and consumption of the advertised products;^{4, 5}
- e) **WHEREAS**, an extensive set of research studies supports the federal courts' judicial notice that alcoholic beverage advertising may predispose young people to drinking.⁶ These and other studies have shown that:
1. Male youth with greater exposure to alcohol advertisements in magazines, on television, and at sporting and music events are more aware of the advertising and more likely to remember the advertisements they had seen.⁷
 2. Youth who are more aware of televised beer advertisements hold more favorable views on drinking and express intentions to drink more often as adults than do children who are less aware of these ads;⁸
- f) **WHEREAS**, \$1.9 billion was spent on alcohol advertising in measured media (television, radio, print, outdoor, major newspapers and Sunday supplements) in 2002,⁹ and, working from alcohol company documents submitted to them, the Federal Trade Commission estimated in 1999 that the alcohol industry's total expenditures to promote alcohol (including through sponsorship, Internet advertising, point-of-sale materials, product placement, brand-logoed items and other means) were three or more times its expenditures for measured media advertising,¹⁰ suggesting that the alcohol industry spent a total of \$5.7 billion or more on advertising and promotion in 2002;
- g) **WHEREAS**, outdoor alcohol advertising, alcohol sponsorship, and alcohol sponsorship signs are unique and distinguishable types of product promotion and brand marketing that subject the public to involuntary and unavoidable forms of solicitation;¹¹

- h) **WHEREAS**, alcohol sponsorship and signage are permitted at certain events held in public places in the County of Marin including municipally sponsored events such as the Marin County Fair; persons under the age of 21 years attend events held in public areas, including municipality-sponsored events; sponsorship and signage at these events subject children attending these events to a high degree of involuntary and unavoidable forms of solicitation; sponsorship signs appear at events in public places in publicly visible locations, including, but not limited to, sides of tents, event stages, signs attached to poles, posts or other figures, and freestanding signboards. Sponsorship signs also appear at events in the form of logo-identified staff, stage sponsorship, and giveaways, and there is no practical way for parents to monitor or limit the exposure of their children to the **sponsorship** signs at these events; and, accordingly, children attending these events are inundated with sponsorship signs simply by attending the events;¹²
- i) **WHEREAS**, this ordinance *does not* attempt to enact such a blanket ban on advertising of alcohol as was prohibited in the U.S. Supreme Court case *44 Liquormart v. Rhode Island* and thus leaves advertisers with numerous alternative venues available to them, including but not limited to sponsorship of events on private property, television, radio, magazines, newspapers, and point-of-sale;
- j) **WHEREAS**, this ordinance only restricts the “time, place and manner” of alcoholic beverage sponsorship and sponsorship signs at the municipally-sponsored Marin County Fair, which is attended by a significant number of persons under the age of 21 years (estimated to be over 25,000 annually); it does not directly regulate the sale of alcohol and does not unduly burden legitimate business activities or persons licensed by the California Department of Alcoholic Beverage Control to sell alcoholic beverages;¹³
- k) **WHEREAS**, the County of Marin has made numerous and substantial efforts to enforce underage drinking laws; yet, despite these efforts, alcohol use by Marin County’s youth remains a serious problem in the County, contributing significantly to the incidence of adolescent crime, addiction, sexual assault, and driving after drinking;¹⁴
- l) **WHEREAS**, the County of Marin affirmatively opposes the acceptance of alcohol sponsorship and sponsorship signs in connection with the municipality-sponsored Marin County Fair, where persons under the age of 21 years are admitted;
- m) **WHEREAS**, Healthy Marin Partnership, Marin County Office of Education, Bay Area Community Resources, Marin County Drinking Driver Program and Communities Mobilizing for Change on Alcohol Program Youth Coalitions strongly endorse a restriction on alcohol industry sponsorship and alcohol industry sponsorship signs at the Marin County Fair as a means to promote consistent educational messages to children and to reduce youth alcohol-related problems;¹⁵ and

- n) **WHEREAS**, the County of Marin Board of Supervisors therefore determines that this ordinance regulating alcohol beverage sponsorship and alcohol beverage sponsorship signs at the Marin County Fair is a reasonable and necessary means to protect and promote the health, safety, and general welfare of the youth of the County of Marin.

6.09.030 Definitions

- a. "Alcoholic beverage" means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.
- b. "Marin County Fair" means the annual Marin County Fair traditionally held over the 4th of July at the publicly-owned Marin County Fairgrounds located adjacent to the Marin County Civic Center in San Rafael, CA.
- c. "Member of the alcoholic beverage industry" includes licensed manufacturers, brewers, distillers, distributors, wholesalers, and sellers of alcoholic beverages.
- d. "Sponsorship" means a business arrangement between the County of Marin or an event organizer under contract with the County, on the one hand, and a member of the alcoholic beverage industry, on the other, whereby the member of the alcoholic beverage industry contributes funds, goods, or services to an event to be held at the Marin County Fair in return for recognition, acknowledgement, or other promotional consideration.
- e. "Sponsorship signs" means any manner of advertising, promotional, or sponsorship signage, or any representation, image, artwork, photograph, logo, graphic, device, display, regalia, insignia, indicia, design, slogan, trade name, brand name, product name, permittee or licensee name, advertising specialties, marketing services, or other materials of a member of the alcoholic beverage industry, indicating the participation of the member of the alcoholic beverage industry in the sponsorship of all or part of the Marin County Fair, including the sponsorship or naming of all or part of the event at the Marin County Fair, wherever located, whether indoor or outdoor.

6.09.040 Prohibition of Alcohol Beverage Sponsorship and Sponsorship Signs of Alcoholic Beverages at the Marin County Fair

- a. No member of the alcoholic beverage industry may sponsor the Marin County Fair, erect or cause to be erected any type of alcohol beverage sponsorship signs at the Marin County Fair.

6.09.050 Penalty for Violation

- a. Any person or business entity that violates any provision of this ordinance shall be guilty of an infraction and, upon a finding of such a violation by the County Administrative Officer or his/her designee, shall be subject to administrative assessment of civil penalties.
- b. Causing, permitting, aiding, abetting or concealing a violation of any provision of this ordinance shall constitute a violation of such provision.
- c. Each day of violation is a separate offense.
- d. Penalties for violations are as follows. First violation: \$500, with an additional \$50 per day for each day that the violation continues. Second violation: \$1,000, with an additional \$100 per day for each day the violation continues. Third and subsequent violations: \$2,000, with an additional \$200 per day for each day the violation continues.
- e. In addition to the other remedies provided in this Section, any violation of this ordinance may be enforced by a civil action brought by the County of Marin. In such action, County may seek, and the court shall grant, as appropriate, any or all of the following remedies:
 - 1. A temporary and/or permanent injunction;
 - 2. Assessment of the violator for costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, including but not limited to reasonable costs of preparing and bringing legal action under this subsection, and attorney fees;
 - 3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation;
 - 4. A finding, after two or more violations of this ordinance involving the same sponsorship sign, that the sponsorship sign constitutes a public nuisance.
- f. Other remedies as set forth in the County of Marin Zoning Code (Title 22) shall also apply to this ordinance, if applicable.
- g. A party found in violation has a right to seek a Writ of Mandamus and/or Prohibition to the Marin Superior Court in order to obtain review of a finding of violation.

6.09.060 Severability

If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this section, which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

6.09.070 Effective Date

This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 28th day of February 2006 by the following vote:

AYES: SUPERVISORS Charles McGlashan, Harold C. Brown, Jr., Steve Kinsey,
 Cynthia L. Murray, Susan L. Adams

NOES: NONE

ABSENT: NONE

ATTEST:

PRESIDENT, BOARD OF SUPERVISORS

CLERK

ORDINANCE END NOTES

¹ California Healthy Kids Survey (2003/04); California Student Survey (2003/04); Youth Risk Behavior Survey (2003/04).

² Grant, B.F. "The Impact of a Family History of Alcoholism on the Relationship Between Age at Onset of Alcohol Use and DSM-IV Alcohol Dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey," *NIAAA's Epidemiologic Bulletin No. 39. Volume 22, No. 2, 1998*.

³ *Denver Area Educ. Telecommunications Consortium, Inc. v. FCC*, 518 U.S. 727, 746, 116 S.Ct. 2374, 2386, (1996) (plurality opinion) (upholding restrictions on programming imposed by the Cable Television Consumer Protection and Competition Act as a means of protecting children from indecent programming). In the context of the radio medium, the Court has approved extra restrictions on indecent speech because of the pervasiveness of the medium and the presence of children in the audience. See *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 685, 106 S.Ct. 3159, 3165, (1986) (cited for the proposition that "[a] high school assembly or classroom is no place for a sexually explicit monologue directed towards an unsuspecting audience of teenage students"); *FCC v. Pacifica Foundation*, 438 U.S. 726, 750-51, 98 S.Ct. 3026, 3040-41 (1978) (comparing indecent speech during hours when children are listening to the proverbial pig in the parlor); see also *Action for Children's Television v. FCC*, 58 F.3d 654, 657 (D.C.Cir.1995) (upholding the Public Telecommunications Act against a First Amendment challenge based on the state's compelling interest in protecting minors), cert. denied, --- U.S. ---, 116 S.Ct. 701 (1996). Similarly, the Supreme Court has sustained a law that protected children from non-obscene literature. See *Ginsberg v. New York*, 390 U.S. 629, 639-40, 88 S.Ct. 1274, 1280-81 (1968). And, while it has acknowledged a right to private possession of adult pornography in the home, see *Stanley v. Georgia*, 394 U.S. 557, 566, 89 S.Ct. 1243, 1248-49 (1969), the Court has clearly distinguished child pornography and allowed a stronger legislative response "to destroy a market for the exploitative use of children." *Osborne v. Ohio*, 495 U.S. 103, 109, 110 S.Ct. 1691, 1696 (1990); see also *New York v. Ferber*, 458 U.S. 747, 759, 102 S.Ct. 3348, 3355-56 (1982). The underlying reason for the special solicitude of children was articulated long ago: "A democratic society rests, for its continuance, upon the healthy, well- rounded growth of young people into full maturity as citizens." *Prince v. Massachusetts*, 321 U.S. 158, 168, 64 S.Ct. 438, 443 (1944). See also, Memorandum to Board of Supervisors from Jack F. Govi, Assistant County Counsel, January 11, 2006 – "Legal Cases Referenced in Sponsorship Ordinance."

⁴ See, e.g., *Central Hudson Gas & Elec. v. Pub. Serv. Comm'n*, 447 U.S. 557, 569 (1980) regarding advertising and demand for electricity); *Capital Cities Cable, Inc. v. Crisp*, 467 U.S. 691 (1984) (regarding alcohol advertising and consumption); *Anheuser-Busch v. Schmoke*, 101 F.3d 325 (4th Cir. 1996), cert. denied 117 S.Ct. 1569 (1997). See also, Memorandum to Board of Supervisors from Jack F. Govi, Assistant County Counsel, January 11, 2006 – "Legal Cases Referenced in Sponsorship Ordinance."

⁵ Hastings, G., Anderson, S., Cooke, E., Gordon, R. "Alcohol marketing and young people's drinking: A review of the research." *Journal of Public Health Policy*. 2005; 26: 296-311. Snyder, L.B., Milici, F., Slater, M., Sun, H., and Strizhakova, Y. "Effects of Alcohol Advertising on Drinking Among Youth." *Archive of Pediatrics & Adolescent Medicine*-Volume 160 No.1, January 3, 2006.

⁶ See, e.g., Grube, J., and Wallack, L. "Television beer advertising and drinking knowledge, beliefs, and intentions among schoolchildren." *American Journal of Public Health* 84:254-0, 1994; Grube, J. "Television Alcohol Portrayals, Alcohol Advertising, and Alcohol Expectancies Among Children and Adolescents." In Martin, S., ed., *The Effects of the Mass Media on the Use and Abuse of Alcohol*, Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Research Monograph No. 28, 1995,

pp. 105-21; Kusserow, R. "Youth and Alcohol: Controlling Alcohol Advertising That Appeals to Youth," *Washington, DC: Department of Health and Human Services, Office of Inspector General, OEI-09-01-00654, November 1991*; Slater, M., et al., "Male adolescents' reactions to TV beer advertisements: the effects of sports content and programming context," *Journal of Studies on Alcohol* 57: 425-33, 1996.

⁷ Collins, R.L., T. Schell, P.L. Ellickson, and D. McCaffrey, "Predictors of beer advertising awareness among eighth graders." *Addiction* 98: 1297-1306, 2003.

⁸ Grube, J., "Television Alcohol Portrayals, Alcohol Advertising, and Alcohol Expectancies Among Children and Adolescents." In Martin, S., ed., *The Effects of the Mass Media on the Use and Abuse of Alcohol. Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Research Monograph No. 28, 1995, pp. 105-21.*

⁹ Center on Alcohol Marketing and Youth – camy.org, "Youth Exposure to Alcohol Advertising," – Source: TNS Media Intelligence/CMR (Miller-Kaplan Associates).

¹⁰ Federal Trade Commission, Appendix B: "Self-Regulation in the Alcohol Industry: A Review of Industry Efforts to Avoid Promoting Alcohol to Underage Consumers." *Washington, DC: Federal Trade Commission, Appendix B, September, 1999.*

¹¹ *Packer Corp. v. Utah*, 285 U.S. 105, 110-111, 52 S.Ct. 273 (1931) (outdoor advertising); *Anheuser-Busch v. Schmoke*, *supra*, 101 F.3d at 328 (outdoor advertising).). See also, Memorandum to Board of Supervisors from Jack F. Govi, Assistant County Counsel, January 11, 2006 – "Legal Cases Referenced in Sponsorship Ordinance."

¹² See *Anheuser-Busch v. Schmoke*, *supra*, 101 F.3d at 328 (outdoor advertising). See also, Memorandum to Board of Supervisors from Jack F. Govi, Assistant County Counsel, January 11, 2006 – "Legal Cases Referenced in Sponsorship Ordinance."

¹³ Farley, Jim, Letter to Marin County Counsel, December 20, 2005.

¹⁴ Condon, Catherine, Memorandum to Marin County Board of Supervisors, December 28, 2005; "Efforts to Enforce Youth Access to Alcohol; Community Indicators of Alcohol and Drug Abuse Risk: Marin County (2004);" Marin County Division of Alcohol, Drug and Tobacco Programs. Prevention Plan for the Reduction of Binge Drinking and Related Community Problems Among Youth (2005)."

¹⁵ Letters of Support to Marin County Board of Supervisors: Healthy Marin Partnership - February 2, 2005; Marin County Office of Education - February 8, 2005; Bay Area Community Resources - February 8, 2005; Marin County Drinking Driver Program - February 23, 2005; Communities Mobilizing for Change on Alcohol Program Youth Coalitions - Three letters of support – all dated February 6, 2005.

Reduce the easy availability of alcohol by making access to it more difficult

A. Why reducing access is important

- Young people tell us that alcohol is easy to obtain from friends, parents, other adults and sales outlets, even though it is illegal to sell or provide it to them
- Too many alcohol sales outlets, through lack of training and self-enforcement, sell illegally to minors
- Too many parents and other adults, choosing to ignore underage drinking laws, purchase alcohol for youth or illegally provide it to them
- The legal drinking age of 21 years is not taken seriously because so many adults accept and even condone underage alcohol use. Young people internalize the message that drinking is a normal “rite of passage” to adulthood.

B. Supporting Statistics

- Marin County’s underage drinking rate is higher than state and national averages and our youth are drinking too early, too often and too much.
 - 53% of Marin 11th graders report drinking in the past 30 days, compared to 37% in California and 47% nationally.
 - 37% of Marin 11th graders reporting binge drinking, compared to 23% statewide, placing Marin significantly higher than the state average
- In Marin County, friends and family members are the most common sources of alcohol for youth.
 - The Marin Youth Health Advisory Council (MYHAC) 2005 survey of approximately 3,000 Marin youth found that of those who drink, 77% of teens reported getting alcohol from friends and 14% reporting getting it from family members.

C. Model Strategies

Elected Officials

- Limit the number/density of alcohol sales outlets
- Limit alcohol sales outlets near areas frequented by youth
- Ban public possession of alcohol in public buildings and public parks
- Implement Social Host Ordinances to reduce the number and frequency of teen parties involving alcohol

Law Enforcement

- Identify the source of alcohol in underage alcohol-related arrests
- Increase certainty of sanctions for outlets that sell to minors through referral of complaints to the Department of Alcoholic Beverage Control

Alcohol Sales Outlets

- Train servers/clerks in underage access laws, recognizing Fake I.D.’s and other responsible beverage service practices
- Require I.D. for anyone who appears under age 30

Schools

- Notify parents when information about weekend parties is obtained
- Hold educational forums for parents which review and identify underage alcohol laws and liability concerns

Parents

- Don’t let your son/daughter go to a home party where alcohol is certain to be available and served.
- Don’t ever host or allow your son/daughter to host a party where alcohol or other drugs will be available and served.

Increase Enforcement of Existing Laws, School Policies and Community Regulations

A. Why enforcement is important

- Youth have little fear of getting caught or experiencing any negative consequences for underage alcohol use
- Adult routinely overlook and ignore underage alcohol use, communicating to young people that their behavior is okay
- Laws prohibiting underage alcohol purchase and sales are ignored or circumvented so often that they are not taken seriously by young people or adults
- Police often face parental hostility and lack of community support when underage drinking laws are enforced.
- Lack of or low levels of enforcement results in an increased probability of negative outcomes from underage drinking including DWI crashes, vandalism, violence and sexual assault and juvenile crime.

B. Supporting Statistics

- In Marin County, youth say that the majority of teen drinking occurs in homes, a place where parents can certainly set limits.
 - The Marin Youth Health Advisory Council (MYHAC) 2005 survey of approximately 3,000 youth in Marin County found that nearly 80% of youth report that the primary place they see youth drinking is at house parties.
- Young people in Marin experience significant negative consequences associated with underage and binge drinking.
 - Community Violence Solutions reports that 35% of incidents of sexual assault in Marin involved alcohol, according to their 2003 Alcohol Facilitated Sexual Assault Survey of 1239 youth in Marin.
 - Thirty-seven (37%) percent of Marin 11th graders report driving after drinking, compared to an average of 27% in California.

C. Model Strategies

Elected Officials

- Implement Conditional Use Permits and Deemed Approved Ordinances to set conditions on new and existing alcohol sales outlets

Law Enforcement

- Implement regular compliance checks to identify outlets that sell to underage youth
- Increase certainty of sanctions for outlets that sell to minors through referral of complaints to the Department of Alcoholic Beverage Control

Alcohol Sales Outlets

- Be alert for adults that congregate outside outlets and purchase for youth; report such activity to the police

Schools

- Strongly discourage parents from providing alcohol, especially around Proms and Graduations

Parents

- Don't purchase alcohol for young people and/or illegally provide it to them
- If you have alcohol in the home, lock it up and keep track of the liquor cabinet.

Reduce Youth Overexposure to Alcohol Marketing and Create Positive Community Norms

A. Why Norms are important

- Whether they intentionally marketing their products to youth or not, the alcohol industry gets its message across to our kids
 - Alcohol is equated with fun, sex, glamour and self-confidence
 - The negative consequences of alcohol use are never shown
 - Alcohol is advertised and marketed with themes (sports, sex), visual images (cartoons, very young looking models) and methods (novelty items, clothing, interactive websites) that directly appeal to youth
- The sheer volume of alcohol marketing seeps into our children's minds without their even realizing its influence

B. Supporting Statistics

- More children (4th and 5th graders) could recall the slogan and product for the Budweiser frogs (73%) than for Tony the Tiger (57%), Smokey The Bear (43%), or the Mighty Morphin' Power Rangers (39%). Only Bugs Bunny had a higher recall (80%).
- Youth see more ad for alcohol than they do for gum, sneakers, candy or chips

C. Model Strategies

Elected Officials

- Ban alcohol ads in community sport facilities frequented by youth
- Limit alcohol advertising in outlet windows; ensure compliance with the Lee Law
- Ban alcohol sponsorship/promotion at family-oriented community events, festivals, and fairs
- Conduct public education campaigns to increase the public's knowledge of underage alcohol laws and sanctions

Law Enforcement

- Publicize outlet closings and license suspensions to increase community perception of risk and harm
- Share data on underage sales to youth and track alcohol-related incidents

Alcohol Sales Outlets

- Ensure your outlet is in compliance with the Lee Law
- Prominently display signage that indicates no underage sales policy and practice
- Provide incentives to clerks who identify underage purchasers/Fake I.D's

Schools

- Ban alcohol-related clothing, posters, promotional items and other products
- Incorporate media literacy training in classroom settings
- Adopt alcohol and drug policies that require participation in alcohol education classes as part of the consequence
- Train administrators on alcohol policy issues
- Coordinate enforcement with local police departments; increase utilization of School Resource Officers

Parents

- Talk with your kids frequently about the pressures of smoking, drinking and sex...and about the agreements to be made. Clearly express your values and expectations through discussions with your son/daughter and model those values to your kids regularly.
- Do not use scare tactics when talking with your kids. Talk about your expectations and make it clear that you will support them no matter what.

FACT SHEET
THE COUNTY OF MARIN
DIVISION OF ALCOHOL, DRUG AND TOBACCO PROGRAMS
PREVENTION PLAN FOR THE REDUCTION OF BINGE DRINKING
AND RELATED COMMUNITY PROBLEMS AMONG YOUTH AGED 12 TO 25 YEARS

ALCOHOL IS OFTEN THE PRIMARY PROBLEM SUBSTANCE

- Among the 18-24 year olds in Marin's treatment programs, 52% reported alcohol as their primary problem substance. (Source: Marin County Division of Alcohol, Drug and Tobacco Programs Annual Report, 2003-04)

BINGE DRINKING AMONG MARIN YOUTH AND YOUNG ADULTS IS HIGHER THAN STATE AND NATIONAL AVERAGES

- 37% of Marin 11th graders reported binge drinking in the past month, compared to the California average of 23%. (Source: California Healthy Kids Survey, 2003-04; California Student Survey, 2003-04)
- 40% of 18-24 year olds reported they had participated in at least one episode of binge drinking in the past month, compared with 17% for all adults 18 years of age and over. (Source: Marin County Community Health Survey, 2001)

ALCOHOL RELATED SEXUAL ASSAULT IS A PROBLEM FOR MARIN YOUTH

- Among those who reported sexual assault, 35% of the incidents were alcohol related. (Source: Alcohol Facilitated Sexual Assault Survey, Community Violence Solutions, 2003)

ALCOHOL RELATED VIOLENCE IS A PROBLEM FOR MARIN YOUNG ADULTS

- 20% of 18-24 year olds in Marin reported that they had experience some sort of interpersonal violence or threat within the last year. (Source: Marin County Community Health Survey, 2001)
- The odds of experiencing violence of any kind in the last 12 months are 79% higher for persons who have had at least one episode of binge drinking in the last 30 days. (Source: Marin County Community Health Survey, 2001)

DRIVING AFTER DRINKING IS A PROBLEM FOR MARIN YOUTH

- 37% of Marin 11th grade students reported driving after drinking, compared to the California average of 27%. (Source: California Healthy Kids Survey, 2001; California Student Survey, 2001-02)

MARIN YOUTH ARE DRINKING BEFORE OR DURING SCHOOL

- 30% of Marin 11th graders report having been drunk or high at school, compared to 23% statewide. (Source: Marin Youth Health Advisory Council Access Survey, 2005)

ACCESS AND AVAILABILITY TO ALCOHOL PLAY A PRIMARY ROLE IN BINGE DRINKING

- A majority of Marin 9th (75%) and 11th (84%) grade students report that it is easy to access alcohol. (California Healthy Kids Survey, Marin County, 2001)
- Primary sources of alcohol were local liquor retailers and social sources, including their parents, older friends and siblings. (Source: Marin Youth Health Advisory Council, Youth Leadership Institute, Spring 2003)

MARIN YOUTH HAVE ACCESS TO ALCOHOL FROM FAMILY AND FRIENDS

- In Marin County 77% of teens surveyed by the Youth Health Advisory Council in 2005 reported getting alcohol from their friends and 14% report access from family. (Source: Marin Youth Health Advisory Council Access Survey, 2005)

MARIN YOUTH ARE DRINKING AT “HOUSE PARTIES”

- For youth who consume alcohol, an alarming 43% reported that hard liquor was their drink of choice. (Source: California Healthy Kids Survey, 2003-04; California Student Survey, 2003-04)
- 64% of 18-20 year olds reported that their place of last drink before their DUI arrest was in a private residence. (Source: Place of Last Drink Survey)

MARIN COUNTY HAS A SIGNIFICANT DENSITY OF ALCOHOL OUTLETS

- The density of liquor outlets is more than 42% higher than the statewide average. (California Department of Alcoholic Beverage Control, 2001)

NATIONAL RESEARCH SHOWS THAT THIS PATTERN OF DRINKING CAN ALSO LEAD TO SERIOUS LONG-TERM CONSEQUENCES

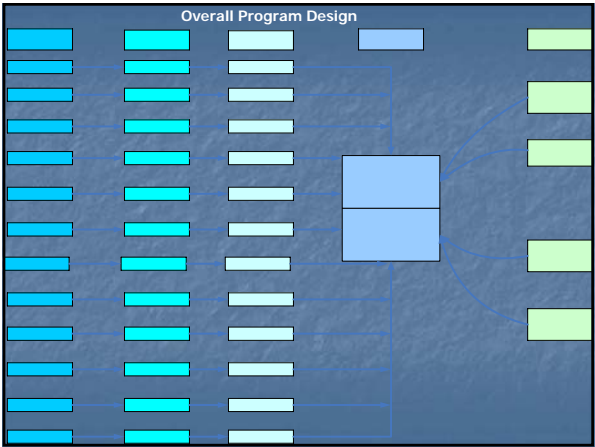
- Youth who begin binge drinking at age 13 and continue through adolescence are four times as likely to be overweight and almost 3.5 times more likely to have high blood pressure by the time they are 24 than those who never or rarely drink. (Source: University of Washington, School of Social Work)

Developing, Passing and Implementing a
Local Deemed Approved Ordinance

By:
Michael Sparks
Senior Policy Director
Center for Community Action and Training (CCAT)

Developing, Passing and Implementing a
Local Deemed Approved Ordinance

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Deemed Approved Ordinances	GOALS
<p>KEY POINTS</p> <ul style="list-style-type: none"> • Nuisance abatement tool • Regulates existing alcohol (on/off sale) outlets • Oakland, Vallejo, Santa Cruz, Oxnard currently have ordinance 	<ul style="list-style-type: none"> • Protect residential, commercial, industrial and civic areas and minimize the adverse impacts. • Provide opportunities for alcoholic beverage sale activities to operate in mutually beneficial relationships. • Provide mechanism to address the problems often associated with the public consumption. • Provide that alcoholic beverage sale commercial activities are not the source of public nuisances. • Provide for properly maintained alcoholic beverage sale establishments. • Monitor that Deemed Approved outlets to not change in mode or character of operation.

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CUP ordinance	System to implement
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CUP ordinance	System to implement
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	DAO ordinance	Fees collected
1	0	0
2	0	0
3	0	0
4	0	0
5	0	0
6	0	0
7	0	0
8	0	0
9	0	0
10	0	0
11	0	0
12	0	0
13	0	0
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	DAO ordinance	Fees collected
1	0	0
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Alcohol Outlet FAC	Fees collected
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99	99
100	100

Alcohol Outlet FAC	Fees collected
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100	100

Outcomes Impact State Evaluation

Outcomes Impact State Evaluation

[illegible]

Change in service practices

Compliance ROS	Telephone survey 18-25 on hinge
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Compliance ROS Telephone survey
18-25 on binge
drinking

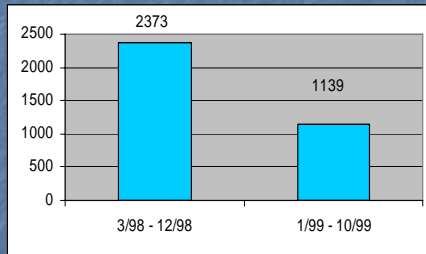
Regulate outlets

Reduce nuisance crime Behavioral risk factor survey

Reduce nuisance Behavioral risk factor survey

Increase Comp. checks

Outcomes - Change in Nuisance CFS at Outlets (Deemed Approved)



53% Reduction in CFS

IDENTIFIED PROBLEM	CONTRIBUTING FACTORS	STRATEGIES	SHORT TERM OUTCOMES	INTERMEDIATE OUTCOMES	LONG TERM OUTCOMES
Problems related to licensed alcohol establishments 1. High rates of Part 1 and 2 crimes requiring police response in "Hot Spots" areas with high concentrations of licensed establishments:	Over-concentration of alcohol outlets in downtown areas of Cotati & Petaluma New development in all 3 cities which may include increases in alcohol outlet density leading to creation of hot spots.	Develop, adopt & implement Deemed Approved Ordinance (DAO) covering all on-sale & off-sale alcohol outlets with Fee Assessment Structure to fund regular compliance checks (Cotati/Petaluma)	Development, adoption and implementation of a DAO with Fee Assessment Structure Owners, managers, employees of DAO businesses, & community members educated about the DAO & fee assessment.	Increased funding for enforcement. Regularly scheduled education, inspection & compliance activities. Increased compliance with nuisance standards. Decrease in nuisance activity and crimes associated with former "hot spots".	Increased safety and improved perception hot spot areas by community residents

Deemed Approved Outcomes

- DAO enacted
- Fees assessed
- Alcohol outlets will receive education on performance standards
- Increased numbers/frequency of inspections, compliance checks and follow-up enforcement operations are conducted (compared with previous years)
- Nuisance calls decrease from alcohol establishments
- Binge drinking-related problems reduce as a result of the DAO

Achievements/Barriers

- Achievements (Petaluma & Cotati)
 - Data collection, issue identification and DAO strategy selection driven by coalition members (P/C)
 - Inclusion of problems identified by data collection process inserted in Revised General Plan (P)
 - Development of "case statement" and draft ordinance by coalition members (P & C)
 - Neighborhood door to door organizing has been initiated in areas close to hot spots (P)
 - Support from City Council champion (P)
 - Support from Planning Director and Chief of Police (C)

Achievements/Barriers

- Barriers
 - Initial supportive response from Police Chief moving to tepid support
 - Winter hot spot activity decreased from warmer weather summer and fall seasons
 - Need additional problem data, person power required to collect
 - Taking longer to get introduced than anticipated
 - Challenge of developing appropriate fee schedule to cover cost of enforcement in a small community w/o large numbers of outlets

Lessons in the Work

- Expect the unexpected
 - Articulate to community "why environmental approaches"
 - Support comes and goes
 - Expect retail and potentially business community questions/opposition
 - Data must be current
 - Work the policy makers while building base of community/resident support for "political cover" or accountability
 - Engage youth in the policy process



Model Social Host Liability Ordinance

WITH LEGAL COMMENTARY AND RESOURCES

SEPTEMBER 2005

A Publication of the
Training, Applied Research, and Alcohol and Drug Prevention Division
Ventura County Behavioral Health Department

The intent of this report is to provide useful information to municipal governments, private institutions and community coalitions who are formulating responses to the many problems caused by home parties involving underage drinking.

Using this Publication

This is public information and is meant to be shared. Copy and distribute this Policy Briefing as appropriate. For additional copies please visit www.venturacountylimits.org

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Model Social Host Liability Ordinance

WITH LEGAL COMMENTARY AND RESOURCES

SEPTEMBER 2005



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Center for the Study of Law
and Enforcement Policy

A Center of the Pacific Institute for Research and Evaluation



Pacific Institute
FOR RESEARCH AND EVALUATION



VENTURA COUNTY LIMITS

A Community Partnership for Responsible Alcohol Policies & Practices

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Introduction

This is the third in a series of reports associated with Ventura County Limits, a Community Partnership for Responsible Alcohol Policies and Practices. Two previous reports considered issues related to underage and binge drinking in Ventura County, and the circumstances of drinking for young adults in Ventura County prior to their arrest for impaired driving (please see www.VenturaCountyLimits.org). Both of these publications suggested that home parties are settings in Ventura County where excessive alcohol consumption among underage and young adult drinkers can lead to dangerous—even deadly—consequences, and pointed to the need for new community prevention tools.

“Nearly three in ten (28.6%) of those 25 and younger that binge drink report last doing so in their own homes, and 45.2% report last binge drinking at someone else’s home. These data point to “house parties” as settings for binge drinking among young adults.”

—*Underage and Binge Drinking: Selected Findings from a Telephone Survey of Ventura County Residents (2005)*

As part of its county-wide initiative to reduce underage and dangerous drinking, including the serious and persistent problems associated with home drinking parties, the Ventura County Behavioral Health Department, in collaboration with the Center for the Study of Law Enforcement and Policy (CSLEP) of the Pacific Institute for Research and Evaluation (PIRE), has developed this publication to aid local governments and other community agencies in the formulation of effective prevention policies.

The model ordinance and commentary were designed to address communities of diverse settings and needs. They also take into consideration various concerns of municipalities with respect to effectively deterring loud, unruly or dangerous parties in private settings, using clear explanations of the different types of Social Host Liability and presenting options for imposing fees and recovering costs associated with law enforcement, fire, or other emergency response services.

In developing this publication the authors and sponsors have been encouraged by the intense concern of parents, community coalitions, law enforcement personnel and elected officials, all of whom have been calling out for better strategies to reduce the many social, health and public safety consequences of underage drinking parties. We hope the words on the following pages lead to community action, and, in turn, new social realities, that improve the quality of life and sense of safety for everyone in Ventura County.

The Social and Legal Context

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 consumption of alcoholic beverages. Estimating the annual social cost of underage drinking to be at least \$53 billion, *Reducing Underage Drinking* urges states and localities to enact a comprehensive set of strategies to reduce underage alcohol consumption. These strategies include strengthening social host liability laws to deter underage drinking parties and other gatherings.

Social host liability refers to laws that hold non-commercial individuals responsible for underage drinking events on property they own, lease, or otherwise control. Whereas laws prohibiting furnishing alcoholic beverages to underage persons target providing alcoholic beverages to underage persons, social host laws target providing the venue where underage drinking takes place.

A Practical Guide to Preventing and Dispersing Underage Drinking Parties (PIRE, undated) 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 alcohol addiction (Grant and Dawson, 1997). Enforcement activities to limit youth access to alcohol are critical to reducing underage drinking and its often tragic consequences. ...

One common way that underage drinkers gain access to alcohol is at parties. These parties are commonly large gatherings of young people in a home ..., in an outdoor area (like a beach or a park), or in some other venue (like a warehouse rented for the purpose). These parties can be particularly problematic because of the number of drinkers involved in the large quantities of alcohol consumed. Reports of alcohol poisonings, traffic crashes, property damage, community disturbance, violence, and sexual assault are all too common as a result of these parties.

Teen parties are a primary avenue for underage drinking for high school and college students – and of high consumption of alcohol and binge drinking. Mayer, Forster, Murray, and Wagenaar (1998) found that the most common setting for drinking among high school seniors was someone else's home. High consumption (five or more drinks) is also associated with drinking in larger groups. The

authors conclude that interventions that modify the environments in which adolescents find themselves have an impact on alcohol consumption levels. “Policies aimed at increasing the liability of adults who provide alcohol to or drink with minors may help to reduce underage drinking.” (Mayer et al: 214).

Approximately 46,200 of Ventura County residents are in high school grades nine through twelve¹, living in widely different residential, rural farming, canyon, beach, and coastal communities. Communities, regardless of type, report that many parents have a high tolerance for teen parties, allowing them to occur on their property often without any supervision.² *Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices* (PIRE, 1999) observes: “This tolerance apparently stems from three misconceptions or beliefs: (1) alcohol, particularly beer, is a relatively harmless drug compared to illegal drugs, and its consumption is part of the passage to adulthood; (2) permitting consumption in a residential setting is safer than having it occur in open areas, where there is a higher risk of problems; and (3) teen drinking is inevitable, and it is safer if it occurs in a controlled, residential setting.”

Ventura County has three community colleges in Moorpark, Oxnard, and Ventura; a new four-year university Cal State Channel Islands in the Camarillo area; and California Lutheran University, a private institution in Thousand Oaks. Clapp, Shillington, and Segars (2000) found that for college students, parties were among the most common occasions for socializing and were the settings most associated with heavy drinking. Similarly, Jones-Webb, Toomey, Miner, Wagenaar, Wolfson, and Poon (1997) found that a common source of alcohol for college drinkers was parties-- including house parties, outdoor parties, or fraternity parties. Respondents to youth focus groups saw little risk of law enforcement intervention at underage drinking parties, indicating that expectations about enforcement of underage drinking laws were low.

Community tolerance is compounded by the legal obstacles to law enforcement agencies in deterring teen parties and college gatherings. (PIRE, 1999: 27.) California law prohibits both furnishing alcohol to underage persons and youth possession on public property. On the other hand, state law does *not* prohibit youth possession on private property, and state law does *not* prohibit youth consumption anywhere. Law enforcement “detecting an underage party may not have legal grounds to enter the premises, be unable to confiscate the alcohol, trace its original purchaser, or hold the adult homeowner, landlord, or renter responsible for allowing the party on the premises.” (PIRE, 1999: 27.)

Three Different Types of Social Host Liability

Depending on the state and local jurisdiction, the hosting of a party on private property at which an underage drinker becomes intoxicated could result in three distinct types of liability against the social host: social host criminal liability, social host civil liability, and recovery of response costs. Each type of liability should be viewed as a separate legal strategy for deterring underage drinking parties.

¹ 2004 Series Public K-12 Enrollment Projections. Demographic Research Unit, Department of Finance. October 2004. <http://www.dof.ca.gov/HTML/DEMOGRAP/K12Grads04.xls> Accessed 9/1/05.

² Pacific Institute for Research and Evaluation. 1999. *Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices*. <http://www.apolnet.ca/resources/education/bestpractices.html>. Accessed 9/1/05.

State Social Host Criminal Statutes

Social host criminal liability involves a state statutory violation, enforced by the state through criminal prosecution and leading to criminal sanctions such as fines or imprisonment. As of January 1, 2005, nineteen states have enacted social host criminal liability statutes.³

There are two types of state social host criminal statutes:

- **Specific House Party Laws.** These statutes, often called “open house party” laws, explicitly address parties or other gatherings attended by underage persons on private property. As of January 1, 2005, there were six jurisdictions with explicit house party laws.
- **General Laws Addressing Adult Permitting/Allowing Underage Drinking.** As of January 1, 2005, thirteen jurisdictions have statutes that prohibit social hosts from allowing or permitting underage drinking on their property. Although addressing the same problems, general laws are broader in scope than specific house party statutes (e.g., they may prohibit adults from allowing underage persons to consume alcohol in settings other than social gatherings), but they still apply to the underage drinking party context. These general laws do not provide specific guidelines commonly contained in specific house party laws, such as, for example, what steps a host can take to stop an underage party in progress to avoid criminal sanctions.

State Social Host Civil Liability Laws

Social host civil liability holds social hosts potentially responsible for the injuries to third parties caused by guests whom the hosts had served or had allowed to consume alcoholic beverages. This form of liability, which can be imposed by either statutes or common law negligence principles, involves private litigation and come into play only if an injured third party decides to sue the social host. Before the 1980s, state courts and legislatures in the United States were reluctant to impose liability on social hosts, reasoning that they were not as capable of handling the responsibilities of monitoring their guests’ alcohol consumption as were commercial vendors. Over time, this initial reluctance waned, and courts and legislatures continued to impose liability against social hosts in a growing number of circumstances.⁴ This growth in the imposition of social host liability is particularly evident in cases in which the intoxicated person is underage.⁵ Today, courts and legislatures accord underage persons special treatment not accorded intoxicated adults, based on the rationale that “[underage persons], because of their youth and inexperience in both drinking and driving, need greater safeguarding from intoxication than adults.”⁶ Only the state legislature or state courts (as opposed to city and county governments) have the authority to impose this form of civil liability.

³ In addition, numerous local communities have passed ordinances that impose criminal liability on social hosts.

⁴ See Hall, *Clouded Judgment: The Implications of Smith v. Merritt in the Realm of Social Host Liability and Underage Drinking in Texas* (1998) 30 St. Mary’s L.J. 207, 217 (reviews historical development of social host liability in Texas); Note, *Tort Law: Social Host Liability for the Negligent Acts of Intoxicated Minors--Mitseff v. Wheeler*, 38 Ohio St. 3d 112, 526 N.E.2d 798 (1988) (1989) 14 U. Dayton L. Rev. 377 (reviews historical development of social host liability in Ohio); Comment, *Beyond Social Host Liability: Accomplice Liability* (1988) 19 Cumb. L. Rev. 553, 554; Note, *Social Host Liability to Third Parties for the Acts of Intoxicated Adult Guests: Kelly v. Gwinnell* (1988/1989) (1985) 38 Sw. L.J. 1297, 1298-1299.

⁵ See Note, *supra* note 1, 14 U. Dayton L. Rev. at 377.

⁶ See Comment (1992) 25 U.C. Davis L.Rev. 463, 471.

Response Costs Recovery Municipal Ordinances

A third type of social host liability occurs at the level of local government in the form of municipal (city or county) ordinances called “response costs recovery” ordinances. In general, these laws hold social hosts (including tenants) and landowners (including landlords) civilly responsible for the costs of law enforcement, fire, or other emergency response services associated with multiple responses to the scene of an underage drinking party or other gathering occurring on private property, whether or not the hosts or landowners had knowledge of the occurrence of the parties or gatherings.

As part of its county-wide initiative to reduce underage and binge drinking, including the occurrence of underage drinking parties and other gatherings, the Ventura County Behavioral Health Department’s Training, Applied Research, and Alcohol and Drug Prevention Division, in collaboration with the Center for the Study of Law Enforcement and Policy (CSLEP) of Pacific Institute for Research and Evaluation (PIRE), has published the following model response costs recovery ordinance. This model ordinance can be the basis for a powerful new legal tool to deter underage drinking parties and other gatherings in communities throughout the county.

The model ordinance is drafted in a manner that addresses communities of diverse needs. It also accommodates the varied concerns of both the county’s unincorporated areas and incorporated cities. The text of the model ordinance may be modified easily to address these differences. For the county, the model ordinance is best placed as a new Article 12 to follow Article 11, *Loud or Raucous Nighttime Noise in Residential Zones* in Division 6, *Police Regulations*, of the Codified Ordinances of the County of Ventura.

Highlights

of the Model Social Host Liability Ordinance

- Recognizes that the occurrence of loud or unruly parties on private property where alcoholic beverages are served to, or consumed by, underage persons is harmful to the underage persons themselves, is a threat to public health, safety, quiet enjoyment of residential property and general welfare, and constitutes a public nuisance.
- Recognizes that persons responsible for the occurrence of loud or unruly parties on private property over which they have possession or control have a duty to ensure that alcoholic beverages are not served to, or consumed by, underage persons at these parties.
- Recognizes that landlords have a duty to prevent the occurrence of loud or unruly parties, including those where alcoholic beverages are served to, or consumed by, underage persons, on private property they lease to tenants, even if they do not have day-to-day, physical control of the property.
- Recognizes that law enforcement, fire, or other emergency responders often need to respond multiple times to disperse underage drinking parties, resulting in a disproportionate expenditure of the public safety resources on these parties, delaying police responses to regular and emergency calls, and reducing police calls to the rest of a community.
- Recognizes that cities and counties require a variety of enforcement strategies to abate underage drinking parties under varying circumstances and that present law constrains the ability of law enforcement to deter underage drinking parties and other gatherings.
- As a primary strategy for deterring underage drinking parties on private property, imposes a civil fee against social hosts (including tenants) and/or landowners (including landlords) for the recovery of specified costs associated with providing law enforcement, fire, or other emergency response services on multiple occasions to the scene of a loud or unruly party where alcoholic beverages are served to, or consumed by, underage persons.
- Provides option of imposing criminal penalties in cases of egregious circumstances or recalcitrant offenders.

Model Social Host Liability Ordinance

Section 1. Short Title.

This [Ordinance] shall be known as the “Model Social Host Liability Ordinance.”

Section 2. Legislative Findings.

The [city council/county board of supervisors] finds as follows:

(a) [The City of _____/County of Ventura], 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 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 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 underage service and/or consumption. 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 neither served to nor consumed by underage persons at these parties;

(d) Landlords have failed to prevent the occurrence or reoccurrence of loud or unruly gatherings, including those where alcoholic beverages are served to or consumed by underage persons, on private property they lease to tenants, which seriously disrupts the quiet enjoyment of neighboring residents;

(e) Problems associated with loud or unruly gatherings at which alcoholic beverages are served to or consumed by underage persons are difficult to prevent and deter unless the [City of ___ Police Department/Ventura County Sheriff’s Office] has the legal authority to direct the host to disperse the gathering;

(f) Control of 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;

(g) Persons held responsible for abetting or tolerating loud or unruly gatherings will be more likely to properly supervise or stop such conduct at gatherings held on property under their possession or control;

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

[Include this finding only if the legislative body intends to make allowing a loud or unruly gathering a strict liability offense. Do not include finding if legislative body intends to require that the offender “knowingly” allowed a loud or unruly gathering:]

(i) The intent of this Ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. An ordinance that imposes strict liability on property owners and other responsible persons for the nuisances created by loud and unruly gatherings is necessary to deter and prevent such gatherings. Persons who actively and passively aid, allow or tolerate loud or unruly gatherings shall be held strictly liable for the nuisances created by such gatherings and the costs associated with responding to such gatherings.

COMMENT

This section on findings describes the reasons of the city council or county board of supervisors for enacting a social host liability ordinance. The findings are included in the city council’s/county board of supervisors’ enactment of the ordinance. When the ordinance is codified in a city or county’s municipal code, the findings, in the discretion of the legislative body, may be excluded. On the other hand, findings such as Finding (i) should be included in the codified ordinance to clarify legislative intent with respect to other provisions of the ordinance.

Section 3. Purposes.

The purposes of this Ordinance are:

- (a) to protect public health, safety and general welfare;
- (b) to enforce laws prohibiting the service to and consumption of alcoholic beverages by underage persons; and
- (c) to reduce the costs of providing police, fire and other emergency response services to loud or unruly gatherings, by imposing a civil fee against social hosts and landowners (including landlords) for the recovery of costs associated with providing law enforcement, fire and other emergency response services to loud or unruly gatherings, including those where alcoholic beverages are served to or consumed by underage persons.

COMMENT

Findings and purposes provide guidance to courts interpreting legislative intent and publicly explain the goals and objectives of a city council or county board of supervisors in enacting the ordinance. (*Metromedia, Inc. v. City of San Diego* (1980) 26 Cal.3d 848, 858.)

Section 4. Definitions.

For the purposes of this Ordinance, the following terms shall have the following meanings:

- (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, 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) “Response costs” 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) 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 loud or unruly gatherings, and the administrative costs attributable to such response(s);

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;

3) the cost of repairing any [city/county] equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of a loud or unruly gathering.

(d) “Juvenile” means any person under eighteen years of age.

(e) “Underage person” means any person under twenty-one years of age.

(f) “Loud or unruly gathering” means a party or gathering of two or more persons at or on a residence or other private property upon which loud or unruly conduct occurs. Such loud or unruly conduct includes but is not limited to:

- 1) excessive noise;
- 2) excessive traffic;
- 3) obstruction of public streets or crowds that have spilled into public streets;
- 4) public drunkenness or unlawful public consumption of alcohol or alcoholic beverages;
- 5) service to or consumption of alcohol or alcoholic beverages by any underage person, except as permitted by state law;
- 6) assaults, batteries, fights, domestic violence or other disturbances of the peace;
- 7) vandalism;
- 8) litter; and
- 9) any other conduct which constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare.

A loud or unruly gathering shall constitute a public nuisance.

(g) “Responsible person” means a person or persons with a right of possession in the residence or other private property on which a loud or unruly gathering is conducted, including, but not limited to:

- 1) an owner of the residence or other private property;

2) a tenant or lessee of the residence or other private property;

3) the landlord of another person responsible for the gathering;

4) the person(s) in charge of the residence or other private property; and

5) the person(s) who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering.

If a responsible person for the gathering is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this Ordinance. To incur liability for response costs imposed by this Ordinance, the responsible person for the loud or unruly gathering need not be present at such gathering resulting in the response giving rise to the imposition of response costs. This Ordinance therefore imposes vicarious as well as direct liability upon a responsible person.

(h) “Residence or other private property” means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.

COMMENT

Section 4 provides definitions for the other sections of the Ordinance. The definitions help clarify the rights and obligations of owners, tenants, and other persons in control of the property on which a loud or unruly party occurs. The definitions of “alcohol” and “alcoholic beverages” are identical to the relevant definitions in state statute (Cal. Bus. & Prof. Code, § 23003, 23004).

Section 5. Responsibility for Proper Property Management.

Every owner, occupant, lessee or holder of any possessory interest of a residence or other private property within the [City of ___/County of Ventura] is required to maintain, manage and supervise the property and all persons thereon in a manner so as not to violate the provisions of this Ordinance. The owner of the property remains liable for such violations regardless of any contract or agreement with any third party regarding the property.

COMMENT

Section 5 provides that a property owner is liable for violating the ordinance (if certain conditions are met, described later in the ordinance). Under this provision, the owner can be held liable even if he/she has leased the property and does not have day-to-day responsibility for the property’s management.

[Note: At least one other jurisdiction outside California, the Town of Bloomsburg, Pennsylvania, not only has a recovery of response costs ordinance, but also has an ordinance requiring landlords to obtain a permit from the town before leasing rental properties to students.]

[This version of Section 6 is for Cities only:] Section 6. Penalties for Violation of Ordinance.

(a) It shall be an infraction for any responsible person to [knowingly] conduct, aid, allow, permit or condone a loud or unruly gathering at a residence or other private property.

(b) Fines.

1) A first violation of this Section shall be punishable by a \$250 fine.

2) A second violation of this Section at the same residence or other private property, or by the same responsible person, within a twelve month period shall be punishable by a fine of \$500.

3) A third or subsequent violation of this Section at the same residence or other private property, or by the same responsible person, within a twelve month period shall be punishable by a fine of \$1,000.

(c) The fines prescribed at subsection (b) are in addition to any response costs that may be assessed pursuant to this Ordinance.

(d) The second, third or subsequent violation fines prescribed at subsections (b)(2) and (b)(3) are payable whether or not the responsible person for such loud or unruly gathering is different from the responsible person for any prior loud or unruly gathering at the residence or other private property.

(e) The fine schedule prescribed at subsection (b) is a “rolling schedule” meaning that in calculating the fine payable the [Police Department or City Attorney shall count backward starting from the date of the most recent loud or unruly gathering to determine how many prior loud or unruly gatherings have taken place

at the residence or other private property in question during the statutory twelve month period. A warning given pursuant to this Ordinance shall remain in effect for the residence or other private property at a given address until a full twelve month period has elapsed during which there have been no response to a loud or unruly gathering at that residence or other private property.

(f) The fines set forth in this Section may be appealed pursuant to Section 10. The payment of any such fines shall be stayed upon any timely appeal.

COMMENT

This version of Section 6 should be included in city ordinances only. This section makes a violation of its terms an infraction. Infractions are crimes and public offenses. They are not punishable by imprisonment, however, and a person charged with an infraction is not entitled to a jury trial or to counsel appointed at public expense.

Even though the fines under this section would be prosecuted as criminal infractions, the prosecution would not have to prove criminal intent, that is, that the responsible person knew or should have known that he or she allowed a loud or unruly gathering. A violation of Section 7 should be deemed a strict liability infraction. Accordingly, if the legislative body chooses to make violation of this section a strict liability infraction, the word “knowingly,” appearing in brackets, would be omitted. In addition, Finding (i) in Section 2 would have to be included in the codified version of the ordinance to make clear that the legislative intent is to protect the public health, safety and welfare rather than to punish and that the ordinance imposes strict liability on property owners and other responsible persons for the nuisances created by underage drinking gatherings.

Some legislators may feel uncomfortable with an ordinance that does not require the prosecution to prove knowledge beyond a reasonable doubt under this section, particularly where the defendant is an absentee landlord or other property owner who was unaware of loud and unruly gatherings occurring on his/her property. In such case, the word “knowingly” could be included to require the prosecution to prove beyond a reasonable doubt, that the responsible person knew or should have known about the loud or unruly gatherings on his/her property.

In any event, imposition of response costs pursuant to Section 7 (see below) a fee imposed separate and apart from the fines and penalties imposed here under Section 6, would not require proof of criminal intent, that is, no proof of knowledge, since the recovery of response costs is

a strictly civil matter.

It should be noted that court proceedings of infractions are not lengthy; the matter may be resolved within a short number of months.

[This version of Section 6 is for the County Only:] Section 6. Penalties for Violation of Ordinance.

It is a violation of this Ordinance for any responsible person to conduct or allow a loud or unruly gathering at a residence or other private property. Such a violation subjects the responsible person to the fines and penalties set forth in Section 13112 of Division 13, *Abatement of Nuisances*, of the Codified Ordinances of the County of Ventura.

COMMENT

The county of Ventura has an enforcement scheme to abate public nuisances set forth in Division 13, *Abatement of Nuisances*, of the Codified Ordinances of the County of Ventura. Applying the administrative fines and penalties provisions of Section 13112 permits the county to impose administrative fines and penalties against responsible persons as a strict liability public nuisance offense, rather than as a criminal offense requiring proof of criminal intent (knowledge) beyond a reasonable doubt.

The fine under Division 13 initially is smaller than those infraction fines set forth in this model ordinance for cities. This is because the administrative fines under Division 13 are limited in amount by Government Code section 53069.4, which is incorporated by reference in Division 13.

Note: If this ordinance were enacted, additional changes to the rest of the county ordinance would be necessary, such as an expansion of the definition of “Enforcement Officer” in section 13050(b) of Division 13, to include emergency response providers.

Section 7. Recovery of Response Costs.

When law enforcement, fire or other emergency response provider responds to a loud or unruly gathering at a residence or other private property within the [City of ___/County of Ventura] within a twelve month period of a warning given to a responsible person for a loud or unruly gathering, all responsible persons shall be jointly and severally liable for the [city’s/county’s] costs of providing response costs for that response and all subsequent responses during the warning period.

When a law enforcement, fire or other emergency response

provider official makes an initial response to a loud or unruly gathering at a residence or other private property within the [City of ___/County of Ventura], the official shall inform any responsible person(s) for the gathering at the scene that:

- (a) The official has determined that a loud or unruly gathering exists; and
- (b) Responsible person(s) will be charged for any response costs required for subsequent responses to the scene for a loud or unruly gathering within a twelve month period.

Only one warning will be given to a responsible person(s) pursuant to this Section before the [City of ___/County of Ventura] assesses response services costs pursuant to *Section 7*. If a responsible person cannot be identified at the scene, the official may issue a warning to one or more persons identified in *Section (4)(g)* and/or subsequently return to the residence or other private property and issue the warning to a then-present responsible person. Warnings given to responsible persons who do not reside at the residence or other private property in question shall be delivered by first-class [and/or] certified mail.

COMMENT

The model ordinance sets forth a multi-tiered enforcement mechanism against responsible persons. With respect to cities at the first tier of enforcement, that is, at the first response stage, the responsible person would be held liable for a fine of \$250 for a first time infraction pursuant to *Section 6*. With respect to the county, the responsible person would be held liable for a fine of \$100 pursuant to the fines and penalties set forth in *Section 13112 of Division 13, Abatement of Nuisances, of the Codified Ordinances of the County of Ventura*. At the first tier of enforcement, the responsible person would not be liable for recovery of response costs.

With respect to cities and the county at the second tier of enforcement, that is, when emergency response providers are required to make a follow-up call to either the same gathering or another gathering within 12 months at the same location, the responsible person would be held liable for an increased fine and, in addition, for response costs. For a third or subsequent response to either the same gathering or another gathering within 12 months at the same location, the responsible person would be held liable for an even larger fine, as well as for additional response costs.

Section 7 sets forth the conditions under which a responsible person shall be held liable for the recovery of response costs. This occurs when (1) an emergency

response provider conducts a first response to the residence or other private property and determines that a loud or unruly gathering exists; (2) the emergency response provider gives a first warning to the responsible person; and (3) an emergency response provider conducts a subsequent response and either the loud or unruly gathering has not abated or another loud or unruly gathering is occurring at the residence or other private property.

An emergency response provider's determination that a loud or unruly gathering exists includes, but is not limited to, evidence that an underage drinking gathering is or was underway, in the form of the responding provider's personal knowledge or eyewitness accounts of third parties. Such evidence could include evidence of: underage persons fleeing the host's residence, presence of used or unused kegs, bottles, and cans, vehicles on the property not belonging to the host, complaints from neighbors, and property damage.

Legislative bodies should determine whether twelve months gives law enforcement sufficient time to enforce this Ordinance, especially against repeat offenders.

Recovery of response costs is a civil matter. Therefore, response costs recovery are imposed as a strict liability public nuisance offense, rather than as a criminal offense requiring proof of criminal intent (knowledge) beyond a reasonable doubt.

Section 8. Billing and Collection.

The amount of response costs shall be deemed a debt owed to the local entity by the responsible person held liable in *Section 7* for the loud or unruly gathering and, if a juvenile, by the juvenile's parents or guardians. Any person owing such costs shall be liable in a civil action brought in the name of the city for recovery for such fees, including reasonable attorney fees.

Notice of the costs for which the responsible person is liable shall be mailed via first-class [and/or] certified mail within 14 days of the response giving rise to such costs. The notice shall contain the following information:

- (a) the name of the person(s) being held liable for the payment of such costs;
- (b) the address of the residence or other private property where the loud or unruly gathering occurred;
- (c) the date and time of the response;
- (d) the law enforcement, fire or emergency service

provider who responded;

(e) the date and time of any previous warning given pursuant to *Section 7* and/or previous responses to loud or unruly gatherings at the residence or other private property in question within the previous twelve months; and

(f) an itemized list of the response costs for which the person(s) is being held liable.

The responsible person must remit payment of the noticed response costs to the [City Clerk/City Manager/Billings and Collections Division of the City of ___/County of Ventura] within thirty days of the date of the notice. The payment of any such costs shall be stayed upon a timely appeal made pursuant to *Section 10*.

COMMENT

The billing mechanism that should be applied depends in part on the billing system already in place in the specific jurisdiction. Most jurisdictions have in place ordinances that set forth the procedures for administrative billing and fines. Reference should be made to those procedures, and the ordinances that provide for them, in *Section 8* when this model ordinance is tailored to a specific jurisdiction. If such procedures do not exist in the jurisdiction, such procedures should be included in *Section 8*.

Section 9. Reservation of Legal Options.

Nothing in this Ordinance shall be construed as a waiver by the [City of ___/County of Ventura] of any right to seek reimbursement for actual costs of response services through other legal remedies or procedures, including [*for County ordinance only: Loud or Raucous Nighttime Noise in Residential Zones, Article 11 of Chapter 2, Division 6 of the Ventura County Ordinance Code*]. The procedure provided for in this Ordinance is in addition to any other statute, ordinance or law, civil or criminal. This Ordinance in no way limits the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this Ordinance.

COMMENT

Section 9 provides that the [City of ___/County of Ventura] does not waive its rights to seek reimbursement through other available legal means and that the ordinance does not restrict law enforcement in making arrests for any criminal offenses arising from the underage drinking event. With respect to the former, this provision ensures that a city or county would not be precluded from bringing an action for

public nuisance based on the same set of facts giving rise to a violation of the underage party ordinance.

Section 10. Appeals.

Any person upon whom is imposed a fine/penalty pursuant to *Section 6* and/or response costs recovery fees pursuant to *Sections 7* and *8* shall have the right to appeal the imposition of such fine/penalty or fees to the local jurisdiction pursuant to the procedures established by the local jurisdiction for appealing the abatement of public nuisances.

COMMENT

Due process arguably requires some administrative appeal procedure for both the imposition of fines/penalties and response costs. As with *Section 8*, regarding Billing and Collection, the appeal section should reference the existing administrative appeal process in the particular jurisdiction. For example, in the County of Ventura, reference should be made here to 13102, *Hearing on proposed abatement and imposition of administrative fines/penalties*, of the Codified Ordinances of the County of Ventura. If no appeal process exists in the jurisdiction, the procedures for such a process and hearing should be set forth in *Section 10*.

Section 11. Severability.

If any provisions of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Section 12. Effective Date.

This Ordinance shall take effect on _____

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Appendix

RELEVANT CALIFORNIA STATE STATUTES (AS OF SEPTEMBER 1, 2005)

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

(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 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 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 not exceeding 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, who sell 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 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 under any other provision of law, including, but not limited to, Section 272 of the Penal 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

(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.

SAMPLE CALIFORNIA ORDINANCES (AS OF SEPTEMBER 1, 2005)

CITY OF BERKELEY

CHAPTER 13.48 CIVIL PENALTIES FOR MULTIPLE RESPONSES TO LOUD OR UNRULY PARTIES, GATHERINGS OR OTHER SIMILAR EVENTS

Section 13.48.010 Findings and purpose.

This chapter is enacted for the following public purposes among others:

A. Due to inadequate supervision, some large gatherings of people, such as parties, frequently become loud and unruly to the point that they constitute a threat to the peace, health, safety, or general welfare of the public as a result of conduct such as one or more of the following: excessive noise, excessive traffic, obstruction of public streets or crowds who have spilled over into public streets, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, and litter.

B. The City of Berkeley (hereafter "City") is required to make multiple responses to such unruly gatherings in order to restore and maintain the peace and protect public safety. Such gatherings are a burden on scarce City resources and can result in police responses to regular and emergency calls being delayed and police protection to the rest of the City being reduced.

C. In order to discourage the occurrence of repeated loud and unruly gatherings, the persons responsible for the public nuisance created by these gatherings should be fined. (Ord. 6182-NS § 1, 1993)

Section 13.48.020 Loud or unruly gatherings--Public nuisance.

It shall be unlawful and a public nuisance to conduct a gathering of ten or more persons on any private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, as a result of conduct constituting a violation of law. Illustrative of such unlawful conduct is excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, litter. A gathering constituting a public nuisance may be abated by the City by all reasonable means including, but not limited to, an order requiring the gathering to be disbanded and citation and/or arrest of any law violators under any applicable local laws and state statutes such as: Berkeley Municipal Code ("BMC") Chapter 13.40 et seq. (Community Noise), BMC Chapter 13.36 et seq. (Disorderly Conduct/Obstruction of Public Way), Penal Code Sections 415 and 416 (Breach of the Peace); BMC Chapter 12.40 et seq. and Penal Code Section 374 et seq. (Litter); Penal Code Section 647 (Public Intoxication/Obstruction of Public Way); Bus. & Prof. Code Section 25658 (Selling Alcohol to Minors), Vehicle Code Section 23224 (Possession of alcoholic beverage in vehicle, persons under 21); BMC Chapter 13.68 et seq. (Carrying Dangerous Weapons), Penal Code Section 12020 et seq. (Unlawful Carrying and Possession of Concealed Weapons). (Ord. 6182-NS § 2, 1993)

Section 13.48.030 Notice of unruly gathering--Posting, mail.

A. Posting of Premises. When the City intervenes at a gathering which constitutes a nuisance under this chapter, the premises at which such nuisance occurred shall be posted with a notice substantially in the form attached hereto as Exhibit "A"* stating that the intervention of the City has been necessitated as a result of a public nuisance under this chapter caused by an event at the premises, the date of the police intervention, and that any subsequent event within a sixty-day period therefrom on the same premises, which necessitates City intervention, shall result in the joint and several liability of any guests causing the public nuisance, or any persons who own or are residents of the property at which the public nuisance occurred, or who sponsored the event constituting the public nuisance as more fully set forth in Sections 13.48.040--13.48.060 below. The residents of such property shall be responsible for ensuring that such notice is not removed or defaced and shall be liable for a civil penalty of one hundred dollars in addition to any other penalties which may be due under this section if such notice is removed or defaced, provided, however, that the residents of the house of sponsor of the event, if present, shall be consulted as to the location in which such notice is posted in order to achieve both the security of the notice and its prominent display.

B. Mailing of Notice to Property Owner. Notice of the event shall also be mailed to any property owner at the address shown on the City's property tax assessment records and shall advise the property owner that any subsequent event within sixty days on the same premises necessitating City intervention shall result in liability of the property owner for all penalties associated with such intervention as more particularly set forth below. (Ord. 6182-NS § 3, 1993)

* Exhibit A, referred to herein, may be found at the end of this Chapter 13.48.

Section 13.48.030A Exhibit A.

EXHIBIT A

(Section 13.48.030A)

IMPORTANT NOTICE REGARDING

PUBLIC NUISANCE

PURSUANT TO ORDINANCE NO. _____ -N.S., AS A RESULT OF A PRIOR DISTURBANCE AT PREMISES,
THE NEXT DISTURBANCE WILL RESULT IN CIVIL PENALTIES IMPOSED UPON ALL PARTICIPANTS AND
SPONSORS OF THE EVENT, AND ALL PROPERTY OWNERS OF THE PREMISES.

NOTICE IS HEREBY GIVEN THAT, pursuant to Ordinance No. _____ -NS. on _____, 199____, at _____ a.m./p.m., the Berkeley Police Department found that a public nuisance caused by a disturbance of the public peace and/or threat to public safety occurred at the premises located at _____. If there is a subsequent event on these premises which constitutes such a public nuisance and necessitates the intervention of the Police Department on or before _____, (count 60 days from the date of first police intervention) every participant in and sponsor of such event, and the owner of the premises, shall be jointly and severally liable for the civil penalties connected with this response as set forth in Ordinance No. _____ -N.S.

(Signature of Officer issuing notice)

(Name of Officer)

(Title of Officer) (Phone Number)

199 ____;

Date issued Case Number

Section 13.48.040 Persons liable for a subsequent response to a gathering constituting a public nuisance.

If the City is required to respond to a gathering constituting a public nuisance on the same premises more than once in any sixty-day period, the following persons shall be jointly and severally liable for civil penalties as set forth in Sections 13.48.050 below, in addition to liability for any injuries to City personnel or damage to City property.

A. The person or persons who own the property where the gathering constituting a public nuisance took place, provided that notice has been mailed to the owner of the property as set forth herein and the gathering occurs at least two weeks after the mailing of such notice. For purposes of this subsection, where a gathering takes place within the confines of a single unit in a building owned by a housing cooperative, the owner of the property shall be deemed to be the owner of the single unit and not the members of the housing cooperative in general. Where the gathering took place in the common area of a building owned by a housing cooperative, only the members of the cooperative owning units in the building where the gathering took place shall be deemed the owners of the property for purposes of this subsection. Other members of the housing cooperative may still be liable if they fall within the categories of person made liable by Section 13.48.040, subsections B., C., or D., below.

B. The person or persons residing on or otherwise in control of the property where such gathering took place.

C. The person or persons who organized or sponsored such gathering.

D. All persons attending such gathering who engaged in any activity resulting in the public nuisance.

E. Nothing in this section shall be construed to impose liability on the resident or owners of the premises or sponsor of the gathering, for the conduct of persons who are present without the express or implied consent of the resident or sponsor, as long as the resident and sponsor have taken all steps reasonably necessary to exclude such uninvited participants from the premises. Where an invited guest engages in conduct which the sponsor or resident could not reasonably foresee and the conduct is an isolated instance of a guest at the event violating the law which the sponsor is unable to reasonably control without the intervention of the police, the unlawful conduct of the individual guest shall not be attributable to the sponsor or resident for the purposes of determining whether the event constitutes a public nuisance under this section. (Ord. 6182-NS § 4, 1993)

Section 13.48.050 Schedule of civil penalties.

A. Civil penalties shall be assessed against all persons liable for the City's intervention to abate a gathering constituting a public nuisance as follows:

1. For the second response in any sixty day period the penalty shall be the total sum of five hundred dollars.
2. For the third response in any sixty day period the penalty shall be the total sum of one thousand dollars.
3. For any further response in any sixty day period the penalty shall be the total sum of one thousand five hundred dollars for each such further response.
4. The penalties that are provided herein shall be in addition to any other penalties imposed by law for particular violations of law committed during the course of an event which is a public nuisance under this ordinance, provided however, that if the only violation of law which constituted the public nuisance under this chapter is excessive noise, the remedies provided under this chapter shall be exclusive of any other remedies provided by law to the City for such excessive noise.

B. The City shall bill all persons liable for the penalties by mail by sending a letter in substantially the form attached hereto as Exhibit "B".* Payment of the penalties shall be due within thirty days of the date the bill is deposited in the mail. If full payment is not received within the required time for payment, the bill will be delinquent, and all persons liable for the penalties shall be charged interest at the maximum legal rate from the date the payment period expires and a further civil penalty in the amount of one hundred dollars. (Ord. 6182-NS § 5, 1993)

* Exhibit B, referred to herein, may be found at the end of this Chapter 13.48.

Section 13.48.050B Exhibit B.

EXHIBIT B

(Section 13.48.050B)

Date:

To:

Dear:

The City of Berkeley was required to abate the public nuisance caused by a gathering of ten or more persons at (location of property) _____, which substantially disrupted the quiet enjoyment of property in a significant segment of the adjacent neighborhood. This is the (second/third/fourth, etc.) such public nuisance at this property within the last sixty (60) days and thus a penalty of _____ \$550.00, \$1,000.00, etc.) is imposed on you. If you fail to remit this fine to the City of Berkeley by _____ (30 days later) you will be liable for an additional \$100.00 penalty, plus interest. The payment should be remitted to the address listed below.

Your liability is based on the fact that you were:

☐ An owner of the property to whom was sent prior notice of a public nuisance at the property within the previous 60 days; and/or

☐ A person who resides on or is otherwise in control of the property where the public nuisance took place; and/or

☐ A person who organized or sponsored the event creating the public nuisance at such property; and/or

☐ A person who attended the event constituting the public nuisance at such property and engaged in the conduct which resulted in the public nuisance.

If you believe that you are not liable you may defend this claim in the civil action which the City of Berkeley will file against you upon your failure to remit the penalty. You should be aware, however, that if you fail to prevail in that action you will be liable for the additional penalty of \$100/- and interest on the total penalties.

Sincerely yours,

(Name, title, address and phone number of signatory)

Section 13.48.060 Collection of delinquent costs for a subsequent City response.

A. The penalties assessed as a result of a subsequent City response to a loud or unruly gathering shall constitute a debt of all persons liable for the penalties in favor of the City and may be collected in any manner authorized by law and are recoverable in a civil action filed by the City in a court of competent jurisdiction. The remedies provided by this chapter are in addition to all other civil and criminal remedies available to the City with respect to the unlawful conduct constituting the public nuisance which gave rise to the need for the City response under this chapter.

B. The City of Berkeley may also collect the fees assessed against the owner of the property as provided in Ordinance No. 6156-N.S., The Recovery of Costs for Abatement of Nuisances Ordinance (BMC Chapter 1.25). (Ord. 6182-NS § 6, 1993)

Section 13.48.070 Nondiscrimination against students.

This chapter shall not be enforced in a manner which targets property housing students. Nothing in this section shall preclude the City from setting priorities in the use of its resources by enforcing this chapter against the events that are the most disruptive or against properties at which disruptive events are held most often or on the basis of other similar legitimate factors. (Ord. 6182-NS § 7, 1993)

CITY OF SANTA CRUZ

Chapter 9.37 CHARGES FOR SPECIAL SECURITY SERVICES AT LOUD OR UNRULY GATHERINGS

9.37.010 DEFINITIONS.

The following terms used in this chapter shall have the meanings set forth in this section.

(a) "Responsible person(s)" shall mean a person(s) with a right of possession in the property on which a loud or unruly gathering is conducted, including, but not limited to, an owner or tenant of the property if the gathering is on

private property, or a permittee if the gathering is a permitted gathering on public property, or any person(s) accepting responsibility for such a gathering. "Responsible person" shall additionally include the landlord of another responsible person and the parents and/or legal guardians of responsible persons under the age of 21 years. To incur liability for special security service charges imposed by this chapter the responsible person need not be present at the loud or unruly gathering resulting in the emergency response giving rise to the imposition of special security service charges. This chapter therefore imposes vicarious as well as direct liability upon responsible persons.

(b) "Special security services" shall mean the provision of any police, fire or other emergency response service to a loud or unruly gathering within twelve months of a first response as provided in this chapter.

(c) "Loud or unruly gathering" shall mean a gathering of two or more persons on private property or a permitted gathering of two or more persons on public property whose loud or unruly conduct constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare, including violations of Chapter 9.36. This term excludes incidents of domestic violence. A loud or unruly gathering shall constitute a public nuisance.

(Ord. 2005-20 § 1, 2005: Ord. 89-03 § 1, 1989).

9.37.020 RESPONSE TO LOUD OR UNRULY GATHERINGS.

When a police officer responds to a first loud or unruly gathering at premises in the city with a given address, the officer shall inform any responsible person at the scene that:

(a) The officer has determined that a loud or unruly gathering exists; and

(b) Responsible persons will be charged for the cost of any special security services required for subsequent responses to the scene within the next twelve months.

Only one warning will be given pursuant to this section before the city assesses special security service costs pursuant to Section 9.37.030. If a responsible person cannot be identified at the scene, the police department may issue a warning to one of the other responsible persons identified in Section 9.37.010(a) or subsequently return to the scene and issue the warning to a then-present responsible person. Warnings given to responsible persons who do not reside at the premises in question shall be delivered by certified mail.

(Ord. 2005-20 § 2, 2005: Ord. 89-03 § 1, 1989).

9.37.030 COST RECOVERY FOR SPECIAL SECURITY SERVICES.

When the police department or fire department or other city emergency responder responds to a loud or unruly gathering at premises with a given address in the city within twelve months of a warning given to a responsible person for those premises pursuant to Section 9.37.020, or while any such warning remains in effect pursuant to Section 9.37.050, all responsible persons shall be jointly and severally liable for the city's costs of providing special security service for that response and all subsequent responses during that warning period.

(Ord. 2005-20 § 3, 2005: Ord. 89-03 § 1, 1989).

9.37.040 BILLING AND COLLECTION.

Charges for special security service shall include a reasonable charge for the emergency responder's time and actual costs of any equipment used or damaged in connection with the response, together with an additional thirty-three percent of the special security charge for administrative overhead. These charges shall be computed and a bill submitted to the responsible person(s). The chief of police shall promulgate notice and billing procedures for this purpose. The bill shall be a debt owed to the city and failure to pay that bill within thirty days is a violation of this code. If the city is obliged to initiate litigation or other proceedings authorized by Title 4 of this code to recover this debt, the responsible person shall be liable for:

(a) Costs of suit;

(b) Attorney's fees; and

(c) Costs of collection.

(Ord. 2005-20 § 4, 2005: Ord. 89-03 § 1, 1989).

9.37.050 VIOLATIONS/FINES.

(a) It shall be an infraction for a responsible person to conduct or allow a loud or unruly gathering on premises owned

by the responsible person or on premises rented by or to the responsible person. A third or subsequent violation within a twelve-month period shall constitute a misdemeanor.

(b) Fines.

(1) A first violation of this Section shall be punishable by a \$250 fine.

(2) A second violation of this section at a given address in the city within a given twelve-month period shall be punishable by a fine of \$500.

(3) A third or subsequent violation of this section at a given address in the city within a given twelve-month period shall be punishable by a fine of \$1,000.

(c) The fines prescribed at subsection (b) are in addition to any special security service charges that may be assessed pursuant to this chapter.

(d) The second, third or subsequent violation fines prescribed at subsections (b)(2) and (b)(3) are payable whether or not the responsible person at the time of the current loud or unruly gathering is the same person who was the responsible person for any prior loud or unruly gathering at those premises.

(e) The fine schedule prescribed at subsection (b) is a “rolling schedule” meaning that in calculating the fine payable the police department or city attorney shall count backward starting from the date of the most recent loud or unruly gathering to determine how many prior loud or unruly gatherings have taken place at the premises in question during the statutory twelve month period. A warning given pursuant to Section 9.27.020 shall remain in effect for the premises at a given address until a full twelve-month period has elapsed during which there have been no loud or unruly gatherings at those premises.

(Ord. 2005-20 § 5, 2005).

9.37.060 SERVICE OF ALCOHOLIC BEVERAGES TO MINORS.

The city council hereby finds that the service of alcohol to minors at loud and unruly gatherings and the consumption of alcohol by minors at loud or unruly gatherings has in the past and continues to pose a threat to the health and safety of all persons who reside in the city and also causes significant disruption of city residents’ quiet enjoyment of their households, especially in the city’s residential neighborhoods. In addition, such conduct on behalf of persons who serve alcohol to minors and minors who consume alcohol at loud or unruly gatherings results in the expenditure of a disproportionate percentage of the city’s police, fire and public safety resources which are underwritten primarily by general municipal taxes paid to the city by its taxpayers and residents. It is therefore the policy of the city council that in responding to loud or unruly gatherings, the city police department shall strictly enforce any and all applicable state laws pertaining to the service of alcohol to minors, and the consumption of alcohol by minors, and with respect to minors in possession of alcohol, the police department shall establish a “no tolerance” protocol by which the police department contacts, or causes the minor’s school to contact, the minor’s parents or legal guardians whenever the minor is found to be in possession of alcohol or narcotics or found to be intoxicated at a loud or unruly gathering. Where the minor’s school has an internal student disciplinary office any such incident shall likewise be reported to that office.

(Ord. 2005-20 § 6, 2005).

CITY OF SANTA ROSA

Chapter 10-28 MINOR ALCOHOL OFFENSE/LOUD PARTIES

10-28.010 Title.

The title of this chapter shall be “Minor Alcohol Offense/Loud Parties.” (Ord. 1999 § 1 (part), 1992)

10-28.020 Definitions.

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

(A) “Juvenile” means any minor child under the age of 18 years old.

(B) “Minor” means any person, under the age of 21 years old.

(C) “Party, gathering or event” means a group of persons who have assembled or are assembling for a social occasion or a social activity.

(D) “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 party, gathering or event takes place;

(2) The person in charge of the premises;

(3) The person who organized the event.

If the person responsible for the event is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the costs incurred for police services pursuant to this chapter.

(E) "Police services" means and includes the salaries and benefits of the Police Officers for the amount of time actually spent in responding to, or in remaining at, the party, gathering or event and the administrative costs attributable to the incident; the actual costs of any medical treatment to injured Officers; the cost of repairing any damaged City equipment or property; and the costs arising from the use of any City equipment in responding to or remaining at a party, gathering or event. (Ord. 2999 § 1 (part), 1992)

10-28.030 Unlawful gatherings on private property when alcohol is served to minors.

Except as permitted by Article I, Section 4, of the California Constitution, no person shall suffer, permit, allow or host a party, gathering or event at his or her place of residence or other private property, place or premises under his or her control where five or more persons under the age of 21 are present and alcoholic beverages are in the possession of, or are being consumed by, any person under the age of 21 years. (Ord. 2999 § 1 (part), 1992)

10-28.040 Police services at parties, gatherings or events requiring a second response.

When any party, gathering or event occurs on private property and a police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the person(s) responsible for the event will be held liable for the cost of providing police services during a second or follow-up response by the police, after a first warning to the person(s) responsible for the event to control the threat to the public peace, health, safety or general welfare. (Ord. 2999 § 1 (part), 1992)

10-28.050 Unsupervised possession of alcohol unlawful.

Except as permitted by state law, no person under the age of 21 years shall have in his or her possession, or consume, any alcoholic beverage at any place not open to the public, unless that person is being supervised by his or her parent or legal guardian. (Ord. 2999 § 1 (part), 1992)

10-28.060 Police service fees.

The amount of police service fees shall be deemed a debt owed to the City by the person responsible for the event and, if juveniles, their parents or guardians. Any person owing such fees shall be liable in an action brought in the name of the City for recovery for such fees, including reasonable attorney fees. (Ord. 2999 § 1 (part), 1992)

Useful Websites

Alcohol Policy Information System. Hosting Underage Drinking Parties: Criminal Liability.

http://alcoholpolicy.niaaa.nih.gov/index.asp?SEC={8BECDA97-22E1-4D4F-9CAAF70CA490CE27}&Type=BAS_API.

Connecticut Coalition to Stop Underage Drinking. Changing Policy: Ordinance Against Underage Drinking. http://www.preventionworksct.org/ctcoal_chgppl/ctcoal_ordinance.html

Accessed 9/1/05.

San Diego County Policy Panel on Youth Access to Alcohol. The San Diego County Social Host Movement: A Case Study.

<http://www.alcoholpolicypanel.org/PDF/Social%20Access%20Case%20Study%202004.pdf>

Accessed 9/1/05



Ventura County Behavioral Health Department
300 North Hillmont Avenue, Ventura, California 93003

www.venturacountylimits.org

2006 SIG Grantee
Learning Community Conference





Media Campaigns:
 Their Role in Alcohol Prevention



Jim Brady
 Brady & Associates






**SIG Grantee
 Learning Community
 Conference 2006**

Conference Objectives


- Gain better understanding of the value and components of a media campaign plan
- Confirm understanding of the differences in media campaigns and media advocacy
- Identify the process of successful media campaigns.



**SIG Grantee
 Learning Community
 Conference 2006**


Social Marketing:
A Definition

“A process for influencing human behavior on a large scale, employing the principles and tools used by commercial marketers, for the purpose of societal benefit rather than commercial profit”




Media Advocacy: A Definition

“A process for influencing human behavior to support public policy objectives and/or stimulate participation from issue advocates. Strategies can include advertising, media relations, community outreach and political lobbying.”




Media Campaigns Guidelines

- KABB Model – Best theoretical construct
- Intensive campaign periods better than spreading campaign over time
- Clear SM Plan and Timeline
- Clearly defined strategies and tactics best suited to reach target audiences
- Build evaluation into campaign design




Campaign Components: Defining Terminology

- Goals
- Objectives
- Strategies
- Tactics




Media Campaigns Key Components

- Who are our primary targets?
- What strategies/tactics might best reach targets?
- What are our key messages?
- How does a media campaign best integrate with other prevention elements?
- How do we best reach the “gatekeepers” for integrating into the campaign and informing them of the progress?



Media Campaigns Key Components

- Advertising
- Public Relations
- Community Marketing
- Media Relations and Media Advocacy




Campaign Steps: Research

- Understand selected target segment: needs, wants, hopes, fears, knowledge, attitude, behavior, perceived risk
- Research behavioral determinants of desired behavior for selected target segment




Campaign Steps:
Development

- Set behavioral objectives for each selected target audience
- Design specific interventions for each selected segment
- Determine the “marketing mix”
- Pre-test all products, services and messages



Campaign Steps:
Implementation

- Train and motivate front line staff
- Produce media products and execute strategies and tactics
- Refine product/program and materials as mid-course monitoring data suggests



Campaign Steps:
Evaluation

- Conduct process and outcome evaluation linked to behavioral objectives:
 - Did you reach target audience?
 - Did program have an impact?
 - Did desired outcome occur, why/why not?
- Revise evaluation plans and models in accordance with program changes?

12

MEDIA ADVOCACY

- ◆ Is the STRATEGIC use of NEWS MEDIA as a resource for advancing a social or public policy initiative.

3

PRINCIPLES OF MEDIA ADVOCACY

- ◆ Community organizing, public policy & news media together
- ◆ Media Advocacy does not function in isolation of clear policy goals and a strong community voice.

6

WHY USE MEDIA ADVOCACY?

- Puts your issue “on the map” with the public decision makers.
- Empowers your coalition and attracts new partners.
- Injects your “frame” or “spin” on the issue into the debate.
- Generates attention and discussion around the problem / solution.

PAID VS. “EARNED MEDIA”

- You earn access to news media with your work. Time is money, but relatively cheap for priceless coverage achieved.
- Paid ads can be useful springboards.
- Free media — PSAs —offer little control for timing or content with no guarantees about when it’s aired or who sees it.

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CAN YOU SEE YOUR STORY HERE?

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MEDIA ACCESS ROUTES

ALL TYPES OF NEWS OUTLETS

- **Print, Broadcast**
- **Mainstream, Ethnic, Campus and more**
 - News Event
 - News Conference
 - News Event Announcement / News Advisory

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Media Advocacy Campaign Planning

- ◆ Climate/backdrop stories can help, but clearly not sufficient
- ◆ Public debate needed
 - Controversy is built in
 - Framing essential
- ◆ Readiness critical
 - Message, spokespeople, data, diversity

STRATEGY DEVELOPMENT

1. What is the problem?
2. What is the solution?
3. Who has the power to make the change?
4. Who must be mobilized to apply pressure for change?
5. What message would convince those with power to act for change?

TARGETS

◆

Behavior or Policy?

Media Advocacy fits the developmental nature of your campaign work...but focused on ultimate goals to establish and use policy tools

40

WHO'S THE
TARGET?

NARROWCAST

BROADCAST MESSAGES AREN'T ALWAYS EFFECTIVE.

Know what mediums will capture your target

Elected Officials= Opinion Pages

**Media Campaign Approaches
in Alameda County**

SIG Learning Community Conference
March 2006

Presented by:
Tracy Hazelton, SIG Coordinator, Beth Van Dyke, Berkeley Student Coordinator and
Emer Cunningham, UCB Student Workgroup member

Overview

- **Target:** 18-25 year old college students at UC Berkeley and Cal State East Bay (Hayward)
- **Model Programs:** Berkeley-Community Trials
Cal State-Challenging College Alcohol Abuse
- Both projects are utilizing media approaches in combination with other strategies to reduce binge/high risk drinking and other negative effects.
- **Berkeley** using media campaign to influence change at the **environmental level** compared to **Cal State** which is using a social norms campaign to influence change on an **individual level**.

Social Norms Campaign-Cal State East Bay

- Target: students living in the on-campus residential apartments (dorms).
- Campaign will be piloted in Spring, retooled in the Summer (if needed) and fully implemented in Fall 2006.
- Peer health educators and a consultant will design and test campaign messages.
- Evaluation of campaign will include pre/post testing and focus groups.

Experiences in Developing the Social Norms Campaign

- Achievements
- Barriers
- Lessons Learned

Media Campaign-UC Berkeley

- The campaign is being designed to influence change at the environmental level. It's being developed by a UCB student workgroup with assistance from a media consultant.
- Multiple target groups include: bar owners, servers, neighborhood residents, Berkeley Police Department, etc.
- Media advocacy pieces of the campaign will begin in April, for Alcohol Awareness Month, with other components being developed and implemented in Fall 2006.

Experiences in Developing the Media Campaign

- Achievements
- Barriers
- Lessons Learned

*****ACTION ALERT*****

Say NO to the Hayward Planning Director who proposes to severely weaken the Alcoholic Beverage Outlet Regulation. The Planning Director wants to:

1. **ELIMINATE** the Conditional Use Permit process for restaurants that have a separate bar. The City wants to encourage more restaurants WITH bars to serve distilled spirits.
2. **ELIMINATE** the 500 ft. distance requirement between alcohol outlets. This will enable the City to add more alcohol outlets.
3. Have **NO LIMIT** on the number of on-sale and off-sale establishments in the downtown area.
4. **PROHIBIT** any public input on whether a new off-sale liquor outlet should go into a neighborhood that is already over concentrated with alcohol outlets.
5. Add Performance Standards **ONLY** for new licenses. These performance standards **DO NOT** include No sales to minors, the most frequent ABC violation!

What are the actual problems?

- In 2004 the Hayward Police Department made over 150 arrests for ABC violations at Hayward alcohol establishments (including restaurants), at a cost of \$100,000+/annually.
- There are NO MINIMUM Performance Standards required of Hayward's 232 alcohol establishments. Sales to Minors is one of the BIGGEST problems impacting the community.
- There are several neighborhoods in Hayward with an over concentration of alcohol outlets (according to state ABC).
- An alcohol license is the only license issued by the State of California that doesn't require any form of education.
- Hayward community members do not have the opportunity to provide input at public hearings about whether there is public convenience and necessity for a new alcohol outlet (including large stores like Dollar Store and Target) in over concentrated neighborhoods.

What the City Council should Do:

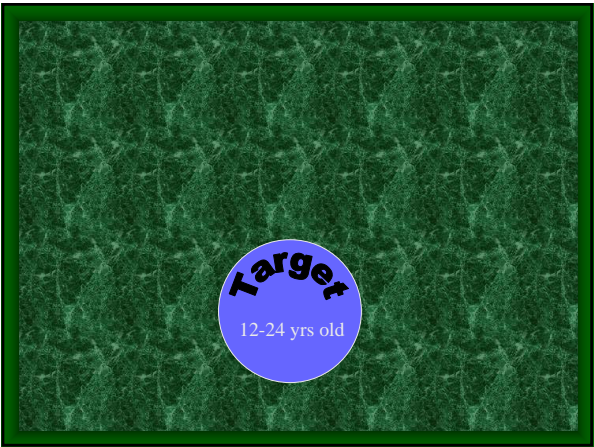
1. **Vote No** to the Planning Director's recommendations – keep the CUP intact.
2. Establish MINIMUM Performance Standards (including no sales to minors) for ALL of Hayward's 232 alcohol establishments.
3. Allow public hearing to determine Public Convenience & Necessity when an application for a new alcohol establishment is in an over concentrated neighborhood.
4. Establish a fee for the alcohol establishments to pay for enforcement and education. Why should Hayward residents pay for enforcement of the alcohol establishments? Enforcement without cost recovery takes HPD away from other crime prevention and crime reduction, such as car break-ins.

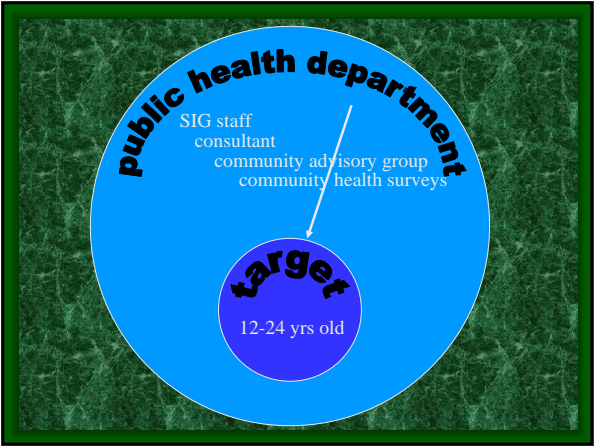
Other cities are strengthening their alcoholic beverage outlet regulations to make their communities safer, and requiring the alcohol establishments to pay for police services they incur, however the City of Hayward is doing the exact opposite!

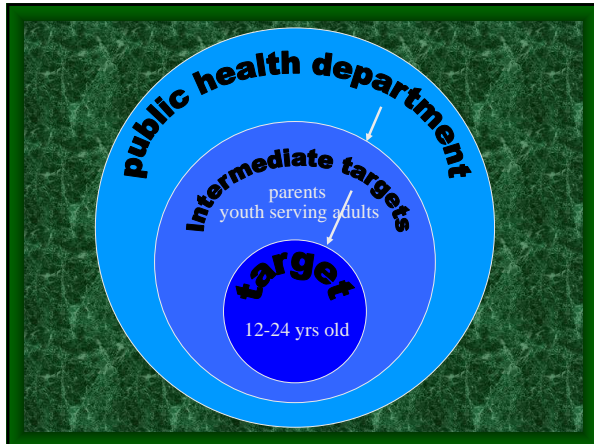
Please express your opposition to the proposed Planning Dept. changes to the Alcoholic Beverage Outlet Regulations, by:

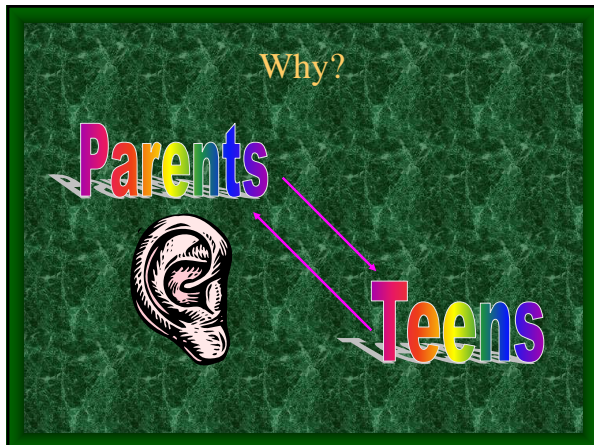
1. Providing testimony at the City Council hearing on **January 17, 2006 at 8:00 pm at 777 B Street**
2. Writing a letter to the Hayward City Council expressing your opposition
3. Attending the *Hayward Citizens for Responsible Liquor Outlets* meeting on January 11, 2006 at 6:00pm at the CommPre office located at 22652 Second St. Hayward.











- ### 4 Intermediate Targets
- Work Place
 - County government
 - City governments
 - Business Associations
 - Chambers of Commerce
 - Employers Council
 - Wine growers association
 - Unions

Intermediate Targets (con't)

- Health Care Providers
 - Private Practice MDs, DCs
 - Home Health Agencies (visiting RNs)
 - Local medical society newsletter
 - Hospital ER waiting rooms
 - Rural health clinics

Intermediate Targets (con't)

- Community based organizations
 - Family resource centers
 - Youth serving non-profit agencies
 - Youth serving coalitions
 - Tribal Organizations

Intermediate Targets (con't)

- Schools
 - PTAs, back-to-school nights
 - Alternative schools
 - Middle and High Schools
 - County Office of Education
 - court & community schools
 - Gang Coalition

TOOLS

- **TV Spots** – local cable stations
 - two 30-second spots
 - three 15-second spots
- **Parent Kits**
 - Brochures
 - Tip cards
- **Business and Community Kits**
 - Posters
 - Counter displays
- **Portable display for community events, fairs...**

MORE TOOLS

- Direct Mailing
- Bus posters
- Mass Media
 - Newspapers (editorials, news articles)
 - Radio (PSAs, interviews, news reporting)
- 800-number
- Web Site www.stopteendrinking.org

www.stopteendrinking.org

- View TV Spots
- See a list of community resources
 - Phone numbers, web sites, community services
- Download media campaign materials
 - Brochures, tip cards, factoids, bookmarks
- Play with B.A.C. calculator (interactive)



- Greatest achievement: Collaboration with Humboldt County
- Barrier:
 - different organizational structures
 - different protocols and procedures
- Strategy: patience, lots of contact
- Top lesson: leave yourself plenty of time


2006 SIG Grantee
Learning Community Conference




Media Advocacy for
Policy Development





Project Overview




- Campaign for Mandatory RBSS Training
 - Intentional Organizing
 - Law Enforcement
 - Data Collection
 - Media Advocacy
- RBSS Workgroup


What is Media Advocacy




- Strategic Newsmaking
 - Advancing Public Policy
 - Changing Community Norms
- Earned Media
 - Press Conference
 - News Release
 - Opinion Piece
 - Letter to the editors
- Part of a Planned Campaign
 - Well-developed stories
 - Placed in strategic locations
 - Timed to support other project activities.




Special Event




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Survey Results



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Feature Story



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City of National City, California
COUNCIL AGENDA STATEMENT

SECOND READING

MEETING DATE January 17, 2006

AGENDA ITEM NO. 17

ITEM TITLE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AMENDING THE NATIONAL CITY MUNICIPAL CODE BY ADDING CHAPTER 10.48 PERTAINING TO RESPONSIBLE BEVERAGE SALES AND SERVICE

PREPARED BY Lt. Lanny Roark
Ext. 4524

DEPARTMENT Police Department
Lanny Roark

EXPLANATION

Please see attached memorandum.

Environmental Review ☒ N/A

Financial Statement

N/A

Account No. _____

STAFF RECOMMENDATION

Adopt the proposed Ordinance.

BOARD / COMMISSION RECOMMENDATION

N/A

ATTACHMENTS (Listed Below)

Resolution No. _____

See Attached Memorandum from City Attorney's Office
Proposed Ordinance



City of National City Office of the City Attorney

1243 National City Boulevard., National City, CA 91950-4301

George H. Elser, III • City Attorney

(619) 336-4220 Fax: (619) 336-4327 TDD: (619) 336-1615

TO: Mayor and City Council

FROM: Jodi L. Doucette, Police Legal Advisor

SUBJECT: Responsible Beverage Sales and Service Ordinance

DATE: December 6, 2005

Tourism and related entertainment, recreation and hospitality businesses are important to the economic well-being of the City of National City. The City of National City has sought to foster commerce and a lively attractive community life. The City of National City recognizes that the selling of alcohol is a legitimate activity, but also seeks to encourage safe and responsible business practices related to its sales and service. The City of National City Police Department seeks to reduce threats to public health and safety due to the impairment of motor skills, decision-making and judgment resulting from the over-service and over-consumption of alcoholic beverages. Responsible beverage sales and service training benefits businesses by creating a safer and more hospitable environment and reducing risk of liability, including criminal (court action), civil (lawsuit) and administrative (ABC accusation).

In consideration of the regulations adopted in this ordinance, and the findings and determinations herein, the City of National City Police Department has examined and considered numerous studies addressing the long-term public health and safety problems associated with the over-service of alcohol and sales to underage youth. Alcohol-related vehicle crashes in California cost the public an estimated \$12 billion in 1999, including \$5.5 billion in monetary costs and almost \$6.5 billion in quality of life losses, with San Diego County incurring a significant percentage of these costs. The City of National City Police Department has found that bars, taverns, liquor stores, and convenience stores account for a disproportionate number of calls for police service and alcohol-related arrests. Drunk driving arrests are increasing statewide and locally with over 155 people arrested for DUI last year in the City of National City. The majority of those arrested for DUI in San Diego County identify licensed establishments such as bars and restaurants as the place where they had their last drink.

An overwhelming majority (81%) of San Diego County teens agree that alcohol is easy to obtain, and studies show that one-third of high school students routinely obtain alcoholic beverages from retail outlets and that clerks and servers often fail to request age-verification as evidenced by minor decoy operations. In a recent study, at least half of the off-sale and on-sale establishments studied sold alcohol without asking study participants to show age identification, and few of the outlets that sold to study participants had effective policies or practices that reduce the likelihood of sales to youth. A research study published in 2004 concluded that alcohol sales to obviously intoxicated customers occurred at nearly 8 out of 10 businesses.

December 6, 2005

Page Two

Voluntary responsible beverage sales and service training programs cannot ensure that all alcohol handlers receive reliable or effective training and have not been shown to be as successful in reducing over-service and sales to underage as mandatory programs with accountability measures and consistent systems of enforcement. This is despite strong evidence that policies that reduce instances and levels of intoxication have a beneficial effect on rates of domestic violence, unintentional injuries, traffic crash injuries and deaths, sexual assaults, and other crimes. There is overwhelming public support for responsible beverage service training, with 90% of respondents favoring such programs, according to a survey conducted by the Robert Wood Johnson Foundation in 2002.

Legislation of this type enacted in the State of Oregon led to an 11% reduction in fatal alcohol-related car crashes in one year and a 23% reduction in single vehicle nighttime injury crashes in a three-year period. A research study indicated that servers who had undergone server training were more likely to ask for age identification than those not trained and found that none of the customers served by trained personnel exceeded the legal limit of intoxication.


Evaluations of customer consumption at a U.S. Navy enlisted club employing a responsible beverage sales and service training program found a significant reduction of intoxication for customers after the program was implemented.

Responsible beverage sales and service training is cited as a U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention Best Practice and is officially supported by Mothers Against Drunk Driving and the California Department of Alcoholic Beverage Control. The National Academy of Science recommends that all sellers and servers of alcohol complete training as a condition of employment.

100% of servers recently trained in San Diego County recommend training to other alcohol handlers, and 90% of servers agreed they were likely or very likely to change the way they did their job as a result of receiving training.

The California cities of Poway, Orange, and Santa Rosa, have enacted ordinances of this type to prevent the over-service of alcohol to customers and access to alcohol by underage youth.

The City of National City has examined and considered the impact of businesses that sell alcoholic beverages upon the health, safety, and welfare of its community and finds that the enactment of a responsible beverage and Service ordinance is in the vital and best interests of the City of National City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements.


JODI L. DOUCETTE
Special Counsel to the City Attorney

ORDINANCE NO. 2005 -

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF NATIONAL CITY
ADDING CHAPTER 10.48
TO THE NATIONAL CITY MUNICIPAL CODE RELATED
TO RESPONSIBLE BEVERAGE SALES AND SERVICE

BE IT ORDAINED by the City Council of the City of National City as follows:

Section 1. Title 10 of the National City Municipal Code is hereby amended, by adding Chapter 10.48 to read as follows:

Chapter 10.48

RESPONSIBLE BEVERAGE SALES AND SERVICES

Sections:

10.48.010	Purpose and intent.
10.48.020	Definitions.
10.48.030	Regulations.
10.48.040	Non-certified training programs.
10.48.050	Penalties.

10.48.010 Purpose and intent. It is the intent of this ordinance to:

- A. Prevent the over-service and over-consumption of alcohol by customers while on the premises of licensed vendors;
- B. Reduce alcohol-related crashes, injuries, and deaths that often result from driving while intoxicated;
- C. Eliminate the sale to and/or consumption of alcohol by underage persons;
- D. Assist licensed vendors to develop and implement responsible policies for the promotion, sales and service of alcohol; and
- E. Promote an attitude of professionalism on the part of vendors who sell or serve alcohol.

10.48.020 Definitions. As used in this section, the following definitions apply:

- A. "Alcoholic beverage" means any beverage fit for consumption, which contains one-half of one percent or more of alcohol by volume.
- B. "ABC" means the California Department of Alcoholic Beverage Control.
- C. "Vendor" means a business that is licensed to sell or serve alcoholic beverages to the general public, including, but not limited to California Department of Alcoholic Beverage Control license types 20, 21, 30, 40, 41, 42, 47, 48, 50 and 61.
- D. "Server" means any person who, as part of his or her employment, sells, serves or delivers alcohol that has been purchased from either an on-premise or off-premise retail licensed facility.
- E. "Manager" means a person, regardless of the job title or description, who has discretionary powers to organize, direct, carry on, or control the operations of a licensed alcohol outlet. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the licensed premises:

1. To hire or separate employees.
2. To contract for the purchase of furniture, equipment or supplies other than the occasional replenishment of stock.
3. To distribute funds of the licensed business other than for the receipt of regularly replaced items of stock.
4. To make or participate in policy decisions regarding operations of the licensed business.

F. "Training" means an educational course in responsible beverage sales and service methods, conducted by an organization certified by the California Coordinating Council on Responsible Beverage Service ("CCRBS").

10.48.130 Requirements.

A. No vendor shall continue in their employ after six months of the effective date of this ordinance any person who acts in the capacity of selling, serving or delivering alcoholic beverages unless such person completes or has completed an educational program that certifies them as having been trained to carry out the duties specified in their job description.

B. No vendor shall employ any person to work as a manager or server or in any other capacity where such person may sell, serve or deliver alcoholic beverages in or from premises licensed to sell alcohol, unless such person, within thirty (30) days of their date of hire, completes or has completed an educational program that certifies them as having been trained to carry out the duties specified in their job description.

C. Such training shall be conducted by an organization certified by the California Council on Responsible Beverage Service. It shall be at least three hours in length and include the following elements for review and discussion:

1. Laws covering the service of alcoholic beverages and the operation of establishments serving alcoholic beverages.
2. Alcohol as a drug and its effects on the body and behavior, including its effects on a person operating a motor vehicle.
3. Effects of alcohol in combination with commonly used drugs, both legal and illegal.
4. Methods of recognizing the signs of intoxication, development of standard procedures designed to prevent customers from becoming intoxicated, and the learning of skills to intervene with intoxicated customers.
5. Development of standard operating procedures for dealing with underage customers, including the use of age verification techniques.
6. Development of standard operating procedures to assist employees who need help in dealing with underage customers, intoxicated customers and/or other "problem customers," and in maintaining records that relate to such incidents.
7. Methods of dealing with special event promoters and development of written policies and procedures for the responsible promotion of alcohol.
8. Methods of recognizing and dealing with customers who use or traffic in illegal drugs.
9. Development of policies and procedures for dealing with employees who use or traffic in illegal drugs.
10. A comprehensive test to ensure that the trainee has a working knowledge of the concepts presented in the program as well as the skills needed to implement them.

D. All vendors must develop and maintain on their premises a comprehensive set of written policies and procedures that reflect the standards and practices set forth in this ordinance. Such policies and procedures must include but are not limited to the following:

1. California laws and liability regarding sales to minors and sales to obviously intoxicated individuals.

2. Checking identification, identifying minors, and identifying signs of obvious intoxication.

3. Methods of effectively managing customer drinking (ie: refusing or delaying service).

4. Alcoholic drink equivalencies and the effects of alcohol on the body.

5. House policies specific to the establishment regarding alcohol beverage service and customer relations.

E. It shall be the responsibility of the vendor to verify that all new employees who sell, serve or deliver alcoholic beverages have successfully completed the training described in Subsection C above herein within the first 30 days of such employment.

F. It shall be the responsibility of the vendor to verify that all persons who have been employed by them before the effective date of this ordinance and who continue to be in their employ, working in any capacity wherein they sell, serve or deliver alcoholic beverages, have successfully completed the training described in Subsection C above herein within six months of the effective date of this ordinance.

G. It shall be the responsibility of the employee to bear the financial cost of being certified in all duties related to his or her job description. This includes being re-certified at least every two years.

H. It shall be the responsibility of the employee to bear financial cost of acquiring and yearly renewal of an Alcohol Handlers Card. (similar to Food Handlers Card that the County requires food servers to possess) with the City of National City.

I. Vendors shall require all new employees prior to their starting work, to review and acknowledge in writing that they have read, understand and will comply with vendor's policies required in Subsection D above, as a condition of their continued employment. In addition, all employees shall review said policies on an annual basis, at such time signing an acknowledgment that they have read, understand and will comply with them as a condition of their continued employment.

J. Until such time as a new employee has successfully completed the training outlined in Subsection C above, the vendor must provide for the supervision of that employee in the handling of alcoholic beverages. Such supervision must be done by someone who has successfully completed the specified training outlined in Subsection C above.

K. Records of compliance to all sections of this ordinance must be kept on the premises of the licensee. This includes the written acknowledgement of policies described in Subsection D above herein, as well as a list of all persons who have completed training along with certification/recertification documents pursuant to Subsection G above. Such documents must be available for review upon request from a law enforcement officer or other inspector.

L. Vendors must prominently post signs inside the establishment, clearly visible to all customers stating: "It is illegal to sell, furnish, or give away an alcoholic beverage to any obviously intoxicated person, punishable by a \$1,000 fine and 24 hours of community service (California Business and Professions Code, Section 25602)." The sign shall be at least 8 ½ by 11 inches and have the lettering at least 1 inch in height.

M. Vendors shall provide written proof of employees who have received RBSS training (i.e. list of employees, date of RBSS training, expiration date, etc.) at the annual renewal of business license process. In order to maintain a business license, a vendor shall comply with all provisions of this ordinance.

10.48.040 Non-certified training programs.

A. Training programs that are not certified by CCRBS will have six months from the effective date of this ordinance to obtain that certification. Vendors may still use such programs during that period to train new employees as long as the vendor can show that the program contains all the elements outlined in Section 10.48.130 C herein.

B. Existing employees who have received training by a non-certified training program under the circumstances described in Subsection A above will not be considered to be in full compliance with the provisions of this ordinance and must complete certification as outlined in Section 10.48.130 C within six months of the effective date of this ordinance.

10.48.050 Penalties.

A. A violation of any provision of this ordinance or a failure to comply with any mandatory requirements of this ordinance is subject to prosecution in accordance with Title 1 of this Code and may also be enforced through injunctive or other relief available by law. Penalties for violation of the provisions of this ordinance may result in a misdemeanor citation, punishable by a maximum of one year in jail and a \$1,000 fine.

B. Administering departments will be authorized to charge cost recovery fees for services provided under this chapter. Cost recovery fees may also be recovered for equipment and personnel expenses incurred. All penalties, application fees and related costs recovery fees shall be credited to "Responsible Beverage Service and Sales Regulation Fund." The fund shall be used exclusively, and may be expended without further council action, for those expenses associated with the administration and enforcement of this Chapter.

PASSED and ADOPTED this _____ day of _____ 2005.

Nick Inzunza, Mayor

ATTEST:

Michael R. Dalla
City Clerk

APPROVED AS TO FORM:

George H. Eiser, III
City Attorney

**FOR IMMEDIATE
RELEASE:**
JAN. 20, 2006

MEDIA CONTACT:
Jeff Stinchcomb
Institute for Public
Strategies
619.296-3311 ext. 29

**RESPONSIBLE
SALES & SERVICE
WORKGROUP
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Coalition
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WORKGROUP PARTNERS

*Communities Against
Substance Abuse*

*East County Community
Change Project*

Mid-City CAN

*North City Prevention
Coalition*

*North Inland Community
Prevention Program
(NICPP)*

Prevention By Design

*San Diego County Policy
Panel on Youth
Access to Alcohol*

San Dieguito Alliance

South Bay Partnership

*Tri-City Prevention
Collaborative*

Vitality - San Diego

CFPHRD Coordinator
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Center for Prevention of High Risk Drinking *Responsible Beverage Sales & Service (RBSS) Workgroup*

National City to consider alcohol training requirement

City asks key stakeholders to work out details of new ordinance

NATIONAL CITY, CA., JAN 20, 2006 -- A new ordinance under consideration by City Council of National City would require those who sell and serve alcohol to receive specialized training. The proposed ordinance would help reduce crime and other problems associated with alcohol abuse, underage drinking and public intoxication, according to National City Police.

The City Council is currently organizing a stakeholder meeting to discuss the ordinance and iron out the details. Among those participating will be business leaders, community members and prevention advocates. The ordinance already has the endorsement of the Police Department and support from most of the city's neighborhood councils. Several local businesses have also expressed their support.

The proposed training, known as Responsible Beverage Sales and Service (RBSS) training, has been shown to reduce problems -- such as DUIs, single-vehicle car crashes, and a variety of crimes -- by reducing alcohol sales to minors and intoxicated patrons, according to police.

"The research behind this training is really strong," said Frank Lopez, Program Coordinator of the South Bay Partnership, a local coalition of advocates for public health and safety. "Everywhere it's been implemented communities have seen positive results."

In Oregon, where a statewide law requires such training, saw 23-percent drop in single-vehicle nighttime injury crashes over three years, according to Lopez. Poway -- the only city in San Diego County to implement such a law -- saw a 60-percent drop in DUIs reported in the Place of Last Drink Survey, a questionnaire given to DUI suspects apprehended in San Diego County.

"Other factors may have been involved in that reduction, but RBSS training certainly played a part," said Lopez.

One notable difference is that Poway's ordinance lacks funding for enforcement, police say. National City's ordinance has a built-in funding mechanism that doesn't cost taxpayers.

Safety vs. 'Hassle'

On Jan. 17 proponents of the ordinance spoke at the City Council meeting, emphasizing how the proposal would positively impact public health and safety. However, representative of the California Independent Grocers Association and the California Restaurant Association were strongly opposed to the measure, arguing that it would place another level of bureaucracy on local businesses and saddle them with additional fees.

But police officers and prevention advocates disagree.

"All we are asking is that people who sell and serve alcohol receive the best training available -- and that the city have a means to ensure compliance," said James Marcelino, a representative of the RBSS Workgroup, a coalition of county-funded prevention providers that helped develop the ordinance.

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About the Center for
the Prevention of High
Risk Drinking:
CFPHRD is made up of a
coalition of county-
funded prevention
groups, health
advocates and law
enforcement. The
center uses a multi-
system, multi-agency
approach to reduce the
impact of binge and
underage drinking in
San Diego County.

About the RBSS
Workgroup:
The Responsible Sales
and Service Workgroup
is one of four groups
working to advance
common-sense alcohol
risk management
policies in San Diego
County. The group is
advocating for greater
training for alcohol
servers and increased
enforcement of laws
pertaining to underage
drinking and over-
service of alcohol.

Key Facts: alcohol-
related collisions in San
Diego County

The rate of alcohol-
involved collisions
resulting in an injury or
death (for all ages) has
increased by 5.3% from
1998 to 2004 in San
Diego County.

For 2002 - 2004
combined:
* 18-25 year olds
comprised 35.4% of all
alcohol-involved
injuries and deaths.
* 18-25 year olds
comprised 36.8% of the
party's who were under
the influence and
responsible for the
traffic collisions. In
comparison, this
demographic represents
only 12.6% of the total
San Diego County
population.

Source: California
Highway Patrol SWITRS
data.

Signage requirements were also an issue, according to the Restaurant Association, as additional signs would tend to disrupt the décor of some restaurants. The proposed signs are designed to inform employees and patrons that serving alcohol to intoxicated patrons is illegal.

But some prevention experts don't see that complaint as valid. "We need the merchants to help us head off problems before they occur," said Dan Skiles, chair of the County's RBSS Workgroup. "I don't think that's asking too much. Is it kind of a hassle for them? Yes. Will it help save lives and reduce crime? Yes. Will it cost the city anything? No -- not a dime."

Cost Savings

In advocating for the ordinance, law enforcement officials point out how alcohol-related problems can drain vital resources.

According to the California Department of Alcoholic Beverage Control 75 percent of National City is considered "oversaturated" with alcohol outlets such as bars, taverns, liquor stores and convenience stores.

"A disproportionate number calls for police service come those locations," said Sgt. Roark. More than 155 people were arrested for driving under the influence Last year in National City, according to the Place of Last Drink Survey, and the majority of those reported having their last drink at a local bar or restaurant.

As it stands now, National City's proposed ordinance is considered strong because of its built-in enforcement component. Taxpayers won't pay for compliance checks or enforcement; those efforts are to be funded by fees associated with an "Alcohol Handlers Card." The card, required for all those selling or serving alcohol in city limits, is a quick reference for city officials who need to ensure compliance. The cost of the card is expected to be about \$20, to be paid by employees.

Voluntary vs. Mandatory Training

Opponents of the ordinance touted the benefit of voluntary training when they spoke before the city council. "Most of our members have been trained," said Auday Arabo, executive director of the California Independent Grocers Association. But according to prevention groups, turnout is often small when training is offered on a voluntary basis.

"Sometimes only 10 or 20 people will show up when over 100 are invited," said Judy Walsh-Jackson, associate director of the San Diego County Policy Panel on Youth Access to Alcohol. "We've been trying voluntary training for years, and only the good guys tend to show up," she said.

According to Lopez, the Independent Grocers and Restaurant associations should be welcoming rather than opposing this proposal. "This is really a business-friendly ordinance. If we can cut down on the alcohol-related problems we've been seeing, it will draw more customers into the area," he said.

If passed, National City's new training ordinance would go into effect after 30 days, but business would have seven months to comply with its requirements, city officials said.

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