



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 4/27/2010
Agenda Placement: 9E
Set Time: 11:00 AM PUBLIC HEARING
Estimated Report Time: 10 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Shelli Brobst for Snowden, Randolph F. - Director
Health & Human Services
REPORT BY: Shelli Brobst, Contracts Analyst - 253-4720
SUBJECT: Social Host Ordinance (First Reading)

RECOMMENDATION

First reading and intention to adopt an ordinance repealing Chapter 9.12 (Minor Alcohol Offenses) of the Napa County Code, and adding a new Chapter 9.12 entitled the Social Host Accountability Ordinance including imposition of civil fines and abatement costs.

ENVIRONMENTAL DETERMINATION: General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

EXECUTIVE SUMMARY

In 1996 the Napa County Board of Supervisors adopted an ordinance to address the problem of youth access to alcohol on private property. This ordinance closed unsafe loopholes in existing State law related to Social Hosting and possession/consumption of alcohol by underage persons. The Minor Alcohol Offenses Ordinance (Chapter 9.12 of Title 9 of the Napa County Code) prohibits gatherings on private property where underage drinking is allowed to occur. Similar ordinances have been adopted in each of Napa County's jurisdictions although there is variability in the provisions and penalties. The ordinance being proposed today is a repeal and replace of the existing Napa County ordinance in order to better align the provisions to best practice. This process benefitted from the state of the art thinking and research regarding Social Host Ordinances as a strategy for preventing youth access to alcohol and other alcohol-related problems.

PROCEDURAL REQUIREMENTS

1. Open Public Hearing.
2. Staff reports.
3. Public comments.

4. Close Public Hearing.
5. Clerk reads the Ordinance Title.
6. Motion, second, discussion and vote to waive the balance of the reading of the ordinance.
7. Motion, second, discussion and vote on intention to adopt the ordinance.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

In 1996 the Napa County Board of Supervisors adopted an ordinance to address the problem of youth access to alcohol on private property. The ordinance – The Minor Alcohol Offenses Ordinance (Chapter 9.12 of Title 9 of the Napa County Code) – closed unsafe loopholes in existing State law related to Social Hosting and possession/consumption of alcohol by underage persons. It prohibits gatherings on private property where underage drinking is allowed to occur. Similar ordinances have been adopted in each of Napa County’s jurisdictions, although the provisions and penalties vary.

In June 2008, the ordinances in each of the Napa County jurisdictions were reviewed by Stacy L. Saetta, an attorney with expertise in the field of Social Host Liability laws. Ms. Saetta evaluated each of the ordinances against best practices and identified components that were inconsistent with best practice, created enforcement challenges, or could present other legal contests.

At the request of Supervisors Dillon and Wagenknecht, in June 2009 a process was launched to review and update local ordinances to be consistent with each other to the extent possible. A committee was established to review the existing ordinance and recommend a best practice ordinance for adoption by the County and other jurisdictions. The committee included representatives from Napa County law enforcement, local government, the community, schools and substance abuse prevention practitioners. The proposed ordinance repeals and replaces the existing Napa County ordinance to better align the provisions to best practices. The ordinance results from state-of-the-art thinking and research regarding Social Host Ordinances as a strategy for preventing youth access to alcohol and other alcohol-related problems.

Social Host Liability

Over the past several years, Social Host Ordinances have been widely enacted in local jurisdictions as a way to deter public nuisances related to social hosting and underage drinking. Mothers Against Drunk Driving (MADD), the California Parent Teacher Alliance (California PTA), and the League of California Cities have publically endorsed Social Host Ordinances. The first national study of civil social host laws found that these laws reduce binge drinking and drinking and driving among underage drinkers. A 2003 National Academy of Science, Institute of Medicine report recommended that states “enact a comprehensive set of strategies including strengthening social host liability laws affecting persons under the age of 21.”

Key Elements of Proposed Ordinance

The proposed ordinance was modeled after existing ordinances in communities throughout California. The purposes of the ordinance are:

- | To protect the public health, safety and general welfare;
- | To promote the reduction of underage drinking by imposing a civil fine on persons responsible for loud or unruly gatherings where alcohol is consumed by, served to or in the possession of underage persons;
- | To facilitate the enforcement of laws prohibiting the service to, consumption of or possession of alcoholic beverages by underage persons; and
- | To offset the municipal costs associated with providing fire, police, and other emergency services to loud or unruly gatherings, by imposing a civil fee upon social hosts and/or landowners who allow such loud or unruly gatherings to occur on their premises, at their residences, or at rented facilities.

Major Changes from Current Code

The current ordinance is limited to gatherings where alcoholic beverages are in the possession of, or being consumed by persons under age 21. The current ordinance does not impose civil fines for individuals found to be in violation of the code but, rather, is treated like a misdemeanor. The current ordinance provides for cost recovery for public safety responses only where a responsible party hosts a loud and unruly gathering where alcohol is served or possessed by minors.

The proposed ordinance has two components for violations. The first component addresses loud and unruly gatherings where alcohol is served to, consumed by or in possession of underage persons. This component provides that civil fines be levied in the amount of \$500 for a first offense, \$750 for a second offense and \$1000 for a third offense. The second component addresses loud and unruly gatherings on private property whether or not alcohol is served to, consumed by or in possession of underage persons. Violations of this component of the ordinance may result in civil cost recovery for subsequent law enforcement response within a six-month period. Therefore, the proposed ordinance expands the ability of the County to increase recovery of public safety responses for loud or unruly gatherings whether alcohol is served or possessed by minors.

The reason for the change to add a civil fine in the proposed ordinance is because this is consistent with best practice in Social Host Laws that seek to change behavior regarding public nuisance gatherings, especially as they apply to gatherings where underage drinking is allowed to occur. Existing criminal statutes could still apply depending on the circumstances of the individual case and the evidence available to prosecute.

Additional provisions of the ordinance allow for joint and several liability of the parents of a minor who is responsible for hosting a loud and unruly gathering where civil fines or cost recovery fees are imposed. This is consistent with other civil law where parents/guardians are civilly responsible for the actions of their children. Additionally, individuals cited under this ordinance have the right to an administrative hearing to appeal the civil citations.

SUPPORTING DOCUMENTS

A . Ordinance

CEO Recommendation: Approve

Reviewed By: Karen Collins