



REPORT TO CITY COUNCIL

DATE: APRIL 25, 2007

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER 

SUBJECT: INTRODUCTION OF ORDINANCE NO. 06-341 – SOCIAL HOST ACCOUNTABILITY ORDINANCE

At the February 14, 2007 meeting of the City Council, staff brought forth Ordinance No. 06-341, a social host accountability program that prohibits unruly gatherings in which alcohol is possessed and/or consumed by minors. The proposed ordinance was reviewed and discussed by the City Council, in which a decision to continue the public hearing to adjust specific verbiage was approved. The proposed ordinance aims to protect the quality of life expected by the Agoura Hills community and gives the Sheriff's Department an additional tool to resolve public nuisance issues when unruly gatherings occur.

The Los Angeles County Sheriff's Department initially presented the social host ordinance to the City through the Law Enforcement Committee as a proactive means to address public nuisance complaints, large unruly gatherings, and a method to reduce underage and dangerous drinking (alcohol) in the Agoura Hills community. A social host program was recently enacted by the Ventura County Sheriff's Department in an effort to empower the law enforcement agency to break up "gatherings or parties" of minors in which alcohol was being consumed/distributed at private residential homes.

The review and feedback received from the City Council at the meetings of January 10 and February 14, 2007 has allowed staff to modify the proposed ordinance into one that addresses the needs and concerns of the community, provides a useful tool for sheriff's personnel to utilize, and should deter unruly gatherings in a legally enforceable manner. The procedures for enforcement of this ordinance have been reviewed and are supported by the agencies involved (Attachment B).

The program is designed so that a City appointed Hearing Officer will schedule and operate the hearing/appeal process as required for all citations and will have the ability to disseminate all of the information and circumstances of each event with the authority to issue the appropriate fine within the established schedule as seen fit. The process was developed in conjunction with the input from the City Council so as to have flexibility within the program should the instance arise where a citation was issued to a parent whose otherwise law abiding child had a "one time" lapse of good judgment and violated the ordinance. The responsible party (parent/guardian) of each incident will have the option to have their child perform community service in lieu of the monetary fine. The Hearing Officer will have the ability to establish the amount of community service hours and the timeframe in which it must be completed.

The schedule of fines is tiered for repeat offenders of this ordinance. The schedule of fines has been developed as follows:

- First offense: up to \$500
- Second offense: up to \$750
- Third offense: up to \$1,000

Should the City Council choose to adopt the proposed ordinance, a fee schedule will be brought back for approval at a subsequent meeting.

RECOMMENDATION

Staff respectfully recommends the City Council open and continue the public hearing from February 14, 2007, accept any public comments, introduce, read by title only, and waive further reading of Ordinance 06-341.

Attachments: (A) Ordinance No. 06-341
(B) Enforcement Process

ORDINANCE NO. 06-341

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, IMPOSING A CIVIL PENALTY FOR HOSTING GATHERINGS OF UNDERAGE DRINKERS AND AMENDING THE AGOURA HILLS MUNICIPAL CODE

The City of Agoura Hills does hereby ordain as follows:

Section 1. A new Chapter 12 is hereby added to Article IV of the Agoura Hills Municipal Code to read as follows:

“41200. Title

This Chapter shall be known as the “Social Host Accountability Ordinance.”

41201. Legislative Purpose

The purposes of this Chapter is to protect the public health, safety and general welfare and to promote the reduction of underage drinking by imposing an administrative fine on persons responsible for unruly gatherings where alcohol is consumed by, served to or in the possession of underage persons.

41202. Legislative Findings

The City Council finds as follows:

- (a) The City of Agoura Hills, pursuant to the powers delegated to it by the California Constitution, has the authority to enact laws that promote the public health, safety and general welfare of its residents.
- (b) The occurrence of unruly gatherings on private property where alcoholic beverages are served to, consumed by, or in the possession of underage persons is harmful to the underage persons themselves and is a threat to the public health, safety, or quiet enjoyment of residential property and the general welfare. Underage persons, who have been consuming alcoholic beverages, are at greater risk to be in automobile accidents, to commit suicide, to be assaulted, and females are at greater risk of sexual assaults.
- (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 service to, possession by, and/or consumption of alcohol by underage persons. Persons responsible for the occurrence of unruly gatherings on private property over which they have possession or control have failed to ensure that alcoholic beverages are not served to, consumed by or possessed by underage persons at these gatherings.

(d) Problems associated with gatherings involving underage persons drinking alcohol are difficult to prevent and deter. Public safety personnel need an arsenal of tools to deal with the issue of underage drinking and its attendant problems. If persons are held civilly responsible by having to pay a fine for hosting this type of gathering where there is underage drinking, they will be more likely to properly supervise or stop such conduct at events held on property under their possession or control. The City has the legal authority to issue an administrative citation for an administrative fine.

41203. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) “Alcoholic Beverages” shall mean 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.

(b) “Juvenile” means any person less than eighteen years of age.

(c) “Residence” or “Other Private Property” shall mean a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or 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.

(d) “Responsible Person” shall mean a person or persons with a right of possession of the residence or other private property at which an unruly gathering is conducted. A responsible person need not be present at such gathering and prior knowledge of the unruly gathering is not a prerequisite to a finding that any specific individual is a responsible person as defined by this section. Responsible person includes, but is not limited to:

(1) Owner(s) and/or lessee(s) of the property where an unruly gathering is taking place, including the record owner of the title to property, wherever that person or entity may currently reside;

(2) Person(s) hosting an unruly gathering;

(3) Person(s) receiving money or consideration for granting access to unruly gathering;

(4) Parent(s) or legal guardian(s) of a minor who is also a responsible person;

(5) Person(s) in charge of the residence or other private party;

(6) Tenant of the residence or other private party.

(e) “Underage Person” shall mean any person less than twenty-one years of age.

(f) “Unruly Gathering” shall mean a party, event or gathering where two or more underage persons are present at a residence or other private property in which alcoholic beverages are being consumed, served to or possessed by any underage person and/or at which unruly conduct occurs. Unruly conduct is that which threatens the public health, safety or general welfare, or interferes with the quiet enjoyment of residential property and may include, without limitation, excessive noise, excessive traffic, obstruction of public streets by crowds or vehicles, public drunkenness or unlawful public consumption of alcohol or alcoholic beverages, assaults, batteries, fights, domestic violence or other disturbances of the peace, vandalism, litter.

41204. Prohibition of Unruly Gatherings Where Alcohol Is Served to, Consumed by, or in the Possession of Underage Persons

- (a) Except as permitted by Article 1, Section 4, of the California Constitution, no responsible person shall conduct, permit, allow or host a gathering at his or her place of residence or other private property or host a gathering at a public place under his or her control where two or more underage persons are present, and where the gathering is an unruly gathering and alcoholic beverages are being consumed by, served to or in the possession of any underage person.
- (b) This section shall not apply to conduct involving the use of alcoholic beverages, which occurs exclusively between a minor child and his or her parent or legal guardian.
- (c) This section shall not apply to any location or place regulated by the California Department of Alcohol and Beverage Control.

41205. Violations/Administrative Fine.

- (a) Any violation of Section 41204 shall be prosecuted as a civil penalty. The amount of the penalty shall be established by resolution adopted by the City Council.
- (b) The hearing officer shall give notice of a violation of this chapter by issuing an administrative citation to any and all responsible persons within 10 days of the violation. The citation shall also give notice of the right to request an administrative hearing to challenge the validity of the citation and the time for requesting that hearing.
- (c) In the event that the responsible person who is in violation of this chapter is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable for any penalties incurred pursuant to this Chapter.
- (d) The administrative fines imposed by this Ordinance do not preclude other potential civil actions or criminal prosecution under any other provision of law.

41206. Protected activities.

The provisions of this Chapter shall not apply to activities protected under the United States Constitution.”

Section 2. Severability Clause. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect

the validity of the remaining portions of this Ordinance. The City Council hereby declares that this Ordinance, and each section, subsection, sentence, clause and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespectively of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED, this ____ day of _____, 2007.

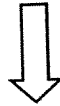
Dan Kuperberg, Mayor

ATTEST:

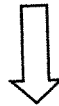
Kimberly Rodrigues, City Clerk

SOCIAL HOST ACCOUNTABILITY ORDINANCE ENFORCEMENT PROCEDURES

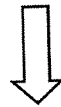
L.A. COUNTY SHERIFF'S DEPARTMENT OR CITY CODE ENFORCEMENT OFFICER ISSUES CITATION FOR VIOLATION OF CITY ORDINANCE



COPY OF CITATION AND INCIDENT REPORT IS FORWARDED TO CITY & HEARING OFFICER



WITHIN 10 DAYS OF INCIDENT, NOTICE IS SENT TO VIOLATOR(S) FROM HEARING OFFICER



VIOLATOR HAS OPPORTUNITY TO SCHEDULE HEARING OR PAY FINE WITHIN SPECIFIED TIME PERIOD



NO HEARING REQUESTED, FINE PAID, CASE CLOSED



NON-PAYMENT OF FINE - CITY PROSECUTOR



HEARING SCHEDULED BY HEARING OFFICER



RULING BY HEARING OFFICER



NON-PAYMENT OF FINE OR INCOMPLETION OF COMMUNITY SERVICE - CITY PROSECUTOR



APPEAL HEARD BY CITY COUNCIL



FINAL RULING