

**SANTA CRUZ COUNTY
BOARD OF SUPERVISORS INDEX SHEET**

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Resolution(s):

Ordinance(s): 5016

Contract(s):

Continue Date(s):

Index: --Minute Order of June 24, 2008, Item No. 009

Item: 10. ADOPTED ORDINANCE NO. 5016 amending the Santa Cruz County Code repealing existing Chapter 8.32 relating to loud or unruly gatherings and adding new Chapter 8.32 regulating loud or unruly gatherings and the consumption of alcoholic beverages by underage persons at such gatherings

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the Date of June 24, 2008

CONSENT AGENDA Item No. 10

Upon the motion of Supervisor Campos, duly Seconded by Supervisor Stone, the Board, by unanimous vote, adopted Ordinance No. 5016 amending the Santa Cruz County Code repealing existing Chapter 8.32 relating to loud or unruly gatherings and adding new Chapter 8.32 regulating loud or unruly gatherings and the consumption of alcoholic beverages by underage persons at such gatherings

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors

by *Susan A. Mauriello* , Deputy Clerk ON July 02, 2008

ORDINANCE NO. 5016**AN ORDINANCE AMENDING THE SANTA CRUZ COUNTY CODE BY
REPEALING EXISTING CHAPTER 8.32 RELATING TO LOUD OR
UNRULY GATHERINGS AND ADDING NEW CHAPTER 8.32
REGULATING LOUD OR UNRULY GATHERINGS AND THE
CONSUMPTION OF ALCOHOLIC BEVERAGES BY UNDERAGE
PERSONS AT SUCH GATHERINGS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Board of Supervisors of the County of Santa Cruz makes the following findings:

A. The County of Santa Cruz, pursuant to the police 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. Residents have failed to prevent the occurrence or reoccurrence of loud or unruly gatherings, including those where alcoholic beverages are served to, consumed by or possessed by underage persons, on private property, which seriously disrupts neighboring residents' quiet enjoyment of their property;

C. Law enforcement has frequently been required to make calls to a location of a loud or unruly party, gathering, or event in order to disperse uncooperative participants, causing a drain of personnel and resources and in some cases, leaving other areas of the County with inadequate law enforcement protection;

D. Control of loud or unruly gatherings on private property is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public;

E. The occurrence of 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;

F. The County of Santa Cruz has made numerous and substantial efforts to enforce underage drinking laws; yet, despite these efforts, alcohol use by youth remains a serious problem in the county, contributing significantly to the incidence of juvenile crime, addiction, sexual and other physical assaults, truancy, driving under the influence of alcohol, and motor vehicle crashes involving alcohol and causing injury and/or death;

G. 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 loud or unruly gatherings on private property over which they have possession or control have at times failed to ensure that alcoholic beverages are not served to, consumed by or possessed by underage persons at these gatherings;

H. Persons held responsible for aiding and abetting or allowing loud or unruly gatherings where alcohol is served to, consumed by or in the possession of underage persons will be more likely to properly supervise or to stop such conduct at gatherings held on property in their possession or under their control;

I. In the past and present, law enforcement, fire and other emergency response services personnel have responded and are required to respond, sometimes on multiple occasions, to loud or unruly gatherings on private property at which alcoholic beverages are served to, consumed by or in the possession of underage persons, and responses to such gatherings result in a disproportionate expenditure of public safety resources of Santa Cruz County, which are underwritten by general taxes paid to the county by its taxpayers and residents, and also result in a delay of sheriff responses to regular and emergency calls to the rest of the county;

J. Problems associated with loud or unruly gatherings at which alcoholic beverages are served to, consumed by or in the possession of underage persons are difficult to prevent or deter unless the Santa Cruz County Sheriffs Office has the additional legal authority to charge responsible persons for the cost of public safety response;

K. The intent of this chapter is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. Persons who actively or passively aid, abet, or allow loud or unruly gatherings shall be held liable for the nuisances created by such gatherings and the costs associated with responding to such gatherings;

L. A 2007 survey revealed that the rates of underage binge drinking within the County of Santa Cruz currently surpass the state and national average. The survey showed that 66% of youth surveyed reported drinking in private homes and 84% indicated that they receive alcohol from adults they know. Historically, in too many cases involving underage drinking, persons having possession or control of private property who are responsible for social gathering on that property have failed to ensure that alcoholic beverages are neither served to, nor consumed by, underage persons;

M. The Board of Supervisors of the County of Santa Cruz therefore determines that this chapter is a reasonable and necessary means to protect and promote the health, safety, and general welfare of the youth and other residents of Santa Cruz County.

N. This ordinance shall be known as the "Social Host Liability Ordinance."

SECTION II

Chapter 8.32 of the Santa Cruz County Code is hereby repealed.

SECTION III

The Santa Cruz County Code is hereby amended by adding new Chapter 8.32 to read as follows:

CHAPTER 8.32

Social Host Liability Ordinance

Sections:

- 8.32.010 Definitions.**
- 8.32.020 Loud or unruly gatherings.**
- 8.32.030 Cost recovery for sheriff services.**
- 8.32.040 Consumption of alcohol by an underage person in a public place, place open to public, or place not open to public.**
- 8.32.050 Hosting, permitting, or allowing a gathering where an underage person consumes an alcoholic beverage.**
- 8.32.060 Reservation of legal options.**
- 8.32.070 Severability.**

8.32.010 Definitions.

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

A. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced, but does not include alcohol used for medical purposes when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital, or medical institution.

B. "Alcoholic beverage" has the same meaning as set forth in California Business and Professions Code §23004.

C. "Gathering" means a group of persons who have assembled or are assembling for an event or social activity such as a party, at a private residence, private premises, or as permitted on public property.

D. "Guardian" means (1) a person who, under court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

E. "Loud or unruly gathering" means a gathering of two or more persons on public or private property, or a permitted gathering of two or more persons on public or private property whose loud or unruly conduct constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare, including, but not limited to, violations of Chapter 8.30. A loud or unruly gathering shall constitute a public nuisance.

F. "Parent" means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

G. "Private residence" means the place where one actually lives or has his or her home.

H. "Premises" is privately owned land, including any appurtenances or structures on the land.

I. "Responsible person(s)" means 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 twenty-one (21) years. To incur liability for Special Enforcement 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 Enforcement charges. This chapter therefore imposes vicarious as well as direct liability upon responsible persons.

J. "Special Enforcement" includes the cost of salaries and benefits of law enforcement officers or other emergency response personnel for the amount of time actually spent in responding to, or in remaining at, or otherwise managing the response to the party, gathering, or event (with a minimum charge of one hour); the actual cost of any medical treatment to injured law enforcement officers or other emergency response personnel; the cost of repairing any damaged County equipment or property; and the cost arising from the use of any damaged County equipment in responding to or remaining at the party, gathering, or event; together with an additional thirty-three (33%) percent of the special security charge for administrative overhead.

K. "Underage person" means any person less than twenty-one (21) years of age.

8.32.020 Loud or unruly gatherings.

A. It is unlawful and constitutes 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.

1. When a sheriff's deputy responds to a loud or unruly gathering, the deputy shall inform any responsible person at the scene that:

- a. The deputy has determined that a loud or unruly gathering exists; and
- b. Subsequent responses to the premises within the next twelve (12) months involving the same responsible person shall result in the responsible person being charged for the cost of any Special Enforcement. Only one warning will be given before the County assesses Special Enforcement costs pursuant to section 8.32.030. If a responsible person cannot be identified at the scene, the sheriff may issue a warning to other responsible persons identified in subsection I of section 8.32.010, 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.

8.32.030 Cost recovery for sheriff services.

A. Where the sheriff's department responds to a loud or unruly gathering at a premises within twelve months of a warning being given to a responsible person for those same premises pursuant to section 8.32.020, or while any such warning remains in effect pursuant to subsection B of this section, all responsible persons shall be jointly and severally liable for all of the Special Enforcement costs for that response and all subsequent responses during the warning period. If the responsible person is a minor, the parents or guardians of that person shall be liable for such costs.

B. A warning given pursuant to subsection A of this section shall remain in effect for the premises until a full twelve (12) month period has elapsed during which there have been no loud or unruly gatherings at those premises.

C. Charges for Special Enforcement costs shall be computed and a bill submitted to the responsible person(s). The Sheriff shall promulgate notice and billing procedures for this purpose. The bill shall be a debt owed to the County and failure to pay that bill within ~~thirty~~ (30) days is a violation of this Code. If the County is obliged to initiate litigation or other proceedings to recover this debt, the responsible person shall be liable for costs of suit, attorney's fees, and costs of collection.

8.32.040 Consumption of alcohol by an underage person in a public place, place open to public, or place not open to public.

Except as permitted by state law, it is unlawful for any underage person to:

A. Drink or consume at any public place or any place open to the public any alcoholic beverage; or

B. Drink or consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage that underage person is being supervised by his or her parent or legal guardian.

C. A violation of this section shall constitute an infraction.

8.32.050 Hosting, permitting, or allowing a gathering where an underage person consumes an alcoholic beverage.

A. It is the duty of any person having control of any private residence or premises, who knowingly hosts, permits, or allows a gathering at said residence or premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the gathering. Reasonable steps shall include, but not be limited to:

1. Controlling access to alcoholic beverages at the gathering to ensure that underage persons are not served;

2. Controlling the quantity of alcoholic beverages present at the gathering;

3. Verifying the age of persons attending the gathering by inspecting drivers licenses or other government-issued identification cards; and

4. Supervising the activities of underage persons at the gathering.

B. No person who owns or controls a private residence or premises shall allow a gathering to take place or continue where two or more underage persons are present and where the person knows or reasonably should know that at least one underage person has obtained, possesses, or is consuming alcoholic beverages at the gathering.

C. Whenever a person having control of the residence or premises is present at that residence or premises at the time that the underage person obtains, possesses, or consumes any alcoholic beverage, it shall be prima facie evidence that such person had the knowledge or should have had the knowledge, that the underage person obtained, possessed, or consumed an alcoholic beverage at the gathering.

D. This Section shall not apply to:

1. Conduct involving the use of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian;

2. Conduct permitted by Article 1, Section 4, of the California Constitution; or

3. Any location or place regulated by the California Department of Alcohol and Beverage Control.

E. A violation of this section shall constitute a misdemeanor. Each response to the same residence or premises on the same date shall constitute a separate violation of this section.

F. A person found in violation of this section shall be liable for the cost of providing special enforcement services in response to a gathering in which an underage person has obtained, possessed, or consumed an alcoholic beverage.

8.32.060 Reservation of Legal Options.

A. The County of Santa Cruz does not waive its right to seek reimbursement for actual costs of services associated with the enforcement of this chapter through other legal remedies or procedures.

B. The procedure provided for in this chapter is in addition to any other statute, ordinance or law, civil or criminal. This chapter 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 chapter, nor does it limit in any way the prosecution's ability to initiate and prosecute a criminal prosecution for any violation of a criminal offense arising out of the same circumstances necessitating the application of this chapter.

8.32.070 Severability.

If any section, subsection, sentence, clause or phrase or word of this ordinance is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

SECTION IV

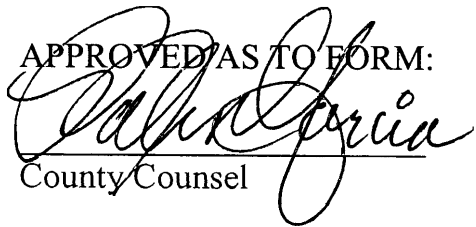
This ordinance shall take effect and be operative on the 31st day after the date of final passage.

PASSED AND ADOPTED this 24th day of June, 2008, by the Board of Supervisors of the County of Santa Cruz by the following vote:

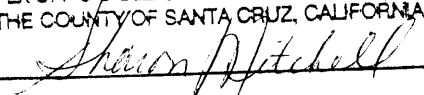
AYES:	SUPERVISORS	Campos, Stone, Beautz, Coonerty, and Pirie
NOES:	SUPERVISORS	None
ABSENT:	SUPERVISORS	None
ABSTAIN:	SUPERVISORS	None

ELLEN PIRIE
Chairperson, Board of Supervisors

Attest: TESS FITZGERALD
Clerk of the Board

APPROVED AS TO FORM:

County Counsel

Distribution: County Administrative Office
Sheriffs Office
District Attorney
Santa Cruz County Superior Court

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THE OFFICE ATTEST MY HAND AND SEAL THIS 24th DAY OF June 2008
SUSAN A. MAURELLO, COUNTY ADMINISTRATIVE OFFICER AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ, CALIFORNIA.
BY  DEPUTY

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Tuesday, June 24, 2008 7:47 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 6/24/2008

Item Number : 10

Name : Rose Marie McNair

Email : realrose@norcalbroker.com

Address : Not Supplied

Phone : 831.476.2102

Comments :
June 24, 2008

Honorable Supervisors:

I have recently noticed that the cities of Watsonville and Santa Cruz--perhaps others to follow--have adopted a similar ordinance.

Existing law addresses many of these issues, yet you plan now to adopt an ordinance, which actually states in Section 8.34.070, that this board ..."would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional."

I am speechless! I realize that each time I ask whether something is "legal", we now look at the abandonment of ethics in the legal documents presented to the public in our county--and throughout.

Rose Marie McNair, Broker