



UNDERAGE DRINKING TASK FORCE

PREVENTING
UNDERAGE DRINKING:
SOCIAL HOST
POLICY REPORT

MAY 2017

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Part 4 – “Drafting a Social Host Ordinance: A How-To Guide for Washington State Communities” / Washington State Coalition to Reduce Underage Drinking / 2011

PART 1 - INTRODUCTION

According to Underage Drinking in Missouri: The Facts, “Underage drinking cost the citizens of Missouri \$1.4 Billion in 2010... this translates to a cost of \$2,326 per year for each youth in the state...” The report goes on to identify issues associated with underage drinking in Missouri, including, “...substantial harm due to traffic crashes, violent crime, property crime, unintentional injury, and risky sex.” (See the full report in Part 2 – “Background Reports”). Compared to youth who do not drink alcohol, drinkers are at greater risk for addiction, sexual assault, attempted suicide, mental health challenges, using other substances and school problems, among others.

The Underage Drinking Task Force (UDTF) was formed in Greene County, Missouri in 1999. Since then, this coalition has made great strides in underage drinking prevention, being recognized on both the state and national levels for how a community can effectively address underage drinking. Since formed, UDTF has been part of a comprehensive community-wide effort to address the myriad of issues related to underage drinking.

The mission of UDTF best explains its success, “Working to prevent underage drinking and its consequences through public education, youth leadership, public policy and environmental strategy initiatives, resource development and collaboration.” UDTF is comprised of representatives from law enforcement and other first responders, businesses, hospitals, local and state government officials, treatment providers, school districts, higher education institutions, social service agencies, and alcohol retailers who collaborate to address underage drinking. A few key accomplishments UDTF has achieved include:

- Effective community awareness and educational campaigns on underage drinking, including print materials and billboard, radio, TV and social media messages
- Responsible Beverage Service training for thousands of alcohol retailer employees
- Initiation and ongoing funding support for alcohol compliance checks conducted by local law enforcement. These compliance checks for retailers consistently remain between 86%-88% pass rate.
- Minor Awareness Diversion Program, offering many minors who are first-time underage drinking offenders the opportunity to complete an education class and not reoffend in lieu of charges filed by the Prosecuting Attorney
- Higher Education Committee to address prevention needs of the local college population

These and many other efforts have successfully contributed to decreases in underage drinking in Greene County. The percentage of Greene County 6th-12th grade students that have ever tried alcohol decreased from 53% in 2006 to 29% in 2016, while their current use of alcohol during the same time frame decreased from 24% to just over 10%. Greene County college students reported a decrease in past year alcohol use from 75% in 2004 to 62% in 2015, while their binge drinking decreased from 58% in 2004 to 39% in 2015. These decreases in alcohol use translate to thousands fewer young people in Greene County experiencing the negative impacts that can occur from underage drinking.

While there have been positive strides at decreasing underage drinking in Greene County, alcohol continues to be the top substance problem among our youth, killing five times more youth than all other drugs combined. Local treatment providers indicate alcohol is by far the primary drug of choice among youth and adults seeking treatment. Local youth report alcohol is easily available, and research shows that availability of alcohol correlates directly with youth use.

When locations where alcohol is available to youth are identified, strategies can be implemented to decrease availability to minors at those locations. Among the more than 2,500 youth who have completed the Minor Awareness Diversion Program over the past several years, 20% of youth reported drinking alcohol at commercial settings like bars and restaurants, while almost 80% reported drinking alcohol at noncommercial, or social, settings like house parties or other private social gatherings. A concern with underage drinking at social settings is that they are settings where young drinkers may be introduced to heavy drinking by older, more experienced drinkers. Research shows young people report their heaviest drinking at large parties with peers – almost all of whom are underage – in someone else's residence.

Strategies to decrease alcohol availability to minors at commercial settings include Responsible Beverage Service training for retailer employees, compliance checks, and enforcing consequences to both the serving employee and the business owner for selling alcohol to minors. Most of these strategies occur in Greene County at some level.

While social settings are the primary locations where alcohol is available to minors in Greene County, strategies to decrease alcohol availability at social settings appear to be lacking. This report is intended to increase awareness of evidence-based strategies to effectively decrease underage drinking in social settings. The Pacific Institute on Research and Evaluation indicates

that “Social host liability laws are associated with decreases in reported heavy drinking and in decreases in drinking and driving by lighter drinkers. Strict liability and civil penalties have been shown to be associated with less frequent underage drinking in private settings.” The U.S Office of Juvenile Justice and Delinquency Prevention identifies the following strategies as Best Practices in this area: “Restricting noncommercial furnishing of alcohol to minors” by prohibiting any person from furnishing alcohol to a minor, with very few exceptions; “Implementing teen party ordinances” that prohibit teen drinking parties at private residences, and imposing fines and fees on homeowners or renters for law enforcement services, and; “Applying appropriate penalties to illegal transactions in noncommercial settings” including civil penalties, criminal penalties and civil liability when appropriate, along with streamlined procedures for imposing sanctions in cases that do not involve serious community disruption, large teen parties, or bodily injury. These strategies and others are identified in the remaining sections of this report.

It is important to understand that effectiveness of any social host liability policy depends on public awareness, enforcement and content of the laws. Education efforts should stress that it is unacceptable for adults to furnish alcohol to minors and should increase awareness of relevant laws, penalties, and enforcement initiatives.

PART 2 – BACKGROUND REPORTS

Underage Drinking in Missouri

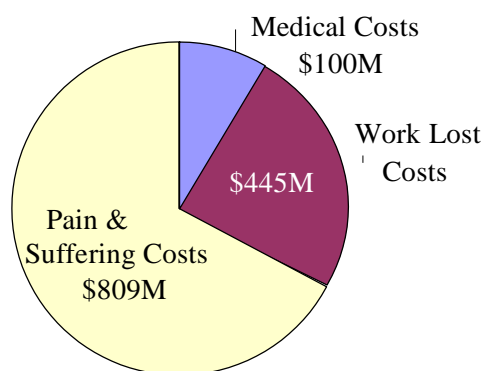
The Facts

Tragic health, social, and economic problems result from the use of alcohol by youth. Underage drinking is a causal factor in a host of serious problems, including homicide, suicide, traumatic injury, drowning, burns, violent and property crime, high risk sex, fetal alcohol syndrome, alcohol poisoning, and need for treatment for alcohol abuse and dependence.

Problems and Costs Associated with Underage Drinking in Missouri

Underage drinking cost the citizens of Missouri \$1.4 billion in 2010. These costs include medical care, work loss, and pain and suffering associated with the multiple problems resulting from the use of alcohol by youth.¹ This translates to a cost of \$2,326 per year for each youth in the State or \$3.25 per drink consumed underage. Excluding pain and suffering from these costs, the direct costs of underage drinking incurred through medical care and loss of work cost Missouri \$545 million each year or \$1.31 per drink. In contrast, a drink in Missouri retails for \$1.05.

**Costs of Underage Drinking
Missouri, 2010 \$**



Total: \$1.4 billion

Costs of Underage Drinking by Problem, Missouri, 2010 \$

Problem	Total Costs (in millions)
Youth Violence	\$691.0
Youth Traffic Crashes	\$329.1
High-Risk Sex, Ages 14-20	\$105.9
Youth Property Crime	\$111.3
Youth Injury	\$70.1
Poisonings and Psychoses	\$12.6
FAS Among Mothers Age 15-20	\$29.8
Youth Alcohol Treatment	\$4.4
Total	\$1,354.2

Youth violence (homicide, suicide, aggravated assault) and traffic crashes attributable to alcohol use by underage youth in Missouri represent the largest costs for the State. However, a host of other problems contribute substantially to the overall cost. Among teen mothers, fetal alcohol syndrome (FAS) alone costs Missouri \$30 million.

Young people who begin drinking before age 15 are four times more likely to develop alcohol dependence

and are two and a half times more likely to become abusers of alcohol than those who begin drinking at age 21.² In 2009, 1,088 youth 12- 20 years old were admitted for alcohol treatment in Missouri, accounting for 5% of all treatment admissions for alcohol abuse in the state.³

Alcohol Consumption by Youth in Missouri

Underage drinking is widespread in Missouri. Approximately 247,000 underage customers in Missouri drink each year. In 2009, Missouri students in grades 9-12 reported:⁴

- 70.5% had at least one drink of alcohol on one or more days during their life.
- 20.4% had their first drink of alcohol, other than a few sips, before age 13.
- 39.3% had at least one drink of alcohol on one or more occasion in the past 30 days.
- 25.3% had five or more drinks of alcohol in a row (binge drinking) in the past 30 days.
- 3.0% had at least one drink of alcohol on school property in the past 30 days.

In 2009, underage customers consumed 18.6% of all alcohol sold in Missouri, totaling \$439 million in sales (in 2010 dollars). These sales provided profits of \$215 million to the alcohol industry.¹ Ranking states based on the percentage of alcohol consumed underage, with 1 the highest, Missouri ranked number 19. This percentage is affected by both adult and youth drinking levels.

Annual sales of alcohol consumed by youth in Missouri averaged \$1,776 per underage customer. Underage customers were heavier consumers than adults. They drank an average of 4.6 drinks per day; in contrast, legal customers consumed only 1.7.

Harm Associated with Underage Drinking in Missouri

Underage drinking in Missouri leads to substantial harm due to traffic crashes, violent crime, property crime, unintentional injury, and risky sex.

- During 2009, an estimated 47 traffic fatalities and 1,560 nonfatal traffic injuries were attributable to driving after underage drinking.
- In 2009, an estimated 46 homicides; 21,600 nonfatal violent crimes such as rape, robbery and assault; and 39,600 property crimes including burglary, larceny, and car theft were attributable to underage drinking.
- In 2007, an estimated 10 alcohol involved fatal burns, drownings, and suicides were attributable to underage drinking.
- In 2009, an estimated 693 teen pregnancies and 18,914 teens having risky sex were attributable to underage drinking.

For comparison with other states, in US rather than state prices, the harm from underage drinking per youth in Missouri averages \$1,296. Such comparisons require caution. In part, they may reflect differences in crime and crash rates, problem-reporting to police, and co-occurring drug use.

Produced by the Pacific Institute for Research and Evaluation (PIRE) with funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), September 2011.

¹ Levy, D.T., Miller, T.R., & Cox, K.C. (2003). Underage drinking: societal costs and seller profits. Working Paper. Calverton, MD: PIRE.

² Grant, B.F., & Dawson, D.A. (1997). Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse* 9: 103-110.

³ Office of Applied Studies, Substance Abuse and Mental Health Services Administration. Treatment Episode Data Set. (2011). *Substance Abuse Treatment by Primary Substance of Abuse, According to Sex, Age, Race, and Ethnicity, 2009*. Available [On-line]: <http://www.icpsr.umich.edu/icpsrweb/SAMHDA/studies/30462> .

⁴ Center for Disease Control (CDC). (2011). Youth Risk Behavior Surveillance System (YRBSS). Available [On-line]: <http://apps.nccd.cdc.gov/youthonline/App/Default.aspx> .



Center for the Study of Law and Enforcement Policy

A Center of the Pacific Institute for Research and Evaluation

6062 Graham Hill Road, Suite B
Felton, CA 95018
Tel: 831-335-1000
Fax: 831-335-1141

Social Host Laws in a Nutshell

- What is a Social Host (“SH”) Law? Social host laws hold non-commercial individuals, including parents, landowners, and tenants, responsible for underage drinking events on property they own, lease, or otherwise control. Whereas laws prohibiting furnishing alcoholic beverages to underage persons target providing the alcoholic beverages to underage persons, social host laws target providing *the location* where underage drinking takes place.
- State Criminal SH Laws. Governments can have different types of laws against social hosts. In some states, the social host is held *criminally* liable for committing a misdemeanor, meaning the host could be punished with a monetary fine and up to one year in jail. (See NIAAA Alcohol Policy Information System at <http://alcoholpolicy.com/>.) The alcohol industry is a frequent sponsor of criminal social host laws. California has no state criminal law on social host. Nevertheless, pursuant to California statute, a parent or legal guardian who knowingly permits his or her child, or a person in the company of the child, or both, who are under the age of 18 years, to consume an alcoholic beverage or use a controlled substance at the home of the parent or legal guardian is guilty of a misdemeanor if all of the following occur:
 - (1) As the result of the consumption of an alcoholic beverage or use of a controlled substance at the home of the parent or legal guardian, the child or other underage person has a blood-alcohol concentration of 0.05 percent or greater, as measured by a chemical test, or is under the influence of a controlled substance.
 - (2) The parent knowingly permits that child or other underage person, after leaving the parent's or legal guardian's home, to drive a vehicle.
 - (3) That child or underage person is found to have caused a traffic collision while driving the vehicle.

(Cal. Bus. & Prof. Code, § 25658.2.)



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Tel: 831-335-1000
Fax: 831-335-1141

- State Civil SH Laws. In some states, there is civil liability, which means a social host may be found liable in a private lawsuit brought by someone injured by a guest allowed to drink on the host's private property. Civil liability is something that is a creature of a state statute or state court decisions.
 - In California, there is no state civil statute concerning liability for the providing of a location for an underage drinking event in a lawsuit between private parties.
 - Pursuant to California statute, "social hosts" who "furnish" alcoholic beverages to any person are immune from lawsuits for damages or injury suffered by that person or any third party, resulting from the consumption of those beverages. (Cal. Civ. Code, § 1714, subd. (c); Cal. Bus. & Prof. Code, § 25602, subd. (b).)
- Three Types of Local Municipal Ordinances. At the local level, cities and counties have at least three options. Some municipalities treat social host liability as a misdemeanor, as some states do, carrying possible jail time as a penalty. Others treated social host liability as a criminal matter but the penalty is at most a monetary fine, not jail time.
- Response Costs Recovery ("RCR") Ordinances: Underage Drinking Party as a Public Nuisance. With the third and newest type of local social host law, called **response costs recovery ordinances**, parents, landowners, tenants, and social hosts face no criminal penalties—no criminal monetary fines or jail time—at all. Instead, in the currently few municipalities that have them, these laws declare an underage drinking party on private property a **public nuisance**, which threatens the public health, safety and general welfare. RCR ordinances hold these persons **civilly responsible** for the costs of police, fire, or other emergency response services associated with responding multiple times to the location of an underage drinking party.
- Who is a "Responsible Person" Held Liable Under a SH Law? Parents who allow underage drinking parties at their residences and their children are held liable, as are "persons in control of the premises," including absentee landlords and tenants.
- Why Use a Civil Public Nuisance Remedy Over Criminal Proceedings? Prosecuting parents and property owners as criminals in every case may not be an effective deterrent to most problems of underage drinking parties and their consequences.



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- Civil Proceedings Have Lower Standard of Proof.

- In criminal cases, the high standard of proof “beyond a reasonable doubt” and complex evidentiary issues that often require the prosecution to prove knowledge of the parties and/or activities on the property, make criminal proceedings a poor arena in which to build a case against a violator. Laws that make jail time a possible penalty, as opposed to laws that impose only monetary fines, face stiff legal and constitutional challenges in the courts. (E.g., City of San Diego misdemeanor ordinance.)
- In civil cases, the “preponderance of the evidence” standard (greater weight of the evidence in favor of one side or the other) is easier to meet.

- Civil Remedy Would Not Require Proof of “Knowledge”.

- 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.

- A Bill for Response Costs Captures the Property Owner’s Attention. Requiring parents, landlords, and social hosts to pay for response costs resulting from an out of control party (e.g., the salaries of responding police, fire, or other emergency personnel, and the costs associated with the responders’ medical treatment and repairs to city property) may seize the attention of those persons who are in the best position to stop underage drinking parties on private property.

- Precedent in Tobacco Prevention Work. This movement away from criminal penalties towards civil liability has precedent in the law on tobacco controls. For example, in some states, some municipal clean indoor air ordinances declare it a nuisance to permit smoking in a public place. If an establishment is declared a nuisance, the local government or a citizen may bring a “padlock action” against the establishment. If a court finds sufficient evidence of a nuisance, it may order the nuisance to be abated, and it may have the authority to order the establishment to close for a period of one year.



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Fax: 831-335-1141

- Key Components of the RCR Ordinance. (See Checklist.)
- How Can a SH Law be Used to Address Methamphetamine Use? With regard to methamphetamine use, the model social host law could be amended by broadening definition of a “loud or unruly gathering” to include controlled substance use at these gatherings.
 - In addition, a municipality or state might consider enacting a comprehensive law authorizing temporary, preliminary, and permanent injunctive relief and other remedies to abate “drug nuisances,” in order to control not just the problem of controlled substance use at parties, but also the problem of “drug trafficking” on private and commercial property. (See National Alliance for Model Drug Laws at <http://www.natlalliance.org/>.)
- Compliance with SH Law as a Lease Obligation.
 - Lease provisions that provide: “Tenant agrees not to commit, or suffer to be committed, any waste on the leased premises, nor shall it maintain, commit, or permit the maintenance or commission of any nuisance, including a loud or unruly gathering, on the leased premises in violation of Section ____ of the City/County of ____ Municipal Code (see attached copy) or use the leased premises for any other unlawful purpose.”



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6062 Graham Hill Road, Suite B
Felton, CA 95018
Tel: 831-335-1000
Fax: 831-335-1141

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The following is from “What Works for Health: Policies and Programs to Improve Wisconsin’s Health”

<http://whatworksforhealth.wisc.edu/program.php?t1=21&t2=13&t3=35&id=79>

Social host laws

Description

Social host liability laws hold private property owners who provide alcohol or allow its provision to minors or obviously intoxicated individuals on their property liable if someone is killed or injured as a result of the provision of that alcohol. Social host liability varies from state to state, and can take the form of criminal or civil actions.

Expected Beneficial Outcomes

Reduced impaired driving
Reduced excessive drinking
Reduced underage drinking

Evidence of Effectiveness

Social host liability laws are a suggested strategy to reduce drunk driving, heavy episodic drinking, and underage drinking (Hingson 2014, Wagoner 2012, Saltz 2010, Dills 2010, Wagenaar 2001, Stout 2000). Available evidence suggests that these policies may reduce heavy episodic drinking and drinking and driving (Stout 2000, Wagoner 2012), particularly among adolescents who already drink (Paschall 2014). One study of 18-20 year olds indicates that such laws are more likely to affect drinking and driving than heavy drinking (Dills 2010).

Underage drinking parties may be smaller in communities that have established social host policies than communities that have not (Wagoner 2013). When implemented along with other interventions, social host liability laws have been shown to reduce heavy drinking among college students at off-campus parties, bars, and restaurants (Saltz 2010). Additional evidence is needed to confirm effects.

Implementation

United States

As of 2014, 28 states had social host liability laws in place (APIS-Social host). Nine states’ laws focus specifically on underage parties, whereas 19 states have broader policies (APIS-Social host).

Wisconsin

Wisconsin has had a social host liability law in place since 1985 (Dills 2010).

Implementation Resources

[GFPC-Lacy 2011](#) - Lacy D, Becket M. A how-to guide to implementing a social host ordinance in your community. Steamboat Springs: Grand Futures Prevention Coalition (GFPC); 2011.

Accessed on January 27, 2016

[PIRE-Social host](#) - Center for the Study of Law and Enforcement Policy (CSLEP), Pacific Institute for Research and Evaluation (PIRE). Model social host liability ordinance with legal commentary. Ventura: Training, Applied Research, and Alcohol and Drug Prevention Division, Ventura County Behavioral Health Department (VCBH); 2005. *Accessed on March 14, 2016*

[WA-Social host guide](#) - Washington State Coalition to Reduce Underage Drinking (RUaD). Drafting a social host ordinance: A how-to guide for Washington state communities. Olympia: Washington State Department of Social and Health Services (DSHS); 2011. *Accessed on November 18, 2015*

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[Paschall 2014*](#) - Paschall MJ, Lipperman-Kreda S, Grube JW, Thomas S. Relationships between social host laws and underage drinking: Findings from a study of 50 California cities. Journal of Studies on Alcohol and Drugs. 2014;75(6):901-907. *Accessed on March 3, 2016*

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PART 3 - MODEL SOCIAL HOST
LIABILITY ORDINANCE: WITH LEGAL
COMMENTARY AND RESOURCES



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

For more information, contact:

Ventura County Behavioral Health Department
Training, Applied Research, and Alcohol and Drug Prevention Division

Kathleen Staples, Division Manager
kathleen.staples@ventura.org

Daniel Hicks, Program Administrator
daniel.hicks@ventura.org

Center for the Study of Law and Enforcement Policy
Pacific Institute for Research and Evaluation

Stacy Saetta, J.D., Legal Policy Researcher
ssaetta@pire.org

or visit www.venturacountylimits.org

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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



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.

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

www.venturacountylimits.org

PART 4 - DRAFTING A SOCIAL
HOST ORDINANCE: A HOW-TO
GUIDE FOR WASHINGTON STATE
COMMUNITIES



Drafting A Social Host Ordinance

A **How-To Guide** For Washington State Communities

Social Host ordinances focus on the setting where drinking occurs regardless of who provides the alcohol. These local ordinances provide law enforcement with additional tools that go beyond the Revised Code of Washington (RCW 66.44.270), which prohibits providing (also known as furnishing) alcohol to minors.



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WA State Coalition to Reduce Underage Drinking

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Special thanks to the RUaD Social Host Committee, a subgroup of the Policy Impact Team:

Maureen Monson, Washington State PTA
Lieutenant Dale Alexander, Washington State Patrol
Ramona Leber, WA State Department of Commerce
Jim Cooper, Washington Association for Substance Abuse and Violence Prevention
Tim Stampfli, TOGETHER!
Michael Langer, Ray Horodowicz, and David Albert, Division of Behavioral Health and Recovery,
WA State Department of Social and Health Services
Mary Segawa, WA State Liquor Control Board

For information regarding these materials, please contact:

Mary Segawa, WA State Liquor Control Board
360.664.1771 or mbse@liq.wa.gov

Or

Ray Horodowicz, Division of Behavioral Health and Recovery
WA State Department of Social and Health Services
360.725.1528 or Ray.Horodowicz@dshs.wa.gov

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Introduction

Why are we concerned about underage drinking?

There are many good reasons for our concerns about youth alcohol use.¹

- Motor vehicle crashes are the leading cause of death among youth ages 15 to 20.
- Alcohol use is associated with many of the risky behaviors of youth, including drug use and delinquency, carrying a weapon, fighting, and perpetrating or being the victim of sexual assault.
- Alcohol use is also linked with youthful deaths by drowning, suicide and homicide.
- A person who begins drinking by the age of 15 is four times more likely to develop alcohol dependence than someone who waits until adulthood to use alcohol.
- During adolescence, new networks are being formed in the brain. Alcohol use during this time can affect brain development.

According to the Washington State Healthy Youth Survey (HYS)², 14 percent of 8th graders and 28 percent of 10th graders reported using alcohol within the past 30 days. In addition:

- Binge drinking (i.e., five or more drinks on at least one occasion during the previous two weeks) ranged from a low of 4 percent among Grade 6 students to a high of 25 percent among Grade 12 students.
- 5 percent of Grade 8, 10 percent of Grade 10, and 16 percent of Grade 12 students reported heavy drinking.
- About 1 in 7 Grade 6 students think it is easy to get alcohol, and that perception of availability increases to 1 in 3 Grade 8 students, 1 in 2 Grade 10 students, and 2 out of 3 Grade 12 students.

The cost of underage drinking

Underage drinking cost the citizens of Washington \$1.4 billion in 2007, according to the Centers for Disease Control. These costs include medical care, work loss, and pain and suffering associated with the multiple problems resulting from the use of alcohol by youth. Direct costs of medical care and loss of work alone equals \$515 million each year.

What lies ahead

While we have seen significant declines in teen alcohol use (e.g. 8th grade use has been cut in half since 1998), far too many of our youth continue to drink alcohol at a risk to both themselves and others. There is still much work to be done. The concerted effort of parents, communities, law enforcement, schools, local jurisdictions, businesses, and individuals is needed.

¹ National Institute on Alcohol Abuse and Alcoholism

² The Healthy Youth Survey is administered 6th, 8th, 10th, and 12th graders in public schools in Washington State every two years.

Why a Social Host Ordinance to Address Social Liability? What is it?

In Washington, 31% of 10th grade students who reported alcohol use in the previous 30 days said they obtained it from a party.³

We know underage drinking parties take place in communities throughout our state. It might begin innocently with a few friends getting together for Friday night movies and someone brings alcohol. It

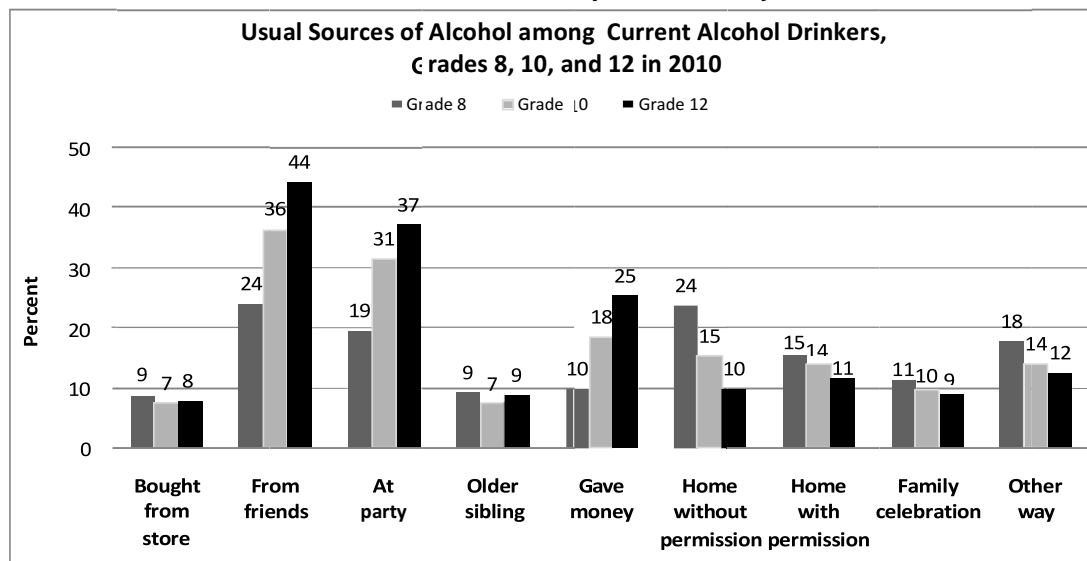


might be young college students home on break meeting friends, and an older sibling buys alcohol for them. Or it might be a party hosted by parents who have decided that it is safer to take away the keys and let young people party in their home.

In any case, what is not being considered is the wide range of harmful and sometimes devastating consequences that result from underage drinking. One needs to look no further than news articles from our own state to find real-life examples. (See Appendix.)

Because we know that the large majority of underage drinkers get their alcohol from social sources (parents, siblings, friends, at parties, etc.), some states and local communities have taken steps to hold liable those persons who knowingly provide or serve alcohol to minors or allow drinking on their property.

WA State Healthy Youth Survey



Survey Question: During the past 30 days, how did you usually get alcohol (beer, wine, or hard liquor)? Choose all that apply.

Notes:

- Students could check multiple responses.
- Students who reported “did not get alcohol in the past 30 days” were not included in the results.
- The sample sizes for the 2010 results in this figure are: 621 Grade 8; 898 Grade 10; and 1,121 Grade 12 students.

³Source: 2010 Washington Healthy Youth Survey. The results of the entire survey can be accessed at

Social Host ordinances seek to restrict youth access to alcohol in these settings.

Social Host ordinances focus on the setting where drinking occurs regardless of who provides the alcohol. These local ordinances provide law enforcement with additional tools that go beyond the Revised Code of Washington (RCW 66.44.270), which prohibits providing (also known as furnishing) alcohol to minors. “Supply” or “permit” specifies overt action on the part of an individual.

RCW 66.44.270 (*partial text – See Appendix for entire RCW*)
Furnishing liquor to minors

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, “premises” includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

When law enforcement arrives on the scene of an underage drinking party, it can be difficult to determine who furnished the alcohol. Social Host ordinances enable law enforcement to cite the individual who hosted the party or who owns or controls the property where parties occur. Under Social Host ordinances, these responsible individuals may include older peers, parents, landowners and tenants.

Most responsible adults understand how important it is not to furnish alcohol to minors or model irresponsible drinking behavior. Social Host ordinances address those who dismiss the health-related warnings, insist on serving minors, host parties, and/or look the other way when others host on their property. The intent is not to seek out and punish adults who are regularly monitoring their children and who take reasonable precautions to prevent their children from hosting underage parties.

An additional concern is that underage drinkers often binge drink (meaning 5 or more standard alcoholic drinks for men and 4 or more for women in a short amount of time) which can lead to serious consequences for youth, including: violence (e.g. fighting, sexual assault), accidents, alcohol poisoning and even death. Social Host ordinances seek to prevent these negative consequences, while filling gaps in statutes and offering local communities an additional law enforcement tool.

Does a Social Host ordinance make sense for your community?

Before pursuing a Social Host ordinance, it is recommended that you understand the problems associated with underage drinking in your community and the organizations or programs that are currently in place to address such problems. These can vary greatly by community depending on factors such as demographics and culture, population density, whether a college is located in your community, and available social and recreational options for youth. Conducting a community assessment and collecting information on youth substance use (how, when, where and what) from youth, parents, law

enforcement, health care providers and other community members allows you to define the problem of underage drinking in your community. A simple assessment tool is included in the Appendix to provide guidelines on the kind of information you will want to collect.

If you are interested in completing a larger, overall community assessment as part of a Substance Abuse Prevention Strategic Plan, the Substance Abuse and Mental Health Services Administration website is a good resource for doing so. It is recommended you use the Strategic Prevention Framework as your guide. It can be accessed at: <http://www.samhsa.gov/prevention/spfcomponents.aspx>

Once you have completed an assessment and are able to provide information on underage drinking and the associated problems for your community, you will be better able to know if a Social Host ordinance may be appropriate for your community. Social Host ordinances often make sense for communities when assessment findings indicate:

- That youth often obtain alcohol at parties on private property, such as in open lots, rental properties, residences, motels, wooded areas, etc.;
- There is a significant population of college students living off campus;
- There is a high instance of youth obtaining alcohol from family and friends; and
- There is a high incidence of binge drinking and the problems associated with such.

After assessing the community, it is recommended that a plan be developed outlining the specific strategies that will target the identified problems and issues. A sample plan is included in the Appendix.

Answering the question of “Why Now?”

As you discuss the issue of a Social Host ordinance, you may be asked why this is important. After all, some may say, I partied when I was young, and I turned out okay. It is important to help others understand that changes have occurred over time that increase the risk for young people. For instance, inexpensive, sweet, high alcohol content beverages in super-size containers are marketed in a manner that appeals to youth. Popular social networking sites, such as Facebook and Twitter, encourage binge drinking and glamorize heavy alcohol use.

A specific example that underscores this occurred in October, 2010. Nine students from Central Washington University were hospitalized for alcohol poisoning after consuming dangerous quantities of alcoholic energy drinks at a party. They didn’t know that the combination of high alcohol content (12 percent alcohol by volume), stimulants, and quantity (23.5 oz. in one can) was the equivalent of about 5 standard beers plus at least 3 cups of coffee. When students became ill and began passing out, they thought they had been drugged.

Newspaper articles with additional examples can be found in the Appendix.

Violence, an increased risk of alcohol dependence later in life, negative impacts on memory and learning, school drop-out, unwanted sex, sexually transmitted diseases, and alcohol poisoning are some of the unintended consequences of underage drinking.

The answer to “Why Now?” is that our youth are our priority.

What Are the Key Concepts of a Social Host Law or Ordinance?

Social Host ordinances focus on the location where drinking occurs.

Social Host ordinances hold **non-commercial individuals**, (e.g. older peers, parents, landowners, and tenants), responsible for underage drinking gatherings on property they own, lease, or otherwise control. Whereas furnishing laws target the act of **providing alcoholic beverages** to underage persons, Social Host ordinances target the **location** where underage drinking takes place.

Social Hosts are individuals who hosted the party, or who own or control the property where the party occurred. There are two main types of liability a Social Host faces when underage drinking occurs on the property they own or control:

Criminal Liability

A Social Host may be held criminally liable by law enforcement for committing a misdemeanor. Misdemeanor crimes may be punishable with fines and jail time.

Civil Liability

A Social Host may be found liable in a private lawsuit brought by someone injured by a guest allowed to drink on the host's private property. Civil liability on the local level may include monetary fines or other penalties, such as completing a prevention education program.

Options Available Through Washington State Law

Social Host Criminal Liability

Washington law currently makes it "unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control." (RCW 66.44.270(1)). The violation of this subsection is a gross misdemeanor.

Law enforcement officers have found that the current state law is difficult to enforce because a person must have evidence that an adult knows that minors are drinking on their property and permitted it. Local Social Host ordinances create underage drinking laws that can be enforced without requiring proof of knowledge that underage drinking is occurring. Local Social Host ordinances can be written to target adults that fail to use reasonable precaution to keep alcohol out of the hands of minors.

For example, parents are planning an out-of-town trip. They have conversations with their teen about their expectations regarding behavior while they are gone, making it clear that parties are not allowed. They alert the neighbors to the fact they will be gone, and the neighbors are given the parents' phone number, and someone in the vicinity is identified as a responsible party who can make decisions in the parents' absence. The parents ask to be called if there are more than two cars at the home and/or if there are any indications of a party taking place. This may be considered reasonable precaution, especially if there is no history of questionable behavior on the part of the teen.

If parents are in the home but are in another location and not monitoring a get-together of teens, it may be determined that they reasonably should have known that underage drinking was occurring.

The benefit of having a local ordinance is that it can be made specific to local conditions. Examples of local conditions include: towns with underage drinking problems near universities or Greek system housing; and houses or communities where law enforcement officers are repeatedly asked to respond to problem party sites, such as hotels, apartments, or secluded rural locations.

Social Host Civil Liability

Civil liability can be developed through state statute or state court decisions. In Washington, there is no state civil statute that imposes liability for providing a location for an underage drinking event. Similarly, court decisions have established that social hosts are not liable to third persons for injuries arising from the host's furnishing of alcohol to minors or to obviously intoxicated adults.

"I have a really powerful picture, and it's of my 15-year-old, Ryan's younger brother, who was scattering Ryan's ashes, and he's just in a cloud of ashes. So I think, again you're going to parent the way you're going to parent. But for the majority of parents out there that allow their kids to drink, what are you teaching them? What are you teaching them?"

~Mother of Ryan, age 19, who died in an alcohol-related crash

Options Available Through Local Laws

Local options include a combination of criminal and civil penalties such as fines, emergency response costs, administrative fines and jail time. Communities may choose to enact one or more of the following options:

Social Host Criminal Liability, punishable by either criminal infractions (monetary fines) or criminal misdemeanors (jail time)

- Holds adults responsible for underage drinking on property they own, lease or otherwise control. Adults can be charged even if they did not provide alcohol and even if they are not on the premises. The language of the ordinance often refers to the fact that adults "knew or reasonably should have known" that underage drinking was occurring.

Social Host Civil Liability—through civil or administrative citations:

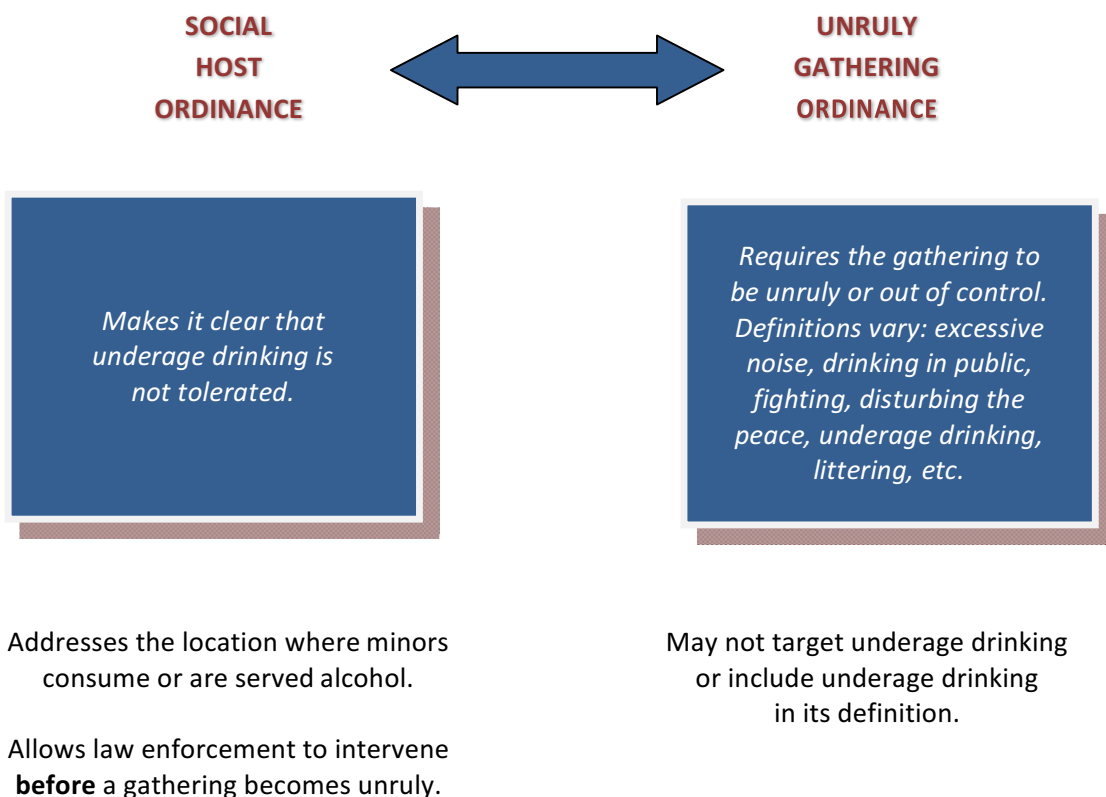
- **Response Cost Recovery**—Declares underage drinking parties on private property a public nuisance and holds Social Hosts civilly responsible for the costs of emergency response services provided in response to unruly gatherings (police, fire, and other emergency responders dispatched to parties, and court time necessary to settle a complaint).

- **Unruly Gathering Ordinance or “Red Tag” Ordinance**—Declares unruly gatherings unlawful and holds hosts civilly responsible by charging a fine that increases upon subsequent unruly gatherings. Note: Unruly gatherings are defined many ways, such as loud, with occurrences of fighting, underage drinking, etc. However, some communities don’t include underage drinking in their definition of “unruly.”

Comparing Social Host and Other Related Ordinances

The key question is: At what point as a community do we want law enforcement to intervene? In other words, how out of control does a party need to be before we want law enforcement to be involved? Social Host ordinances allow law enforcement to intervene when even a few underage drinkers are present and before the gathering becomes unruly.

While the advantage of an unruly gathering ordinance is that it gives law enforcement another tool to address loud and/or disruptive gatherings that do not necessarily include minors, the gathering may need to be out of control for law enforcement to be called. Also, noise ordinances, oftentimes the only option they have, can be very difficult to enforce, especially in communities with a small number of law enforcement officers.



Criminal Liability versus Civil Liability

Prosecuting parents, older siblings and friends as criminals may not be an effective deterrent to underage drinking, and may be a hard sell in a community. Instead, communities may decide to focus on

Civil Liability alone, such as Response Cost Recovery or Red Tag ordinances. Arguments for civil liability include:

- There is a lower **Standard of Proof** in civil cases than in criminal cases.
- May not require **Proof of Knowledge** that Social Host knew of underage drinking. (This can be worded to indicate liability if they knew or reasonably should have known.)
- Many municipalities have existing civil nuisance laws that can be modified to address underage drinking if they don't already. There is precedent for using nuisance laws in tobacco prevention work, as second hand smoke has been restricted by categorizing it as a public nuisance.

A woman accused of providing alcohol to a 17-year-old Tumwater boy has been charged with manslaughter in his death.

The autopsy showed he had a blood alcohol level of .36 percent and died of acute intoxication.

She told investigators she was trying to help homeless kids and preferred to have them drinking where she could keep an eye on them.

– From *The Olympian*, June 2010

Checklist for Drafting a Social Host Ordinance

Identify the Problem(s) in Your Community

First, understand the local substance abuse problems by completing a community assessment. Next, employ a strategic planning process to logically connect the substance abuse problems with possible solutions. After completing this process, you may find that Social Host ordinances are an appropriate strategy to address circumstances such as:

- Teen drinking parties in private residences
- Parties on rural or forested land
- University or college drinking parties held in privately owned homes or apartment units
- Greek House parties
- Loud or unruly gatherings including underage and legal age persons in resort area settings (e.g., river resort areas, ski vacation rentals)
- Underage drinking parties held in warehouses or garages rented for that purpose, or in foreclosed homes
- Parties occurring in hotels or motels

To be most effective, the Social Host ordinance should be tailored to a local community's day to day underage drinking problems.

Locate Relevant Existing State and Local Laws

Are there any existing local (city/county) laws on underage drinking, especially with regard to providing alcohol to minors, underage possession, underage consumption, and underage purchase, in your community? What are the existing local ordinances on public nuisances? What laws should be in place but are missing? The Social Host ordinance should be drafted in light of existing state and local (city or county) laws on underage drinking and local laws on public nuisance. In drafting a Social Host ordinance, one needs to know how other laws may affect the validity and enforcement of the Social Host ordinance.

Examine existing local public nuisance laws. The city or county's existing public nuisance laws may be modified to address underage drinking parties if this is the direction your community wants to go. This may be easier to achieve than passing a new stand alone Social Host ordinance.

Draft the Key Components of a Community's Social Host Ordinance

The following questions are provided as a guide as you consider which types of Social Host liability are most relevant in your individual community. You may want to consider using case studies such as those available in the Appendix.

1. What is a "loud or unruly" gathering?

"Loud or unruly gathering" is defined many ways; in some cases, it's a gathering of just "two or more persons." With definitions like this, are residents subject to liability any time they decide to have a party of any kind? Does it include Thanksgiving Dinner with family and friends? (Current Washington State law does allow parents to furnish alcohol to a their minor child when

consumed in the presence of their parent or guardian but not on a licensed premises.) Compare other cities' ordinances. Some cities define unruly as five or more persons.

RCW 66.44.270 (*partial text – See Appendix for entire RCW*)
Furnishing liquor to minors

(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter [66.24](#) RCW.

2. What kinds of conduct constitute a “loud or unruly” gathering?

With certain exceptions, Washington state statute prohibits alcohol consumption in public.

“Loud or unruly” conduct addresses the activity of drinking in public itself and the consequences of drinking in public, such as: excessive noise, fighting, disturbing the peace, etc.

“Loud or unruly” conduct may or may not include the conduct of underage drinkers, but some ordinances include the service of alcohol to minors or consumption of alcohol by minors as a definition of an unruly gathering.

“Loud or unruly” conduct language can be expanded to include the use of controlled and illicit substances. Another example of a definition is:

"...excessive noise or traffic, obstruction of public streets by crowds or vehicles, drinking in public, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and littering."

3. Who is a “responsible person”?

Communities should define whether Social Hosts under 18 or 21 years will be deemed “responsible persons” under the ordinance. Your city or county attorney can help with this distinction.

As an example, a "responsible person" can mean a person who is present and in charge of the premises or who organized the large party, gathering or event. If the Social Host is a minor, the minor's parent(s) or legal guardian(s) are also deemed responsible.

Communities should define whether absentee landlords and management agents are to be held liable under the ordinance. Will they be held responsible upon the first occurrence or will they be given a warning?

Some locations include in their definitions of responsible persons “any sponsor of the event.” This may be helpful in holding “party crews” liable.

Communities should identify any exclusion to the ordinance. For example, a city ordinance may not impose liability when the individual in possession of the property “could not reasonably foresee” or “reasonably control” the unruly gathering, as long as they have “taken all steps reasonably necessary to exclude the uninvited persons from the premises.”

4. What kinds of private property should be included?

Think about the types of problem properties in your areas. Examples include open forested land, motels, parks, empty lots, etc.

5. If you choose to include “response costs,” what is the time frame for imposing response costs? How frequently do first responders have to return to a party site for the fine to apply?

In some cases, fines can be applied when emergency responders are called to return within a twelve-month period of an initial warning.

Some cities have a much smaller time period for a return visit. Some cities dictate that subsequent calls during a 12 hour period following the initial written notice may incur recovery costs. Others may use a 120 day or 180 day period for subsequent violations. Smaller periods make it harder for law enforcement to invoke response costs when parties may be infrequent, but the parties held there are loud or unruly.

6. How are response costs calculated and billed?

Some municipalities calculate according to a pre-determined schedule of costs. Other municipalities calculate according to a schedule of penalties set forth in the ordinance itself

What should the costs be?

- Costs may be graduated, with increasing levels of penalties, depending on the frequency of responses.
- Costs may be tied to actual costs. For example, costs may include: “number of officers required (if “increased response” is required), overhead, related medical treatment, other loss or damages incurred to police department.”

What procedures exist now that could be used? (E.g., public nuisance enforcement.)

- Some localities’ public nuisance procedures have an administrative fine or abatement costs recovery procedure.
- Some localities’ public nuisance procedures are judicial, taking place entirely in court.

Setting out a billing procedure, with a right to appeal procedure, in the ordinance is important so that the community is placed on notice as to how costs will be billed and then collected.

Describing procedure in law makes enforcement easier for law enforcement and fair to violators.

7. Exceptions or defenses to limit liability for response costs

We want to be careful about what behavior we encourage or discourage in a Social Host ordinance. For example, if there is a real emergency at an underage drinking gathering, we want youth to call for help. Communities may choose to include exceptions for an emergency, as in the Gilroy, CA ordinance. Sec. 19C.5.(b)(3) states that “...administrative cost recovery fees will not be imposed in those situations where those present at the gathering call for emergency services for an actual emergency at the premises.”

8. Does it make sense to include a criminal fine, in addition to the penalty of response costs recovery?

In some Social Host ordinances, a provision is included to fine wrongdoers in addition to the costs associated with emergency responders. For example, the wrongdoer is fined \$250 for the first time the emergency responders come out to a party, \$500 for second visit, and \$1000 for a third or subsequent visit.

A fine for an infraction can be imposed when the terms of the Social Host ordinance are violated. An infraction is not punishable by imprisonment, however. Unlike the situation with misdemeanors and felonies, a person charged with an infraction is not entitled to a jury trial or to counsel appointed at public expense.

In criminal cases, the prosecution usually has the burden of proving that an individual intended to break the law. However, when strict liability is specified, it does not matter what was intended. It does not require proof that the responsible person knew or should have known that s/he allowed a loud or unruly gathering.

Working to Pass a Social Host Ordinance in Your Community

Stakeholder Involvement and Support

There are several key stakeholders that must be involved in order to gain support and develop a Social Host ordinance in your community. It is ideal to build these relationships in advance of pursuing a Social Host ordinance.

- Law enforcement- what is their assessment regarding enforcing underage drinking laws? Do they need an additional tool in order to intervene on underage drinking parties? Are they able to take action when called to underage drinking parties?
- Local government- whether the city, county, or other municipality, it is critical to include the decision-makers that would ultimately vote to enact such ordinances.
- Judicial System- the City or County Attorney and judges are key stakeholders as they are tasked with interpreting local ordinances.
- Parents- as these ordinances are primarily focused on parents and other adult enablers, they are key individuals to mobilize.
- Youth- should be a part of the process. In communities where youth have been part of the effort and spoken about the need to enforce laws, they have had a positive impact on social ordinances being enacted.

Know the Community and the Nature of the Problem

Community coalitions can help mobilize residents and decision-makers by understanding the needs of the community and providing local statistics. Access to local data can help elected officials understand the problems with underage drinking and to justify taking a stand against underage drinking. Examples of persuasive local data include the Washington Healthy Youth Survey results, focus groups with youth and parents, and key informant interviews. It may also help to reframe the underage drinking issue as a health risk to our youth, such as by sharing research data about:

- The danger of underage drinking and its effect on adolescent brain development,
- Youth mortality rates, and,
- Increased risk of sexual assault and other violent crimes, etc.

Samples of data and research information are included in the Appendix.

Assess the Barriers to Implementation

It is important to consider the barriers to implementation of a Social Host ordinance and plan strategies to address them. Possible barriers include:

- Prevalent community norms that condone or turn a blind eye to underage drinking.
- Teens will move to unsupervised settings to drink, thereby increasing the risk to them and others.

- The perception that the ordinance is unfair to homeowners who may be held liable even if they didn't know the incident was taking place.
- Creates the risk of abuse by law enforcement officers; is an invasion of privacy.
- The belief that law enforcement resources are inadequate to enforce the ordinance.
- Parties will be pushed from one jurisdiction to another that does not have an ordinance.

Basic Steps to Planning and Implementing Your Campaign

- 1) Identify the key decision-makers, such as city council members, the mayor, etc.
- 2) Determine the key allies who have influence with the decision-makers. Think about who in your group has contacts and can recruit these allies. Develop strategies for doing so.
- 3) Develop a written statement that defines the problem and presents the case for an ordinance. Include facts to support your cause.
- 4) Draft the ordinance. There are sample ordinances that can be found through an internet search. (See Appendix for more information.) Include your local City Attorney or Prosecuting Attorney's office in drafting and reviewing the ordinance if possible.
- 5) Plan and implement a media campaign to get community support for the ordinance. Include local youth in advocating for the ordinance.
- 6) Prepare the presentation to the local governing body. Involve community members. Tips for presenting to your city council are included in the Appendix.

Putting It into Practice: Good IDEAS

If your community has enacted a Social Host ordinance- **congratulations!** You have made a significant accomplishment in protecting the health and safety of youth by using an environmental strategy that is durable and likely to be sustained because it has been enacted into law. Take time to celebrate your accomplishment and prepare for the work ahead.

The next steps involve putting these good “IDEAS” into practice:

- **Informing** the public of the new ordinance
- **Disseminating** materials to all essential stakeholders
- **Enforcing** the law by working with law enforcement
- **Adjudicating** offenders and working with the judicial system
- **Surveying** stakeholders and evaluating the effects of the ordinance on the prevalence and consequences of underage drinking in the community

Educational Strategies

Enacting a Social Host ordinance is just the beginning. For the ordinance to do its work and be a truly effective mechanism for reducing the incidence of and consequences associated with underage drinking, it is critical the community and local law enforcement understand what a Social Host ordinance does and who Social Hosts are. Educational efforts must take place at all levels from educating individuals to educating community systems. Examples of educational efforts include media advocacy and dissemination of educational materials.

Informing Through Media Advocacy

The purpose of media advocacy is to utilize the media outlets in your community to educate community members on who social hosts are, what the ordinance covers, and how the ordinance will be enforced. Media advocacy can include public service announcements, billboard advertisements, letters to the editor and editorial columns in addition to press conferences. Please see the Appendix for samples.

Dissemination of Educational Materials

You’ll need to get the word out to the community overall and while media advocacy can be a great place to start, community members will want and need more detailed, focused information, etc. can be created to share the details of the new ordinance. Educational materials should be targeted to the people who need the education. It will be important to create educational materials specifically for law enforcement, parents, older siblings/friends, landlords and motel/hotel owners depending on the audience. Remember, educational materials at this point are focused on the specific ordinance your community passed and how it will affect community members. There may be a need for additional materials detailing the prevalence and consequences of underage drinking. Examples are included in the Appendix.

Enforcement Strategies

Law Enforcement members are skilled and highly trained individuals in the area of enforcement of existing laws. However, law enforcement members may not be aware of what Social Host ordinances mean, how they can be enforced, and what to do when they are issuing citations for violation of the ordinance. It is critical to work with your local law enforcement agency to provide any needed support when it comes to the enforcement of Social Host ordinances.

Examples of how to work with local law enforcement include:

- Train law enforcement officers on the meaning and application of the new ordinance.
- Develop or expand a pre-existing tip line so community members can report underage drinking parties. Tip lines provide police with the information to prevent underage drinking parties or intervene sooner.
- Educate the local neighborhood watch group to help identify underage parties and train them to correctly notify law enforcement.
- Collect data to understand the application of the law and determine if any gaps exist.

Adjudication Strategies

Much like local law enforcement professionals, the legal system in your community is comprised of a highly trained and skilled workforce. However, the judicial professionals may not be aware of or prepared to deal with violators of the Social Host ordinance. It is critical to work with the judiciary in your community and provide any support you can when it comes to adjudicating individuals found in violation of the Social Host ordinance. Examples of how you can work with the judiciary include:

- Train judges and prosecutors regarding the meaning and application of the new ordinance.
- Examine the policies of the judicial system to ensure that cases are handled consistently.
- Collect data to understand the application of the law and determine if any gaps exist.

Evaluation Strategies

It is critical to evaluate how the passage of a Social Host ordinance impacts the prevalence and consequences of underage drinking. You will need to determine what data sources in your community will indicate how underage drinking has changed as a result of the passage of a Social Host ordinance. Establish community level indicators prior to the passage of a Social Host ordinance to accurately demonstrate how the ordinance has impacted underage drinking. These indicators should be a part of community assessment information. Community-level indicators may include:

- Healthy Youth Survey data indicating the average age of initiation for first use of alcohol.
- Healthy Youth Survey data indicating the percent of youth engaging in underage drinking in the last 30 days.
- Healthy Youth Survey data indicating the percentage of youth engaging in binge drinking.
- Local Law Enforcement data detailing the number of citations issued to minors in possession or minors caught drinking.

- Emergency Department (ED) data indicating the number of admissions to the ED where alcohol is the primary or secondary reason for admittance.
- The amount of resources spent by the ED and law enforcement in addressing underage drinking. (It is expected that eventually there will be a need for fewer resources and services as behaviors change.)
- A shift in community norms.

It is also important to monitor and evaluate the implementation itself. Some questions to ask include:

- Is the community aware of the ordinance, including stakeholders and youth?
- Is law enforcement implementing the ordinance?
- Are the penalties associated with the ordinance being imposed?
- Have there been any additional barriers that need to be addressed?

Final Notes

Most people do not condone underage drinking but they get caught in believing the prevailing myths that lead them to allow parties in their home. They may think they are keeping kids safer with in-home parties, or they think they are taking away the mystery and allure of drinking by allowing it prior to their children turning 21. As you proceed, it is important to understand the reasons people have for social hosting, and address those with facts. Giving adults the tools to say no to social hosting will help to change the norms of your community.

Celebrate!

Once the ordinance is in place and being enforced, don't forget to CELEBRATE this accomplishment! Congratulations!

For Further Reading:

Preventing Underage Drinking Using Getting To Outcomes™ with the SAMHSA Strategic Prevention Framework to Achieve Results, pages 245-258:

http://www.rand.org/pubs/technical_reports/2007/RAND_TR403.pdf

Appendix

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News Stories

The News Tribune

Teen shot in legs at underage party in South Tacoma

Posted by Stacey Mulick on September 7, 2011 at 6:20 am

Catching up from the holiday weekend ...

A 16-year-old boy was shot twice early Saturday after a fight broke out at an underage drinking party.

The teen was among the attendees at the party in the 5400 block of South Wapato Street, Tacoma police reported.

A fight erupted at the party, then was broken up.

A gunman fired a number of rounds into the air and at the victim, police reported. The victim was hit in both legs.

Friends dropped the boy off at St. Joseph Medical Center in Tacoma for treatment. His injured (sic) were not considered life threatening, police reported.

Tacoma police were investigating.

Read more: <http://blog.thenewstribune.com/crime/2011/09/07/teen-shot-in-legs-at-underage-party-in-south-tacoma/#ixzz1XO3r74B1>

The Spokesman-Review

Drinks, not drugs, sickened CWU students – Spokesman.com – Oct. 25, 2010

Shannon Dininny
Associated Press

ELLENSBURG – Sugary, high-alcohol energy drinks that are popular with college students who want to get drunk quickly and cheaply came under renewed scrutiny today as investigators announced that nine freshmen had been hospitalized after drinking them at an off-campus party.

Several states are considering outlawing the drinks and at least two universities have banned them from campus while the Food and Drug Administration reviews their safety.

The issue received new attention after the Oct. 8 party in Roslyn, a picturesque mountain town known as the place where part of the 1990s television series “Northern Exposure” was filmed.

Police first responded to a report of an unconscious female in a grocery store parking lot and learned about the party from her friends. At the home, officers found a chaotic scene, with students from nearby Central Washington University passed out and so intoxicated that investigators thought they had overdosed on drugs.

Nine students who drank a caffeinated malt liquor called Four Loko were hospitalized with blood-alcohol levels ranging from 0.12 percent to 0.35 percent, and a female student nearly died, CWU President James L. Gaudino said. A blood-alcohol concentration of .30 percent is considered potentially lethal.

All the hospitalized students were inexperienced drinkers – freshmen ranging in age from 17 to 19. Toxicology results showed no drugs in their bloodstreams, though a small amount of marijuana was reported at the party, university police Chief Steve Rittreiser said.

Some students admitted drinking vodka, rum and beer with Four Loko, which is made by Phusion Projects Inc., of Chicago.

Phusion said in a statement that people have consumed caffeine and alcohol together safely for years. The company said it markets its products responsibly to those of legal drinking age and shares with college administrators the goal of making campuses safe and healthy environments.

“The unacceptable incident at Central Washington University, which appears to have involved hard liquor, such as vodka and rum, beer, our products, and possibly illicit substances, is precisely why we go to great lengths to ensure our products are not sold to underage consumers and are not abused,” the statement said.

The FDA sent a warning letter to Phusion Products in November 2009 asking the company for information that shows adding caffeine to alcoholic beverages is safe, and the case remains open, the agency said in a statement Monday.

Four Loko comes in several varieties, including fruit punch and blue raspberry. A 23.5-ounce can sells for about \$2.50 and has an alcohol content of 12 percent, comparable to four beers, according to the company’s website.

Health advocates say the caffeine in the drink can also suspend the effects of alcohol consumption, allowing a person to consume more than usual.

It gets you really drunk really fast and it gives you a lot of energy so you’re not going to be laying down and sleeping,” said 18-year-old CWU freshman Hyatt Van Cotthem of Everett, who said he’s tried the beverage but doesn’t drink it because the taste is “nasty.” He didn’t attend the party.

Regulating such drinks would be a good idea, Cotthem said, because he’s seen so many students do dumb things when drinking it. But he and a friend also questioned that the drink alone could have wreaked so much havoc.

There’s no way that Four Loko caused all these people to just pass out,” he said.

The nine sickened students have recovered and returned to their classes. No criminal charges have been filed, but Rittreiser said the investigation in the source of the alcohol continues.

Gaudino banned alcoholic energy drinks from CWU’s campus today, following the president of New Jersey’s Ramapo College, who banned the drinks last month after attributing several students’ hospitalizations to Four Loko.

"It's not that we'd seen a lot of consumption, but we'd seen enough that it worried us, because it was in situations of extreme intoxication," Ramapo President Peter Mercer said Monday. "Having seen no redeeming social use for it, and seeing the damage and danger it could pose, I ordered a ban."

Mercer said he eagerly awaits the results of the FDA review and supports a measure to ban the drinks in New Jersey.

Utah and Montana have restricted the sale of the caffeinated malt liquors to just state liquor stores. A bill to ban the drinks in Washington state failed in the Legislature earlier this year, but McKenna and Gov. Chris Gregoire said they would support another effort.

McKenna also said his office would review the marketing of such drinks, particularly to minors, to determine if consumer protection laws have been violated. The state previously raised concerns with the nation's two largest brewers, MillerCoors LLC and Anheuser-Busch InBev NV, about similar drinks.

"We never brought a lawsuit against them because they acted like good corporate citizens and removed the products," McKenna said.

Steven Schmidt, a spokesman for the National Alcohol Beverage Control Association, said many states feel they need to act quickly on the issue because the drinks are increasing in popularity.

"There's really a sense that people consuming these drinks don't understand how much alcohol they are drinking," he said. "These products pack a punch, and they are relatively inexpensive."

<http://www.spokesman.com/stories/2010/oct/25/drinks-not-drugs-sickened-cwu-students/?p...> 9/8/2011

The Olympian

Published June04, 2010

Woman, 67, charged in teen's death

JEREMY PAWLOSKI; Staff writer

Thurston County prosecutors have charged a 67-year-old woman with first-degree manslaughter for allegedly providing liquor to a 17-year-old boy from Tumwater last year, contributing to his death from complications due to acute intoxication, court papers state.

An arrest warrant for Roxanne Johnson, also of Tumwater, was issued Tuesday, the same day she was charged. A person is guilty of manslaughter when he or she recklessly causes the death of another.

On the morning of Aug. 21, 2009, Cherokee Lincoln, 17, was found dead at Johnson's Israel Road apartment. Johnson told Tumwater detectives that the night before, Lincoln had appeared to be in a "drunken stupor" while he and a group of teens were at the apartment "drinking and playing cards," court papers state. Johnson admitted providing the group with alcohol, stating "the kids are all homeless

and needed someone to watch out for them,” court papers state. Johnson also said that she “knew they would get alcohol from somewhere and she would rather have them drinking where she could keep an eye on them,” according to court papers.

But Tumwater Police Detective Jen Kolb said Thursday that she would not characterize Lincoln or the other teens who were in Johnson’s home that evening as homeless. Kolb described the teens as “wayward youth” and said Johnson’s apartment was a “flophouse for juveniles.”

Kolb said Thursday that Johnson had provided liquor to the group that was drinking in the home. In addition to Lincoln, a 15-year-old, an 18-year-old and a 23-year-old were drinking at the apartment that night, court papers state. Johnson told police that at some point during the night, someone escorted Lincoln to a bedroom while the group continued to play cards.

“According to the defendant, she checked on Lincoln at 3 a.m. where (she) found him on the floor,” court papers state. “She covered him with a blanket and went to bed.”

When medics arrived at the apartment, Lincoln was face-down on the carpet. It appeared to the medics that Lincoln “had suffocated from the position he was in or from aspirating vomit. . . alcohol was possibly a factor,” court papers state.

A toxicology exam later revealed that Lincoln had a blood alcohol level of 0.36 percent – more than four times the legal limit for driving while intoxicated.

Lincoln died of “positional asphyxia secondary of acute ethanol intoxication,” according to Thurston County Coroner Gary Warnock.

A Tumwater police officer at the scene of Lincoln’s death noticed “two nearly empty half-gallon bottles of alcohol” in the apartment.

The card players told police that they checked on Lincoln at 3:30 a.m., “and he was reportedly fine, sleeping and breathing, although he had slid off the mattress and was on the floor,” court papers state.

Kolb added that Johnson has cooperated with investigators and has said that she believes she was just trying to help the kids who drank in her home.

A phone number for Johnson could not be located Thursday.

Jeremy Pawloski: 360-754-5465 jpawloski@theolympian.com

KOMO News

Family: 'A stupid game cost a young man's life'

Originally printed at <http://www.komonews.com/local/66246057.html>

By Elisa Jaffe October 26, 2009

ONALASKA, Wash. – A night of drinking games proved deadly for a 15-year-old high school student, and now his family wants to use their grief as a warning to others.

Nick Barnes, a popular 10th-grader at Onalaska High School, died Sept. 21 after attending a birthday party at a friend's house.

In his last text message to his mom, Nick promised no drinking at the birthday party. But after a chugging game, he was found passed out in the yard, with writing covering his nearly bare body.

"This was a stupid game that cost a young man's life," says his grandmother, Sue Patterson. "If you're the first (one) passed out, they decorate you and make you the party favor."

The 28-year-old owner of the party house dropped the Onalaska teen off at the hospital. But Nick never woke up.

His mother, Rachel Smith, says, "I'm still numb. I'm used to him coming home from school telling me how his day was and crawling in bed, and I don't have that anymore."

Nick's family wants their pain to make a point about the dangers of underage drinking.

"These kids are playing with a loaded gun and don't even know it," says his grandmother. "And the people allowing it need to understand the responsibility. A child is gone."

"He could have done things different, a lot different," says Nick's mother.

In Nick's memory, his family encourages contributions to this new community center for kids – a safe, sober alternative to drinking parties.

"I don't want this to ever happen to another family," says Rachel Smith.

Nick died before knowing his fellow sophomores had voted him prince of his homecoming court. They had to do a re-vote after his death, and crowned Nick's best friend.

Assessing Your Community

The first step in planning for a Social Host Ordinance is to assess your community needs, resources, gaps, and readiness to address the problem with an ordinance. As you begin planning you will want to look at:

- ☐ **Method:** What process will be used for reviewing data, resources, gaps and readiness? What groups or coalitions will you involve? How will you involve the target population?
- ☐ **Data Assessment:** What underage drinking data is needed? What anecdotal data is desired?
- ☐ **Resource Assessment:** What resources are available in working on this issue? Who has shown readiness to be involved? What significant partnerships are present or needed?
- ☐ **Analysis and Readiness:** Given all of this information, what steps will be taken and when? Is there adequate staff and/or volunteers to accomplish the tasks? Will sufficient time be committed?

More on Data Assessment

Adequate data to support your case for a Social Host Ordinance will be very important in framing your rationale. Listed below are areas to consider and sources of data.

1. What is the extent of underage drinking in your community? To what extent are youth binge drinking?

Data Sources:

- ☐ WA Healthy Youth Survey (For your county's Alcohol Fact Sheet, go to www.StartTalkingNow.org/GetInvolved.)
- ☐ Arrest data – Law Enforcement
- ☐ Treatment data – Local Health Jurisdictions
- ☐ School discipline data related to alcohol use – School districts and colleges and universities
- ☐ Local surveys

2. Where do youth get their alcohol?

Data Source:

- ☐ WA Healthy Youth Survey
- ☐ Campus data, if available
- ☐ Communities with a DFC grant may want to do a “But, Why Here?” problem analysis to help answer the question “Where do youth get their alcohol?”

3. What is the extent of other problems commonly associated with alcohol use? (E.g. Fights, vandalism, sexual assaults, etc.)

Data Sources:

- ☐ Crime and arrest data – Law Enforcement
- ☐ Chambers of Commerce and Neighborhood Associations
- ☐ College and university crime reports
- ☐ Hospitals and clinics

4. What laws, ordinances, and policies are in place and to what extent are they enforced?

Data Sources:

- ☐ State laws – RCW 66.44.270
- ☐ Local ordinances – Local law enforcement, including prosecuting attorney
- ☐ School policies – School district office, Student Affairs or Student Services offices at colleges and universities
- ☐ Law enforcement – are there policies in place that support multi-jurisdictional task forces or projects?

5. Additional questions to ask in your community:

- ☐ Is there additional anecdotal evidence concerning underage drinking parties?
- ☐ To what extent are underage drinking parties sanctioned by adults, either explicitly or implicitly?
- ☐ Communities with a DFC grant may want to do a “But, Why Here?” problem analysis to help answer these questions.

More on Resource Assessment

1. What groups and programs in your community directly deal with alcohol prevention? Enlist them for support.

- ☐ Schools
- ☐ Community mobilization

- ☐ Drug Free Communities or STOP Act grantees
 - ☐ County prevention programs
 - ☐ Community Networks
 - ☐ College or University coalitions, health centers, and Student Affairs/Dean of Students offices
 - ☐ Others
2. What groups or programs deal indirectly with alcohol prevention?
- ☐ Church youth groups
 - ☐ Scouts
 - ☐ After school programs (YMCA, Boys & Girls Clubs, Campfire, etc.)
 - ☐ Recreational and competitive sports programs
 - ☐ Campus clubs and sports programs
 - ☐ Volunteer programs that link community members with local police depts., such as Explorer or Senior programs and community policing efforts
3. What county or state programs can support your efforts?
- ☐ County Health Departments
 - ☐ City or County Parks and Recreation Departments
 - ☐ College and University prevention programs and coalitions
 - ☐ WA Coalition to Reduce Underage Drinking
4. What laws or policies are already in effect to support your efforts?
- ☐ Understand what the current state law does and doesn't do.
 - ☐ See if your community has an "unruly gathering ordinance".
 - ☐ See if your community has a 'noise ordinance'.
 - ☐ How well are current laws and policies enforced, and are there any enforcement barriers?

When you have gathered all the pertinent information and involved your local community, you have built a strong framework for implementing a Social Host Ordinance.

Sample Plan

After completing an assessment (see pages 6-7 of the Handbook), a plan may be developed.

Goal: Reduce underage drinking in our community by 5 percent over 2 years.						
Objective: Decrease youth access to alcohol in social settings.						
Strategy #1: Enact and implement a Social Host Ordinance						
Activities	Timeline		Who Is Responsible	Process Indicators	Outputs	Short Term Outcomes
	Start	End				
Determine the key components of the Social Host Ordinance (See checklist, page 12)					List of key components for inclusion in draft of ordinance.	Implementation of a Social Host Ordinance with widespread community support.
Build stakeholder support; use data (as identified & collected during the assessment process)					Compilation of data; list of stakeholders supporting ordinance	
Detail and address barriers					List of barriers with actions	
If required, work with governmental sub-committee to propose ordinance					Proposal to the local governing body	
Draft the Social Host Ordinance			Work with an Attorney – typically your ‘City Attorney’		Social Host Ordinance draft	
Present the ordinance to the governing body (ie: city or town council)					Meeting minutes	
Educate the community, including law enforcement and judicial system members					Media materials; training materials	Community sees value of ordinance.
Evaluate					Evaluation data	

Case Studies

The following are some potential situations that can be used to consider the elements of a Social Host Ordinance. Questions to consider as you read these case studies may include:

- Whom will the law hold responsible?
- Did the adults (parents or others) explicitly or implicitly agree with the party?
- Did the adults (parents or others) take sufficient precautionary measures?
- Should the alcohol in the home have been locked up?
- Does it make a difference if this is the first party or if there have been others?
- Should someone who is underage be expected to police their older, yet still underage, friends?
- What responsibility or liability does a neighbor have when asked to intervene by the homeowner? Are they now the responsible party, and, if so, what happens if they don't respond appropriately?
- Should anything be included to hold someone harmless if they call for help when an overdose occurs, i.e. a Good Samaritan clause?

A. Out of Town

Paula and Tom are the parents of Joel and Lisa. Joel is 17 and a high school senior, and Lisa is 16 and a sophomore. Paula and Tom occasionally let Joel and Lisa have a glass of wine with them at dinner on Sundays but they have told Joel and Lisa that they don't want them drinking at parties. They have also made it clear that they can always call for a ride home no matter what, no questions asked.

Tom has been out of town all week on business, and Paula is going to join him for the weekend. Neither Joel nor Lisa has ever "gotten in trouble," so Paula leaves town without any real concerns about behavior, although as she goes out the door, she says, "Remember, no parties here."

Joel and his friends go out to a movie on Saturday night but quickly become bored afterwards, looking for something to do. Joel mentions that his parents are out of town, and his friends quickly put pressure on him to go hang out at his house. On the way they stop at a friend's house, and he grabs some bottles of beer from the well-stocked refrigerator in the garage. Another friend texts his older brother and asks him to buy them some alcohol and bring it to the house. The older brother comes with six of his friends, and soon the party is going. Lisa comes home and is persuaded to call some of her friends to join them. The loud music that ensues prompts a neighbor to call the police.

D. The Homecoming Bash

It's Homecoming weekend, and the text messages have been flying from teen to teen, telling everyone about the party out in the country on the Carleton's property. Older siblings home from college for the big crosstown football rivalry have bought the alcohol, and now about 100 people have descended on the property known to be easily accessible for parties. Students and recent graduates from the rival school show up, and a big fight breaks out. Someone calls the police, and they arrive.

B. Party at the Lake

It's been a hot summer, and the Powell family has spent a number of weekends at their lakefront cabin in the mountains. On Labor Day weekend, Melanie, an incoming college freshman, asks her parents if she can have one last get-together with her high school friends at the cabin before she goes off to college. After a long discussion about their expectations that there will be no alcohol at the cabin, the parents agree to the get-together. Melanie invites nine of her friends to the cabin for the long weekend.

The parents have also had conversations in the past with their neighbors at the lake, and they have asked the neighbors to let them know if they ever see their kids with alcohol. They have an understanding that they will all help to watch over each other's kids.

Everything goes fine until Sunday afternoon when one of the friends brings out a fifth of vodka. She challenges another friend to a drinking game. Although Melanie at first asks her friend to put the alcohol away, she relents when the friend says, "Hey, we're going to college next week. We need to learn to drink." The neighbor is called when one of the friends passes out and won't wake up.

C. I Didn't Know

David is home, and his son Kevin has a few friends playing video games. David knows that some of the friends have previously been in trouble for drinking, but everything seems to be going fine. He has checked on the teens a couple of times, bringing them the pizza that was ordered and some ice cream. At 11:00 David says goodnight and goes up to his room to watch some TV and go then go to sleep. After he leaves, Derek, a friend, goes out to his car and brings in the whiskey and rum he has stashed out there, and they begin drinking heavily. When Derek gets ready to leave, they try to take his keys away but he takes off running, gets in his car, and goes speeding down the street. He crashes into the chain link fence at the school three blocks away.

E. Keep Them Safe

Abby is turning 18 in two weeks and wants to have a party with beer and wine coolers available. She says her friends won't come if there isn't alcohol. After all, it wouldn't be a "real party."

Her mom, Kathryn, knows that if she tells them they can't have alcohol, they will take the party elsewhere, and she is concerned about them drinking and driving. She agrees to let Abby have the party in their home so she can keep an eye on them and keep them safe.

When the teens arrive, Kathryn tells them to put their car keys in a basket on the table. She then takes the keys and puts them away.

Dee, one of Abby's friends, has had 4 wine coolers. As Dee turns a corner in the house, she loses her footing and falls, gashing her head. She is bleeding profusely and an ambulance is called.

Facts about Underage Alcohol Use

A.

From “Too Smart to Start,” at www.toosmarttostart.samhsa.gov/teens/facts/consequences.aspx

Adolescence can be a wonderful time filled with physical and emotional growth. For some, however, adolescence takes a dark turn especially when underage alcohol use is involved.

- Underage drinking is a leading contributor to death from injuries, which are the main cause of death for people under age 21. Annually, about 5,000 people under age 21 die from alcohol-related injuries involving underage drinking. About 1,900 (38 percent) of the 5,000 deaths involve motor vehicle crashes, about 1,600 (32 percent) result from homicides, and about 300 (6 percent) are caused by suicides.¹
- Persons reporting first use of alcohol before age 15 are more than five times as likely to report past-year alcohol dependence or abuse than persons who first used alcohol at age 21 or older (16 percent compared with 3 percent).²
- Underage alcohol use increases the risk of academic failure, illicit drug use, and tobacco use. It can cause a range of physical consequences, from hangovers to death from alcohol poisoning. It can cause alterations in the structure and function of the developing brain, which continues to mature into the mid to late 20s and may have consequences reaching far beyond adolescence.³
- About 45 percent of fatalities in crashes involving a drinking driver under the age of 21 are people other than the driver.⁴

Sources

¹ Office of the Surgeon General. (2007). [The Surgeon General's Call to Action To Prevent and Reduce Underage Drinking](#) (PDF 1.41MB) Rockville, MD: U.S. Department of Health and Human Services, p. 10.

² Office of Applied Studies. (2004). [Alcohol dependence or abuse and age at first use](#).

^{3,4} *The NSDUH Report*. Office of the Surgeon General. (2007). [The Surgeon General's Call to Action To Prevent and Reduce Underage Drinking](#) (PDF 1.41MB) Rockville, MD: U.S. Department of Health and Human Services, p. 11.

B.

According to the SAMHSA 2010 National Survey on Drug Use and Health:

- During the past month (30 days), 26.4% of underage persons (ages 12-20) used alcohol, and binge drinking among the same age group was 17.4%.

- Past-month alcohol use rates declined between 2002 and 2008 for those ages 12-13 (4.3% to 3.4%), 14 or 15 (16.6% to 13.1%), 16 or 17 (32.6% to 26.2%), and 18-20 (51.0% to 48.7%).
- Among race demographics, whites had the highest percentage of underage (ages 12-20) past-month alcohol use (30.4%). Asians had the lowest rate at 16.1%.
- In 2008, 56.2% of current underage drinkers (ages 12-20) reported that their last use of alcohol occurred in someone else's home; 29.6% reported that it occurred in their own home.
- Among underage drinkers (ages 12-20), 30.8% paid for the alcohol the last time they drank – including 8.3% who purchased the alcohol themselves and 22.3% who gave money to someone else to purchase it. Among those who did not pay for the alcohol they drank, 37.4% got it from an unrelated person of legal drinking age; 21.1% received it from a parent, guardian, or other adult family member.

C.

From www.mentorfoundation.org:

There is significant new research concerning adolescent brain development and the effects of alcohol and other drug use on the developing brain. This emerging science is providing new insights about how teenagers make critical and life influencing decisions, including their decisions about drug use. Brain imaging studies suggest that the brain continues to develop through adolescence and into young adulthood (age 25 years). During adolescence, the parts of the brain that are responsible for expressing emotions and for seeking gratification tend to mature sooner than the regions of the brain that control impulses and that oversees careful decision making. As one expert puts it the teenage brain "has a **well-developed accelerator** but only a **partly developed brake**."

The maturing brain of the adolescent may also pose a particular risk toward drug abuse. There is some evidence that the developing brain is prone to the deleterious effects of alcohol. One study showed that memory ability may be negatively affected by about 10% as a result of alcohol abuse.

Mentor has prepared a more detailed summary of this emerging science about brain development and the vulnerability of adolescents to drug abuse. The pack includes a [booklet](#) and a [slideshow](#) (complete with [speaker's notes](#), see below for preview). If you find these resources useful please consider making a donation using the form on the right of this page. Your donation will help support Mentor's work all over the world.

- [Download the brochure \(PDF\)...](#)
- [Download the slides \(PowerPoint, 10MB\)...](#)
- [Download the slides \(PDF\)...](#)
- [Download the slides with notes \(PDF\)...](#)

Please email info@mentorfoundation.org if you require help viewing these downloads or have any feedback for us.

Social Host Ordinance Models

The following information is provided to you as a resource. The Washington Coalition to Reduce Underage Drinking (RUaD) does not endorse any particular ordinance concepts or wording. Each community must decide what is most appropriate for their own community.

1. Ventura County, California has produced a 26-page document that includes legal commentary and resources. It can be accessed at:

http://www.ca-cpi.org/SIG_subsite/SIG_Documents/Resources/VCL_MSHLO_web2.pdf.

2. Mothers Against Drunk Driving (madd) has posted a 4-page template on their website. It can be found at:

http://www.madd.org/get-involved/advocacy/our-issues/social-host/Model_Social_Host_Ordinance_Cities.pdf

3. A document from Lake County, Illinois provides a list of concepts that were included in their ordinance.

http://www.zbths.org/165310918985860/lib/165310918985860/social_host_ordinance.pdf

4. From the state of Minnesota comes a 2-page template of a social host ordinance.

<http://docs.sumn.org/SampleSocialHostOrdinance.pdf>

Media Samples

1. Ventura County, California – Billboard campaign launched in May, 2011, to educate the public about social host ordinances. The billboards included a phone number to report a loud party involving underage drinking.



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Contact(s):

Connie Moreno-Peraza

Deputy Director/Administrator Alcohol and Drug Programs

(707) 253-4073

connie.moreno-peraza@countyofnapa.org

Health and Human Services Agency

Alcohol and Drug Services

2261 Elm Street

Building F

Napa, CA 94559

Randolph F. Snowden

Director

Supervisors to consider revised Minor Alcohol Offenses Ordinance

(Napa, Calif.--) At its regular meeting on Tuesday, April 27, the Napa County Board of Supervisors will consider revising the County's Minor Alcohol Offenses Ordinance, which was originally adopted in 1996. 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. These types of ordinances close unsafe loopholes in existing State law related to "social hosting" and the possession or consumption of alcohol by underage persons.

The proposed revised ordinance would repeal the existing ordinance and replace it with new language that aligns the provisions of the ordinance with the latest research regarding effective approaches for reducing youth access to alcohol and other alcohol related problems.

The new ordinance would also address loud and unruly gatherings that create a public nuisance, regardless of whether or not underage drinking is allowed to occur.

Key features of the proposed ordinance include:

- Civil fines for individuals who host gatherings where underage drinking is allowed to occur;
- Fees to recover public safety services costs for repeated response to the same property within a six-month period for gatherings that are loud and unruly, regardless of whether or not underage drinking is allowed to occur;
- Consistent with State Law, parents maybe held financially liable for the actions of their children regardless of whether or not the parent knew about the gathering where underage drinking was allowed to occur.

The proposed ordinance is one tool in a Countywide effort to reduce underage drinking.

- Underage drinking is the #1 contributor to death of people under 21 in the U.S, with 5,000 alcohol-related deaths among young people every year. Underage drinking also leads to injury, sexual assault, increased risk for alcoholism and harm to the developing teen brain. This ordinance addresses a serious **local** problem as demonstrated by data including:

- 30% of Napa County 9th and 11th graders report *obtaining alcohol at parties or events outside school*. This response was one of a dozen options and was far greater than fake ID's (1%), stealing from stores (2%) or shoulder tapping[1] (1%).
- 50% of Napa County 11th graders say it is “*very easy*” and 26% say “*fairly easy*” for students in their grade to get access to alcohol.
- 29% of Napa’s 11th graders report “binge drinking” within the past month. Almost half of all Napa County 11th graders (48%) have “binged” (been drunk or sick after drinking), a higher rate than California students (46%)[2].

Members of the public are invited to comment on the ordinance at a Public Hearing scheduled for Tuesday, April 27, 2010 at 11 a.m. in the Board of Supervisors Chambers, 1195 Third St. in Napa. This will be the public’s only opportunity to comment on the new features of the ordinance.

[1]2009 Napa County Report, California Healthy Kids Survey, 2009.

[2]2009 Napa County Report and 2007 State CSS comparisons, California Healthy Kids Survey, 2009.

The Board of Supervisors and staff of Napa County are dedicated to preserving and sustaining Napa County for present and future generations as a community with generous open space, a thriving agricultural industry and a quality human and natural environment.

Current State Law

RCW 66.44.270

Furnishing liquor to minors — Possession, use — Penalties — Exhibition of effects — Exceptions.

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter [9A.20](#) RCW.

(2)(a) It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter [9A.20](#) RCW.

(b) It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (i) Is in possession of or close proximity to a container that has or recently had liquor in it; or (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This subsection (2)(b) does not apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection (4) or (5) of this section.

(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter [66.24](#) RCW.

(4) This section does not apply to liquor given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist.

(5) This section does not apply to liquor given to a person under the age of twenty-one years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

(6) Conviction or forfeiture of bail for a violation of this section by a person under the age of twenty-one years at the time of such conviction or forfeiture shall not be a disqualification of that person to acquire a license to sell or dispense any liquor after that person has attained the age of twenty-one years.

[1998 c 4 § 1; 1993 c 513 § 1; 1987 c 458 § 3; 1955 c 70 § 2. Prior: 1935 c 174 § 6(1); 1933 ex.s. c 62 § 37(1); RRS § 7306-37(1); prior: Code 1881 § 939; 1877 p 205 § 5.]

Notes:

Severability -- 1987 c 458: See note following RCW [48.21.160](#).

Minors, access to tobacco, role of liquor control board: Chapter [70.155](#) RCW.

Tips from a Former City Council Member

Elected officials are very cautious about adopting new laws. They want to know how it benefits their residents, if it is enforceable, and if the public really supports it. Here are a few tips from my experience serving on the Lacey City Council. Earlyse Swift

Building your advocates:

- Identify the members of your city council and try to find out what each councilmember is particularly interested in. Often one person on the council is known for promoting youth and human services and would be particularly interested in this issue. Once you have found that possible advocate, invite him/her to coffee and ask what he/she thinks about the idea of a social host ordinance.
- The police chief must be supportive of a social host ordinance before the council will take action. It is useful to meet with the police chief to explore what problems he/she faces when dealing with this issue. If you know someone on the police force, talk with him/her first to learn more about the best approach to the chief.
- Contact any community groups (i.e. service clubs, churches) that would be supportive of a social host ordinance. Your city council needs to know that citizens want the ordinance.

Preparing your request:

- Observe a city council meeting in action to determine the best approach to use
- If you have an advocate within city hall, follow their advice about how to proceed. They will tell you how to request a place on the agenda, if the proposed ordinance will go to a committee first, and who else you should meet with prior to the Council presentation.

Presenting to the City Council:

- Provide packets of information to each councilmember, the city manager, city attorney, police chief, city clerk.
- If possible, have youth make the presentation. They need to be well-prepared so that they are clear about what they are requesting and why.
- Include in the presentation:
 - Why your community needs this ordinance
 - Which other communities have already adopted a social host ordinance
 - What the benefit will be to the city

Following the presentation:

- Send a thank you note to each councilmember and city manager
- Ask what the next steps will be and when they will occur.
- If they decide not to adopt a social host ordinance, do not be discouraged. Listen carefully to learn why they were reluctant so you can address their concerns and try again. It's a common belief that it takes three tries for a governing body to adopt a new idea.