



# RESOURCE MANAGEMENT AGENCY COUNTY OF TULARE AGENDA ITEM

## BOARD OF SUPERVISORS

KUYLER CROCKER  
District One

PETE VANDER POEL  
District Two

AMY SHUKLIAN  
District Three

EDDIE VALERO  
District Four

DENNIS TOWNSEND  
District Five

**AGENDA DATE:** June 30, 2020

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Celeste Perez    PHONE: 559-624-7010

**SUBJECT:** Board Direction – Amending Social Host Ordinance

**REQUEST(S):**

That the Board of Supervisors:

1. Receive a presentation from the Resource Management Agency regarding the establishment of a Noise Ordinance.
2. Provide direction to staff pertaining to amending the Social Host Ordinance.

**SUMMARY:**

Supervisor Townsend requested staff to investigate the establishment of a Noise Ordinance and report back to the full Board of Supervisors. Staff has had informal discussions with other departments regarding the potential for a Noise Ordinance and reached the consensus that a comprehensive ordinance would be too cumbersome. Staff recommends a more direct approach to address the majority of noise complaints.

Staff identifies amending the Social Host Ordinance, found in Article 7 of the Public Morals Code, Part VI of the Tulare County Ordinance Code, as the preferred method to focus the ordinance on the immediate concerns of loud amplified music from individuals, private parties, and other social events. However, the addition of a new and separate ordinance under the Public Morals Code provides another alternative solution.

The definition of nuisance under this section of the ordinance could expand to include amplified music at specific decibel levels, measured at the property boundary. In addition, other nuisances associated with permitted and non-permitted “party barns”

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can also be included. Such as off-site parking, loitering and trespassing by guests onto adjacent properties.

Any person violating the provisions of the new ordinance would be guilty of a criminal misdemeanor or infraction and subject to written citation and fine. This will help reduce repeat offenders and provide partial cost recovery.

Alternatively, the Board could direct staff to move forward on a full and comprehensive Noise Ordinance.

**FISCAL IMPACT/FINANCING:**

No Net County Cost. The Tulare County Sheriff Department and Resource Management Agency currently respond to noise complaints. The adoption of an effective ordinance that establishes fines for violations may reduce the number of calls and provide partial cost recovery.


**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

An ordinance that reasonably and effectively limits nuisance noise allows people the quiet enjoyment of their surrounding without impeding on the right to host social events aligns with the “Quality of Life Initiative” included in the County of Tulare Strategic Business Plan.

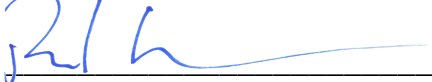
**ADMINISTRATIVE SIGN-OFF:**



Aaron R. Bock, MCRP, JD, LEED AP  
Assistant Director



Michael Washam, ACE  
Associate Director



Reed Schenke, P.E.  
Director

Cc: County Administrative Office

Attachment(s) Social Host Ordinance

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

**IN THE MATTER OF BOARD DIRECTION – ) Resolution No. \_\_\_\_\_  
AMENDING SOCIAL HOST ORDINANCE )**

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE  
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JUNE 30, 2020 BY THE  
FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JASON T. BRITT  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

1. Received a presentation from the Resource Management Agency regarding the establishment of a Noise Ordinance.
2. Provided direction to staff pertaining to amending the Social Host Ordinance.

# Attachment 1

## Social Host Ordinance

## ARTICLE 7. SOCIAL HOST ORDINANCE

### 5-01-1200 SHORT TITLE:

This Article shall be known and cited as the "Social Host Ordinance."

(Added by Ord. No. 3526, effective 3-8-18)

### 5-01-1205 LEGISLATIVE FINDINGS AND INTENT:

The board of supervisors finds and determines as follows:

- (a) The County of Tulare, 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) Underage consumption of alcoholic beverages and recreational marijuana increases the risk for alcohol and drug abuse, respectively; physical altercations; violent crimes, including rape and other sexual offenses; accidental injuries; driving under the influence; neighborhood vandalism; and excessive noise disturbance; all of which may require intervention by local law enforcement;
- (c) Underage person(s) often obtain alcoholic beverages or recreational marijuana at parties held at private residences or at rented residential and commercial premises that are under the control of a person or persons who know(s) or should know of the underage service, possession and/or consumption. Some person(s) responsible for private property have failed to ensure that alcoholic beverages or recreational marijuana are neither served to nor consumed by underage person(s) at parties held on premises under their possession or control;
- (d) Law enforcement, fire and other emergency response services personnel have and are required to respond, sometimes on multiple occasions during a single evening, to parties on private property at which alcoholic beverages or recreational marijuana are served to or consumed by underage persons. Responses to such parties result in a significant expenditure of time and resources by County staff, and they divert public safety resources from other areas of the county;
- (e) For these reasons, parties held on private property where alcoholic beverages or recreational marijuana are served to or consumed by underage person(s) pose an immediate threat to public health, safety, quiet enjoyment of property, and the general welfare of the communities where such parties are held, and control of such parties is necessary to protect the general welfare;
- (f) It is difficult to prevent and deter problems associated with parties at which alcoholic beverages or recreational marijuana are used by underage person(s) unless those responsible for hosting, supervising, or tolerating such parties are subject to criminal and/or civil liability for their conduct;
- (g) Person(s) held responsible for abetting or tolerating parties where underage consumption of alcohol or recreational marijuana occurs will be more likely to properly supervise and stop such conduct at parties held on private property under their possession and control;
- (h) Enhancing law enforcement's ability to abate parties on private property where underage persons are using alcoholic beverages or recreational marijuana will result in a decrease in alcohol

or drug abuse by underage persons, as well as a decrease in other public safety issues related to such drug and alcohol use, such as driving under the influence, excessive noise disturbances, physical altercations and injuries, and neighborhood vandalism;

(i) The prohibitions found in this Article are reasonable and expected to deter the consumption of alcoholic beverages and/or recreational marijuana by underage persons by holding the person(s) who knowingly allow service to or consumption by underage person(s) responsible.

(Added by Ord. No. 3526, effective 3-8-18)

#### 5-01-1210 DEFINITIONS:

The following terms as used in this Article shall have the meaning ascribed to them in this section as follows:

(a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(b) "Alcoholic beverage" means and 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) "Control" means any form of dominion, including ownership, tenancy, license or any other possessory right.

(d) "Marijuana" means all parts of the plant *Cannabis sativa* linnaeus, *Cannabis indica*, or *Cannabis ruderalis*; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including the separated resin, whether crude or purified, obtained from cannabis. It includes all cannabis products that can be smoked, vaporized, inhaled, ingested, or consumed, including dried flowers, concentrated cannabis, extracts, and edible cannabis products.

(e) "Nonmedical marijuana" means marijuana or cannabis that is not being used or consumed in accordance with a physician's recommendation.

(f) The term "party" means any party, gathering, event, meeting, or other assembly of two or more individuals on private property for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

(g) The term "person" means and includes, but is not limited to, any individual business, corporation or other organization, but it does not include a public entity.

(h) The term "private property" means any private residence or other private premises, individual unit or place, including any commercial or business premises, a hotel or motel room or bed and breakfast unit, home, yard, apartment, condominium, mobile home, cottage, cabin, trailer, tent or other dwelling unit, abandoned or vacant warehouse or other building or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or for a party or other social function, and whether owned, leased, rented, licensed, or used with or without compensation.

(i) The term "underage person" means any person under twenty-one (21) years of age.  
(Added by Ord. No. 3526, effective 3-8-18)

**5-01-1211 EXEMPTIONS:**

(a) This Article shall not apply to activities protected by Article 1, Section 4 of the California Constitution or the First or Fourteenth Amendments to the United States Constitution.

(b) This Article shall not apply to conduct involving the consumption or possession of marijuana by an underage person if that underage person is either a qualified patient that possesses a recommendation from a physician, or a person with an identification card, as provided in Health and Safety Code sections 11362.7 et seq.

(c) This Article shall not apply to any location or place regulated by the California Alcoholic Beverage Control Act.

(Added by Ord. No. 3526, effective 3-8-18)

**5-01-1215 PROHIBITION:**

It is unlawful for any person to permit, allow, host, or continue to permit, allow, or host a party on private property under his or her control if underage person(s) are present and the person(s) in control of the property knows or reasonably should know that (i) alcoholic beverages are being furnished to or consumed by any underage person(s), or (ii) marijuana is being furnished to or smoked, vaporized, ingested, or otherwise consumed by any underage person(s).

(Added by Ord. No. 3526, effective 3-8-18)

**5-01-1220 DUTY TO TAKE REASONABLE STEPS; PRIMA FACIE EVIDENCE:**

(a) It shall be the duty of any person having control of any private property who hosts, permits, or allows a party to take place on said private property to take all reasonable steps to prevent furnishment of alcohol or marijuana to underage persons, and to prevent the use by underage persons of alcohol or marijuana at the party. Reasonable steps include (i) monitoring and/or controlling access to alcoholic beverages or marijuana at the party; (ii) verifying the age of persons attending the party by inspecting drivers' licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages or nonmedical marijuana while at the party; (iii) requiring guests to leave the property if there is reason to suspect that the guests have furnished or intend to furnish alcohol or marijuana to underage persons; (iv) supervising the activities of underage persons at the party.

(b) A person who has control of any private property shall be presumed to have actual or constructive knowledge that alcoholic beverages are being furnished to or consumed by any underage person(s), or marijuana is being furnished to or smoked, vaporized, ingested, or otherwise consumed by any underage person(s), if the person (i) is present at the party and (ii) has failed to take all reasonable steps as set forth in subdivision (a) above. A person's presence at the private property under their control shall be prima facie evidence that such person(s) had the knowledge or should have had the knowledge specified in Section 5-01-1215.

(Added by Ord. No. 3526, effective 3-8-18)

**5-01-1225 NUISANCE:**

Conduct prohibited by Section 5-01-1215 is hereby declared to be a public nuisance, and is subject to abatement as provided in Article 11 of Chapter 1 of Part IV of this Code.  
(Added by Ord. No. 3526, effective 3-8-18)

**5-01-1230 SEPARATE VIOLATION FOR EACH INCIDENT:**

Each incident in violation of this ordinance shall constitute a separate offense. An "incident" refers to each time law enforcement, fire, and/or other emergency personnel responds to a party. If a response is required multiple times to the same party on the same date, each response shall be a separate offense.

(Added by Ord. No. 3526, effective 3-8-18)

**5-01-1235 CRIMINAL PENALTIES FOR VIOLATION:**

A violation of section 5-01-1215 shall constitute either a misdemeanor or an infraction, and shall be punishable as specified in Section 125 of this Code.

(Added by Ord. No. 3526, effective 3-8-18)

**5-01-1240 RESERVATION OF LEGAL OPTIONS:**

By adopting this Article, the County of Tulare does not waive its right to seek other legal remedies. The procedure provided for in this Article is in addition to any other statute, ordinance or law, whether civil or criminal. This Article in no way limits the authority of law enforcement or private citizens to make arrests for any criminal offenses arising out of conduct regulated by this Article, nor does it limit in any way the prosecution's ability to initiate and prosecute a criminal offense arising out of the same circumstances.

(Added by Ord. No. 3526, effective 3-8-18)

**5-01-1245 SEVERABILITY:**

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

(Added by Ord. No. 3526, effective 3-8-18)