

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Ron Nelson, Captain 

DATE: May 25, 2010 (CC Meeting of 6/16/10)

SUBJECT: Consider an Ordinance to Add Section 9.20.040 Entitled “Drinking Games Prohibited” to Chapter 9.20 of the Moorpark Municipal Code

SUMMARY

Drinking games such as “Beer Pong” have become increasingly popular in Southern California restaurants and bars as these businesses look for creative ways to lure new customers and increase their patronage. Unfortunately, games that promote drinking also promote unsafe activities such as drunk driving, fights and disturbances, and sexual assaults, when participants become highly intoxicated. Adding an ordinance prohibiting drinking games in business establishments that serve alcoholic beverages will assist in maintaining safer environments in our restaurants and bars, and on our streets.

DISCUSSION

There are currently no rules in place in the City’s Municipal Code to limit or prohibit games or contests by alcohol retail establishments that may promote the irresponsible and unsafe drinking of alcoholic beverages through contests. Others cities, such as Huntington Beach, have begun to recognize the dangers associated with these activities and have established ordinances that prohibit such activities. Rules prohibiting drinking games can take the form of standardized conditions of approval in Conditional Use Permits (CUP), or as infraction or misdemeanor violations in a City’s municipal code. The advantage of the Municipal Code is that it covers all current business establishments that may already have a CUP.

The intent of an ordinance would not be to limit drinking in a business establishment, but to limit extreme inebriation by those persons who may visit a bar or restaurant and normally not drink to a high level of inebriation, but are drawn to that state during a contest. Most people show restraint in their consumption of alcoholic beverages while visiting a bar or restaurant, however while participating in drinking games or contests,

many who are normally restrained lose their inhibitions while competing against others during a contest. Drinking games are designed such that one participant or team gets the other to lose and become intoxicated, which then leads to potentially dangerous activities.

On March 25, 2010, the Ventura County Safe Bars Task Force (Task Force), a program sponsored by the Ventura County Behavioral Health Department, issued a report following two undercover assessment visits to a business in the City of Moorpark that serves alcoholic beverages. During one of the visits, members of the Task Force observed a contest commonly referred to as “Beer Pong” being played by patrons of the business. During the game, which promotes drinking between contestants, the contestants consumed large amounts of beer and became very intoxicated. Members of the assessment team noted that no taxicabs arrived to drive patrons home safely when the business closed, inferring that the participants may have driven home while intoxicated.

The California Alcoholic Beverage Control Agency (ABC) published an enforcement guide in November 2009 with an entry referencing Rule 106(i)1 of the ABC Act related to drinking contests:

“Retailer-Sponsored Contests - Rule 106(i)1

Retailers may sponsor contests at their premises by providing prizes to contestants, provided that the prizes are not alcoholic beverages, that the contest is not conditioned on the purchase, sale or consumption of alcoholic beverages, and that the competitive event does not involve consumption of alcoholic beverages (e.g., beer pong).”

Rule 106(i)1 references Section 106 of the California Code of Regulations, which is administrative in nature and not enforceable as a criminal statute. This administrative law regulates the activities of alcohol licensees. Although the law specifically addresses retailers that sponsor contests, many bar establishments simply provide the venue and opportunity for drinking related contests but do not officially sponsor these activities, so rule 106(i)1 may not be enforceable in those instances. However, rule 106(i)1 placed an emphasis on prohibiting sponsored contests that involve the sale and consumption of alcoholic beverages.

- (a) In an effort to take a proactive approach to address the potential problems associated with drinking contests, the following addition to the Moorpark Municipal Code, is recommended, making such activities a violation punishable through enforceable action.

By adding an enforceable section to the Moorpark Municipal Code to prevent dangerous drinking of alcoholic beverages through games or contests in retail on-sale alcohol businesses, the City would be able to quickly respond to, and prevent potentially

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dangerous activities in an efficient manner. The City Attorney has reviewed the attached draft ordinance.

FISCAL IMPACT

None

STAFF RECOMMENDATION

Introduce Ordinance No. _____ for the first reading, waive full reading and schedule second reading and adoption for July 7, 2010.

Attachment: Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, ADDING SECTION 9.20.040, DRINKING GAMES PROHIBITED, TO CHAPTER 9.20, ALCOHOLIC BEVERAGES, OF TITLE 9, PUBLIC PEACE, MORALS AND WELFARE, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, there are businesses such as bars and restaurants in the City that sell alcoholic beverages that may currently allow games or contests that promote extreme drinking of alcoholic beverages; and

WHEREAS, allowing businesses to promote drinking games or contests could potentially lead to extreme drinking of alcoholic beverages, inebriation and other related problems such as drunk driving, fights and disturbances, and sexual assaults; and

WHEREAS, allowing bar and restaurant patrons to participate in drinking games, even without the consent of the business owner, could lead to extreme inebriation and other related problems; and

WHEREAS, the City Council has determined adding Section 9.20.040 to the Moorpark Municipal Code, prohibiting drinking games by businesses and patrons will allow the City to maintain a higher quality of life, free from the problems associated with extreme drinking and intoxication.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 9.20.040 of the Moorpark Municipal Code is added in its entirety to read as follows:

“9.20.040 Drinking games prohibited.

A. It shall be a violation of this code for any business involved in the sale of alcoholic beverages to allow games or contests requiring or involving the consumption of alcoholic beverages.

B. It shall be a violation of this code for any person, while in a commercial business that sells or serves alcoholic beverages to its customers, to participate in any games or contests requiring or involving consumption of alcoholic beverages.”

SECTION 2. Severability. If any section, subsection, subdivision, sentence, clause, or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the

fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. Effective Date. This ordinance shall become effective thirty (30) days after its passage and adoption.

The City Clerk shall certify to the adoption of this ordinance and shall cause a certified copy to be filed in the book of original ordinances.

PASSED AND ADOPTED this ___ day of ____, 2010.

Janice S. Parvin, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk