

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO: Honorable City Council**

**FROM: Jeff Matson, Captain**

**DATE: November 21, 2007 (CC Meeting of 12/5/2007)**

**SUBJECT: Consider Ordinance Amending Section 9.32.060.B of Chapter 9.32, Social Host, of Title 9, Public Peace, Morals and Welfare, of the Moorpark Municipal Code, and Resolution Establishing Fine for Violations of Social Host Ordinance**

**SUMMARY**

Municipal Code Section 9.32.060.B is proposed to be revised to remove the specific fine amount from the Municipal Code, and adopt a resolution that establishes the penalty fine for violations of the Social Host Ordinance. The fine amount in the proposed resolution has been increased from \$1,000.00 to \$2,500.00. The proposed amendment to Section 9.32.060.B of the Municipal Code is shown through the use of legislative format as follows:

B. Notwithstanding any provision of Chapter 1.16 to the contrary, the city may issue an administrative citation for any violation of this chapter, with a fine of ~~one thousand dollars (\$1,000.00) (unless another fine amount is amount as set by city council resolution for any violation of this chapter)~~, which fine amount shall be in addition to any recovery of response costs that might be imposed under Section 9.32.070.

Municipal Code Section 9.32.070 provides the authority for the City to collect reimbursement for the actual response costs associated with police, fire or other emergency services that respond to a loud, unruly gathering under specific conditions. During the initial response to an offending gathering, the official will provide the responsible party with a warning notice of the violation and the liability of costs associated with second or subsequent responses within a twelve-month period.

**BACKGROUND**

Ordinance No. 338, the Social Host Ordinance, was adopted on September 20, 2006, to address the occurrence of loud or unruly gatherings on private property where alcoholic beverages are served or consumed by underage persons.

The intent of this ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. This ordinance imposes strict liability on property owners and other responsible persons for the nuisances created by loud and unruly gatherings and is necessary to deter and prevent such gatherings.

Violations of the Social Host Ordinance are currently processed via an administrative citation, and appellants are afforded the opportunity for an administrative hearing to appeal said violation(s).

### **DISCUSSION**

Following the adoption of Ordinance No. 338, the Moorpark Police Department issued the first administrative citation for a violation of the Social Host Ordinance on January 1, 2007. The appellant in that matter appealed the citation and requested an administrative hearing. A contract between the City and the California Office of Administrative Hearings (OAH) was established to provide for said hearings. Upon the conclusion of the hearing, the appellant was found liable for the \$1,000.00 penalty.

The invoices submitted from the OAH for document preparation, filing costs, administrative law judge hours for the actual hearing and for preparing the final decision exceeded \$3,000.00. Additionally, the City bore additional costs for the overtime hours of testifying deputies during their off-duty hours.

A survey of neighboring cities (Thousand Oaks, Simi Valley and Camarillo) with similar Social Host Ordinances reveals their penalties for a violation of their respective social host ordinances range from \$500.00 to \$5,000.00 depending on various factors such as first time offense or multiple offenses.

The absence of a significant number of case histories does not allow for an accurate estimation regarding what percentage of violators will appeal. Of the three individuals who were cited, only one person has appealed. While \$2,500.00 does not cover the City's cost to handle these appeals, on average, the \$2,500.00 amount should balance out the City's expenses for processing all social host violations. Therefore, it is recommended that the penalty for violations of the Social Host Ordinance be increased to \$2,500.00.

The resolution included as an attachment to this report would need to be adopted following second reading of the ordinance, with an effective date that coincides with the effective date of the adopted ordinance.

The City Attorney has reviewed the attached draft ordinance and draft resolution.

**STAFF RECOMMENDATION**

Introduce Ordinance No. \_\_\_\_ for first reading, waive full reading, and schedule second reading and adoption for January 16, 2008, and schedule resolution for adoption at first meeting in February 2008.

Attachments:

1. Draft Ordinance
2. Draft Resolution

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING SECTION 9.32.060.B OF CHAPTER 9.32, SOCIAL HOST, OF TITLE 9, PUBLIC PEACE, MORALS AND WELFARE, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, the City Council adopted Ordinance No. 338, at a regular meeting on October 20, 2006, which added Chapter 9.32, Social Host, to the Moorpark Municipal Code; and

WHEREAS, Section 9.32.060.B should be amended to remove the specific fine amount for issuance of an administrative citation for any violation of Chapter 9.32, and permit such fine to be adopted by City Council resolution.

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

SECTION 1. Section 9.32.060.B of Chapter 9.32 of Title 9 of the Moorpark Municipal Code is hereby amended in its entirety to read as follows:

“B. Notwithstanding any provision of Chapter 1.16 to the contrary, the city may issue an administrative citation for any violation of this chapter, with a fine amount as set by city council resolution, which fine amount shall be in addition to any recovery of response costs that might be imposed under Section 9.32.070.”

SECTION 2. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

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

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and the adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark Star a newspaper of general circulation, as defined in

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Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Patrick Hunter, Mayor

ATTEST:

\_\_\_\_\_  
Deborah S. Traffenstedt, City Clerk

000072

RESOLUTION NO. 2008-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, ESTABLISHING THE FINE FOR VIOLATIONS OF CHAPTER 9.32, SOCIAL HOST, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, Ordinance No. 338 established Chapter 9.32, Social Host, of the Moorpark Municipal Code; and

WHEREAS, Ordinance No. \_\_\_\_ amended Section 9.32.060.B of the Moorpark Municipal Code to remove the specific fine amount for violations of Chapter 9.32, and to add language clarifying that the fine amount would be set by resolution of the City Council.

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

SECTION 1. The City Council hereby approves a fine amount of \$2,500.00 for any violation of Chapter 9.32, Social Host, of the Moorpark Municipal Code, which fine amount shall be in addition to any recovery of response costs that might be imposed under Section 9.32.070 of the Municipal Code.

SECTION 2. The fine for violations of the Chapter 9.32, Social Host, shall be reviewed annually by the City Manager and Police Chief to ensure that the fine is current and related to actual cost.

SECTION 3. This resolution shall be effective upon the effective date of Ordinance No. \_\_\_\_.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this \_\_\_\_ day of January, 2008.

\_\_\_\_\_  
Patrick Hunter  
Mayor

ATTEST:

\_\_\_\_\_  
Deborah S. Traffenstedt