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AGENDA COVER MEMO

AGENDA DATE: June 22, 2011 (First Reading)
July 13, 2011 (Second Reading)

TO: Board of County Commissioners

DEPARTMENT: Department of Health & Human Services

PRESENTED BY: Rob Rockstroh

AGENDA ITEM TITLE: FIRST READING AND SETTING SECOND READING AND PUBLIC HEARING/ORDINANCE NO. 1-11 /IN THE MATTER OF AMENDING CHAPTER 6 OF LANE CODE TO MODIFY AND ADD PROVISIONS OF THE SOCIAL HOST ORDINANCE (LC 6.900)

I. MOTION

On June 22: Move the First Reading and Set the Second Reading and Public Hearing on Ordinance No. 1-11 for July 13, 2011 at 1:30 p.m. in Harris Hall.
On July 13: Move Approval of Ordinance No. 1-11.

II. AGENDA ITEM SUMMARY

Request amending Social Host Ordinance to reflect recommendations from law enforcement and community members, without language about events where attendees are charged a fee.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

- Lane County Board of Commissioners passed the Social Host Ordinance (SHO) January 5, 2010 and went into effect February 4, 2010.
- Staff reported back to the BCC November 3, 2010 regarding implementation and use of the SHO.
 - HHS staff met with law enforcement prior to the November 3 meeting and learned law enforcement had not used the SHO due to a few language and implementation challenges. Recommendations were provided to county counsel who included the changes in draft format. Included in the recommendations were:
 - Fees and fines can be collected through either a collection agency or through civil action.

- Responding entities can formulate intergovernmental agreements as to the handling of response fee assessments.

The proposed Ordinance No. 1-11 includes these changes. If approved, the changes to the Social Host Ordinance will be effective after 30 days have passed.

- Two of the county commissioners asked staff to include language in the amended SHO to include 'Raves' as they had complaints by constituents about 'Raves' occurring in their district. Counsel included draft language to address events where attendees pay a fee to attend and provided penalties different than for those who attend free events as follows:
 - Violation of the Social Host Ordinance in situations where money is collected from attendees is a violation, punishable as follows:
 - First response to same location or for event hosted by same hosts:
 - The occupant(s) and owner(s) and host of the event shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies, as well as a fine of \$5,000.
 - Second and subsequent responses to same location or for event hosted by same hosts:
 - The occupant(s) and owner(s) and host of the event shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies, as well as a fine of \$10,000.

A draft of the Social Host Ordinance with these additional changes to LC 6.900 after adoption of the Ordinance No. 1-11 amendments is attached.

- Community members attending the November 3, 2010 BCC meeting expressed several concerns, including the new language to include events where attendees were charged fees. The BCC took no action and asked staff to meet with community members to develop amendments to the SHO that better reflected all concerns expressed during the meeting.
- HHS staff convened a community meeting January 20, 2011 to review the Social Host Ordinance and address concerns. The meeting notice was published on the county's website as well as in the Eugene Register Guard. Approximately 12 people attended. HHS and LC Sheriff's department were represented.
- After two hours of discussion, community members attending the meeting agreed that if the language regarding 'events where attendees pay a fee' was dropped, all other proposed amendments would be acceptable. Regarding 'events where attendees pay a fee', community members agreed to meet in the future to discuss possible guidelines and agreements to help ensure safer and more responsible events for all people involved.

B. Policy Issues

Amending the existing Social Host Ordinance to reflect recommendations from law enforcement and not including language regarding 'events where attendees are charged a fee' would strengthen the ordinance; providing more effective language and increase the likelihood of using the ordinance.

C. Board Goals

Meets BCC objective of encouraging citizen participation.

C. Financial and/or Resource Considerations

Violation of the Social Host Ordinance includes fees and the possibility of recovering the cost of response.

E. Analysis

HHS Prevention Program staff have conducted a research review and concluded that sufficient documentation exists to support a Social Host Ordinance which is specific to those hosting events where underage drinking and illegal drug use is occurring. Lane County youth have a high rate of alcohol use which is unacceptable in our community where we value all youth.

According to the 2010 Lane County Epidemiological Profile:

- 23% of Lane County 8th graders drank alcohol
- 41% of Lane County 11th graders drank alcohol
- 48% of Lane County 8th graders indicated it was easy to get alcohol
- 72% of Lane County 11th graders indicated it was easy to get alcohol
- The average of first use of alcohol by Lane County 8th graders was 11.6
- The average of first use of alcohol by Lane County 11th graders was 14

The proposed Ordinance No. 1-11 provides changes that can enhance utilization by law enforcement. Following action by the Board, staff will continue to explore issues around events where attendees pay a fee. Any additional direction by the Board can be incorporated into those community conversations.

F. Alternatives/Options

1. Approve the second reading and hearing and following the hearing, approve the ordinance.
2. Direct staff to make additional proposed changes to LC 6.900 and return for further readings and consideration.

3. Do not make changes to LC 6.900.

IV. RECOMMENDATION

Alternative 1 – set second reading/public hearing. Approve the Ordinance following the hearing. Upon approval by the Board, H&HS will work with County Administration to ensure public announcement of the amendments.

VII. ATTACHMENTS

Ordinance No. 1-11
Proposed Fee Event Changes for LC 6.900.

BEFORE THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 1 - 11 | IN THE MATTER OF AMENDING CHAPTER 6 OF LANE CODE
TO MODIFY AND ADD PROVISIONS OF THE SOCIAL HOST
ORDINANCE. (LC 6.900)

The Board of County Commissioners of Lane County ordains as follows

Chapter 6 of Lane Code is hereby amended by removing, substituting and adding new sections as follows:

REMOVE THESE SECTIONS

6.900
located on pages 6-14 through 6-16
(a total of 3 pages)

INSERT THESE SECTIONS

6.900
located on pages 6-14 through 6-15
(a total of 2 pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of these substitutions and additions is to modify and add provisions of the existing Social Host Ordinance (LC 6.900).

ENACTED this _____ day of _____ 2011

Chair, Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 4-15-2011 Lane County

Stephen J. Wisker
OFFICE OF LEGAL COUNSEL

SOCIAL HOST ORDINANCE

6.900 Social Host Ordinance.

(1) For purposes of LC 6.900, the following words or terms have the following meanings:

(a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

(b) "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

(c) "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

(d) "Host" means to aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event.

(e) "Parent" means any person having legal custody of a juvenile:

(i) As a natural or adoptive parent or step-parent;

(ii) As a legal guardian; or

(iii) As a person to whom legal custody has been given by order of the court.

(f) "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals. "Residence" or "premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with permission or compensation.

(g) "Underage person" means any individual under twenty-one (21) years of age.

(h) "Knowledge and consent" of a host is presumed if the owner(s) and/or occupant(s) of the residence or premises has been informed that an underage party was held at their residence or premises within the past three years.

(i) "Response" includes, but is not limited to: the time spent on the call by responding deputy sheriffs or other law enforcement or medical/emergency response personnel including response time from dispatch until the law enforcement officers or medical/emergency response personnel are cleared from the call. Response will also include necessary report writing related to the call for all responders.

(2) All persons are prohibited from:

(a) Hosting or allowing any event or gathering at any residence, premises, or on any other private or public property where alcohol or illegal, controlled, or intoxicating substances are present when the person knows or reasonably should know that an underage person will or does

(i) Consume or ingest any alcohol, alcoholic beverage, or illegal, controlled substance; or

(ii) Possess any alcohol, alcoholic beverage, or illegal, controlled substance with the intent to consume it; and

(iii) The person fails to take reasonable steps to prevent possession, ingestion or consumption by the underage person(s).

(b) The prohibitions of LC 6.900(2)(a) also apply to all persons who intentionally aid, advise, hire, counsel or conspire with or otherwise procure another to commit the prohibited act outlined in LC 6.900(2)(a) above.

(c) A person who hosts an event or gathering does not have to be present at the event or gathering to be in violation of LC 6.900.

(3) Exceptions

(a) The provisions of LC 6.900(2) do not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(b) The provisions of LC 6.900(2) do not apply to legally protected religious observances.

(c) The provisions of LC 6.900(2) do not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(d) The provisions of LC 6.900(2) do not apply to owners of large tracts of non-residential timber and agricultural land over 50 acres in size, and/or rental income property owners, unless they had knowledge of the event and consented to the occurrence of the event.

(4) Enforcement and Penalties

(a) The provisions of LC 6.900(2) can be enforced by any police officer or sheriff's deputy within Lane County.

(b) Violation of the Social Host Ordinance, LC 6.900, is an unclassified violation requiring a mandatory appearance and is punishable upon conviction as follows:

(i) First response within a three (3) year period:

(A) The occupant(s) and owner(s) of the property shall receive notice of the event and a warning that if another event occurs involving the same occupants and owners within 3 years, the provisions of LC 6.900 require payment of response fees and enhanced fines.

(B) The occupant(s) and owner(s) of the property shall be fined \$500.

(ii) Second and subsequent responses within a three (3) year period:

(A) For the second response, the occupant(s) and owner(s) shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies and a fine of \$750.

(B) For each subsequent response in a three (3) year period, the occupant(s) and owner(s) shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies, and an additional \$1,000 fine shall be charged.

(5) Fees and fines can be collected through either a collection agency, through civil action or through a request for restitution through the appropriate court handling either the violation proceeding or related proceedings. Responding entities may formulate intergovernmental agreements as to the handling of response fee assessments. *(Revised by Ordinance No. 5-09, Effective 2.4.10)*

SOCIAL HOST ORDINANCE

6.900 Social Host Ordinance.

(1) For purposes of ~~this section~~ **LC 6.900**, the following words or terms have the following meanings:

(a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

(b) "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

(c) "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

(d) "Host" means to aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event.

(e) "Parent" means any person having legal custody of a juvenile:

(i) As a natural or adoptive parent or step-parent;

(ii) As a legal guardian; or

(iii) As a person to whom legal custody has been given by order of the court.

(f) "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals. "Residence" or "premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with permission or compensation.

(g) "Underage person" means any individual under twenty-one (21) years of age.

(h) "Knowledge and consent ~~or acquiescence~~" of a host is presumed if the owner(s) and/or occupant(s) of the residence or premises ~~is a parent or guardian of an underage person and~~ has been informed that an underage party was held at their residence or premises within the past three years.

(i) "Response" includes, but is not limited to: the time spent on the call by responding deputy sheriffs or other law enforcement or medical/emergency response personnel including response time from dispatch until the law enforcement officers or medical/emergency response personnel are cleared from the call. Response will also include necessary report writing related to the call for all responders.

(2) All persons are prohibited from:

(a) Hosting or allowing any event or gathering at any residence, premises, or on any other private or public property where alcohol or illegal, controlled, or intoxicating substances are present when the person knows or reasonably should know that an underage person will or does

(i) Consume or ingest any alcohol, alcoholic beverage, or illegal, controlled substance; or

(ii) Possess any alcohol, alcoholic beverage, or illegal, controlled substance with the intent to consume it; and

At right margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted

**LEGISLATIVE
FORMAT**

6.900 Lane Code 6.900

(iii) The person fails to take reasonable steps to prevent possession, ingestion or consumption by the underage person(s).

(b) ~~The prohibitions of LC 6.900(2)(a) is ordinance~~ also applies to all persons who intentionally aid, advise, hire, counsel or conspire with or otherwise procure another to commit the prohibited act outlined in **LC 6.900(2)(a)** above.

(c) A person who hosts an event or gathering does not have to be present at the event or gathering to be in violation of ~~this ordinance~~ **LC 6.900**.

(3) Exceptions

(a) ~~The provisions of LC 6.900(2) is ordinance~~ does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(b) ~~The provisions of LC 6.900(2) is ordinance~~ does not apply to legally protected religious observances.

(c) ~~The provisions of LC 6.900(2) is ordinance~~ does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(d) ~~The provisions of LC 6.900(2) is ordinance~~ does not apply to owners of large tracts of **non-residential** timber and agricultural land over 50 acres in size, and/or rental income property owners, unless they had knowledge of the event and consented or acquiesced to the occurrence of the event.

(4) Enforcement and Penalties

(a) ~~The provisions of LC 6.900(2) is ordinance~~ can be enforced by any police officer or sheriff's deputy within Lane County.

(b) Violation of the Social Host Ordinance, **LC 6.900**, is an **unclassified** violation **requiring a mandatory appearance and is** punishable upon conviction as follows:

(i) First response within a three (3) year period:

(A) The occupant(s) and owner(s) of the property shall receive notice of the event and a warning that if another event occurs involving the same occupants and owners within 3 years, the ~~provisions of LC 6.900 ordinance~~ requires payment of response fees and **enhanced** fines.

(B) The occupant(s) and owner(s) of the property shall be fined ~~\$250~~**500**.

(ii) Second and subsequent responses within a three (3) year period:

(A) For the second response, the occupant(s) and owner(s) shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies and a fine of ~~\$500~~**750**.

(B) For each subsequent response in a three (3) year period, the **occupant(s) and owner(s) shall be assessed** the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies, and an additional \$1,000 fine shall be charged.

(5) ~~Effective Date. This ordinance shall take effect thirty (30) days following its final passage and adoption.~~ **Fees and fines can be collected through either a collection agency, through civil action or through a request for restitution through the appropriate court handling either the violation proceeding or related proceedings. Responding entities may formulate intergovernmental agreements as to the handling of response fee assessments.** (Revised by Ordinance No. 5-09, Effective 2.4.10)

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(c) "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

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(e) "Parent" means any person having legal custody of a juvenile:

(i) As a natural or adoptive parent or step-parent;

(ii) As a legal guardian; or

(iii) As a person to whom legal custody has been given by order of the court.

(f) "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals. "Residence" or "premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with permission or compensation.

(g) "Underage person" means any individual under twenty-one (21) years of age.

(h) "Knowledge and consent" of a host is presumed if the owner(s) and/or occupant(s) of the residence or premises has been informed that an underage party was held at their residence or premises within the past three years.

(i) "Response" includes, but is not limited to: the time spent on the call by responding deputy sheriffs or other law enforcement or medical/emergency response personnel including response time from dispatch until the law enforcement officers or medical/emergency response personnel are cleared from the call. Response will also include necessary report writing related to the call for all responders.

(2) All persons are prohibited from:

(a) Hosting or allowing any event or gathering at any residence, premises, or on any other private or public property where alcohol or illegal, controlled, or intoxicating substances are present when the person knows or reasonably should know that an underage person will or does:

(i) Consume or ingest any alcohol, alcoholic beverage, or illegal, controlled substance; or

(ii) Possess any alcohol, alcoholic beverage, or illegal, controlled substance with the intent to consume it; and

(iii) The person fails to take reasonable steps to prevent possession, ingestion or consumption by the underage person(s).

(b) The prohibitions of LC 6.900(2)(a) also apply to all persons who intentionally aid, advise, hire, counsel or conspire with or otherwise procure another to commit the prohibited act outlined in LC 6.900(2)(a) above.

(c) A person who hosts an event or gathering does not have to be present at the event or gathering to be in violation of LC 6.900.

(3) If money is collected at the event from attendees, the provisions of LC 6.900(5)(c) shall apply.

(4) Exceptions

(a) The provisions of LC 6.900(2) do not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(b) The provisions of LC 6.900(2) do not apply to legally protected religious observances.

(c) The provisions of LC 6.900(2) do not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(d) The provisions of LC 6.900(2) do not apply to owners of large tracts of non-residential timber and agricultural land over 50 acres in size, and/or rental income property owners, unless they had knowledge of the event and consented to the occurrence of the event.

(54) Enforcement and Penalties

(a) The provisions of LC 6.900 can be enforced by any police officer or sheriff's deputy within Lane County.

(b) Violation of the Social Host Ordinance, LC 6.900, is an unclassified violation requiring a mandatory appearance and is punishable upon conviction as follows:

(i) First response within a three (3) year period for an event that is free to all attendees:

(A) The occupant(s) and owner(s) of the property shall receive notice of the event and a warning that if another event occurs involving the same occupants and owners within 3 years, the provisions of LC 6.900 require payment of response fees and enhanced fines.

(B) The occupant(s) and owner(s) of the property shall be fined \$500.

(ii) Second and subsequent responses within a three (3) year period for an event that is free to all attendees:

(A) For the second response, the occupant(s) and owner(s) shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies and a fine of \$750.

(B) For each subsequent response in a three (3) year period, the occupant(s) and owner(s) shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies, and an additional \$1,000 fine shall be charged.

(c) Violation of the Social Host Ordinance, LC 6.900, in situations where money is collected from attendees is an unclassified violation requiring a mandatory appearance and is punishable upon conviction as follows:

(i) For a first response to the same location or for an event hosted by same hosts, the occupant(s) and owner(s) and host of the event shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies, as well as a maximum fine of \$20,000.

(ii) For any second and subsequent responses to the same location or for an event hosted by same hosts, the occupant(s) and owner(s) and host of the event shall be assessed the actual cost for law enforcement, fire and other emergency response providers to respond to the location and conduct the investigation and/or emergency care that is deemed necessary by the responding agencies, as well as a maximum fine of \$50,000.

(65) Fees and fines can be collected through either a collection agency, through civil action or through a request for restitution through the appropriate court handling either the violation proceeding or related proceedings. Responding entities may formulate intergovernmental agreements as to the handling of response fee assessments.

