City of Camarillo
AGENDA REPORT

Date: September 27, 2006
To: Honorable Mayor and Councilmembers
From: Jerry Bantston, City Manager
Submitted by: Brian Pienik, City Attorney
Subject: Urgency Ordinance and Ordinance Amending Chapter 10.32, Social Host Responsibility and Liability

SUMMARY
The proposed urgency ordinance designates all violations of Chapter 10.32 to be civil violations. By eliminating the standard infraction designation under the Municipal Code, this ordinance will enable the City to implement the enhanced civil fine schedule that was adopted at the time of the original enactment of the Social Host Ordinance. The proposed ordinance also makes a minor amendment to the noticing requirements of Chapter 10.32.

DISCUSSION
The Social Host Ordinance adopted by the Council in June, consistent with CMC Section 1.12.030 which makes all violations of Title 10 of the Municipal Code infractions, designated a violation of this new ordinance as an infraction. Under the Municipal Code, enforcement personnel have discretion to pursue either criminal or civil remedies when there is a Code violation. As such, if there is a violation of the Social Host Ordinance, a code enforcement officer could either issue a citation for a criminal infraction or issue an administrative citation that would result in a civil fine.

In the course of implementing the Social Host Ordinance, the Sheriff’s Department has recommended that all violations of the ordinance that is now codified as Chapter 10.32 of the Municipal Code be treated as civil violations. As noted above, because they are City code enforcement officers, the Sheriff’s Department already has this discretion. However, in reviewing this request, our office realized that the heightened civil fines of $500, $1000, and $2500 for a first, second and third violation of the Social Host Ordinance that the Council adopted conflict with Government Code section 53069.4, which limits the amount of administrative fines for violations that would otherwise constitute an infraction to $500.
Therefore, in order to maintain the enhanced fine schedule, it is necessary to amend Chapter 10.32 to remove the infraction designation altogether.

The Sheriff’s Department has also requested a minor amendment to remove the requirement of posting notice at a property that subsequent violations of Chapter 10.32 could result in liability for response costs. In light of the administrative citation process being utilized, such notice will be sent to the applicable property owner either with a copy of the citation invoice or separately. As such, there is no need to post the applicable property.

BUDGET IMPACT

The proposed amendments will enable the City to fully implement the enhanced civil fine schedule for violations of Chapter 10.32. These enhanced fines were intended to be a deterrent and to allow the City to recover some of the response costs associated with repeated loud and unruly gatherings at a premise.

RECOMMENDATION


ATTACHMENTS

- Redline of Proposed Amendments
- Urgency Ordinance
- Ordinance

Finance Review: KN
10.32.040 Penalties.

A. It is unlawful and will constitute an infraction it is a civil violation of this chapter for any responsible person to conduct, aid, allow, permit or condone a loud or unruly gathering at a residence or other private property.

B. Civil Fines. The fine schedule for administrative citations resulting from violations of this chapter is as follows;

1. A first violation of this section is punishable by a $500 fine.

2. A second violation of this section at the same residence or other private property, or by the same responsible person, within a 12-month period is punishable by a fine of $1000.

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 12 month period is punishable by a fine of $2500.

C. The fines prescribed at subsection (B) are in addition to any response costs 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 for such loud or unruly gathering is different from the responsible person for any prior loud or unruly gathering at the same 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 city will 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 12-month period. A warning given pursuant to this chapter will remain in effect for the residence or other private property at a given address until a full 12-month period has elapsed during which there have been no responses to a loud or unruly gathering at that residence or other private property.

10.32.050 Liability for response costs.

A. Liability for response costs. If a 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 within 12 months of a warning given to a responsible person regarding a loud or unruly gathering at the same location, all responsible persons will be jointly and severally liable for the city’s costs of providing response costs for that response and all subsequent responses during
the 12 month period. If a responsible person for the gathering is a minor, then the parents or guardians of that minor and the minor will be jointly and severally liable for the response costs. To incur liability for response costs imposed by this chapter, 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 chapter imposes vicarious as well as direct liability upon a responsible person.

B. Warning.

1. Prior to imposing any liability under subsection (A), 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, the official must post at the premises and provide a written warning must be provided to any responsible person for the gathering that:

   (a) The official has determined that a loud or unruly gathering exists has been found to exist; and

   (b) any responsible person may be charged for the response costs incurred for subsequent responses to a loud or unruly gathering at the residence or other private property within a 12 month period from the date of the warning.

2. If a responsible person cannot be identified at the scene, the official may subsequently return to the residence or other private property and issue the warning to a then-present responsible person.

3. If a written warning is not provided to a responsible person who identifies himself or herself as an owner of the property, then a copy of the warning must be sent within 30 days of the initial response by first-class or certified mail to the owner of the residence or other private property, as identified on the tax equalized assessment roll of the Ventura County Assessor.

4. A copy of the warning may also be given to any other known responsible person who does not reside at the residence or other private property in question by first-class or certified mail within 30 days of the initial response.
URGENCY ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF CAMARILLO AMENDING CHAPTER 10.32 OF TITLE
10 OF THE CAMARILLO MUNICIPAL CODE ENTITLED
"SOCIAL HOST RESPONSIBILITY AND LIABILITY" TO MAKE
ALL VIOLATIONS OF THE CHAPTER SUBJECT SOLELY TO
CIVIL PENALTIES AND TO AMEND CERTAIN NOTICING
REQUIREMENTS

THE CITY COUNCIL OF THE CITY OF CAMARILLO ORDAINS AS FOLLOWS:

SECTION 1. Findings. The City Council finds:

A. This Ordinance is an urgency measure under Government Code section 65858, and
is necessary for the immediate preservation of the public health, safety, and welfare.
The facts constituting the urgency are as follows:

(1) Under the Camarillo Municipal Code all violations of Title 10 are deemed
infractions.

(2) In adopting Ordinance No. 994, which established Chapter 10.32, the
City Council approved heightened civil fines of $500, $1000, and $2500 for a
first, second and third violation of the chapter.

(3) However, Government Code section 53069.4 limits the amount of
administrative fines to a maximum of $500 when a violation would otherwise be
an infraction.

(4) In order to avoid this $500 cap, the infraction designation needs to be
removed.

(5) Accordingly, to ensure that the financial deterrent of heightened fines is
effective, it is necessary to immediately amend Chapter 10.32.

SECTION 2. Amendment to Section 10.32.040. Section 10.32.040 of Chapter 10.32 of Title
10 of the Camarillo Municipal Code is amended to read as follows :

"10.32.040 Penalties.

A. It is a civil violation of this chapter for any responsible person to conduct, aid,
allow, permit or condone a loud or unruly gathering at a residence or other
private property.

B. Civil Fines. The fine schedule for administrative citations resulting from violations
of this chapter is as follows:

1. A first violation is punishable by a $500 fine.
2. A second violation at the same residence or other private property, or by the same responsible person, within a 12-month period is punishable by a fine of $1000.

3. A third or subsequent violation at the same residence or other private property, or by the same responsible person, within a 12 month period is punishable by a fine of $2500.

C. The fines prescribed at subsection (B) are in addition to any response costs 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 for such loud or unruly gathering is different from the responsible person for any prior loud or unruly gathering at the same 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 city will 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 12 month period. A warning given pursuant to this chapter will remain in effect for the residence or other private property at a given address until a full 12 month period has elapsed during which there have been no responses to a loud or unruly gathering at that residence or other private property.

SECTION 4. Amendment to Section 10.32.050. Section 10.32.050 of Chapter 10.32 of Title 10 of the Camarillo Municipal Code is amended to read as follows:

“10.32.050 Liability for response costs.

A. Liability for response costs. If a 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 within 12 months of a warning given to a responsible person regarding a loud or unruly gathering at the same location, all responsible persons will be jointly and severally liable for the city’s costs of providing response costs for that response and all subsequent responses during the 12 month period. If a responsible person for the gathering is a minor, then the parents or guardians of that minor and the minor will be jointly and severally liable for the response costs. To incur liability for response costs imposed by this chapter, 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 chapter imposes vicarious as well as direct liability upon a responsible person.

B. Warning.

1. Prior to imposing any liability under subsection (A), when a law enforcement, fire or other emergency response provider makes an initial response to a loud or unruly gathering at a residence or other private property within the city, a written warning must be provided to any responsible person for the gathering that:
(a) a loud or unruly gathering has been found to exist; and
(b) any responsible person may be charged for the response costs incurred for subsequent responses to a loud or unruly gathering at the residence or other private property within a 12 month period from the date of the warning.

2. If a responsible person cannot be identified at the scene, the official may subsequently return to the residence or other private property and issue the warning to a then-present responsible person.

3. If a written warning is not provided to a responsible person who identifies himself or herself as an owner of the property, then a copy of the warning must be sent within 30 days of the initial response by first-class or certified mail to the owner of the residence or other private property, as identified on the last equalized assessment roll of the Ventura County Assessor.

4. A copy of the warning may also be given to any other known responsible person who does not reside at the residence or other private property in question by first-class or certified mail within 30 days of the initial response."

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Publication. The City Clerk must certify to the adoption of this ordinance and cause this ordinance to be published in the manner required by law.

PASSED, APPROVED AND ADOPTED this ______ day of _______ 2006.

ATTEST:

________________________
CITY CLERK

APPROVED AS TO FORM:

________________________
CITY ATTORNEY

Urgency Ordinance No.
Page 3 of 4
I, Deborah Harrington, City Clerk of the City of Camarillo, hereby certify that the foregoing Urgency Ordinance No. ___ was passed and adopted by the City Council of the City of Camarillo at a regular meeting of the Council held on the ___ day of __________, 20___, by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMARILLO AMENDING CHAPTER 10.32 OF TITLE 10 OF THE CAMARILLO MUNICIPAL CODE ENTITLED "SOCIAL HOST RESPONSIBILITY AND LIABILITY" TO MAKE ALL VIOLATIONS OF THE CHAPTER SUBJECT SOLELY TO CIVIL PENALTIES AND TO AMEND CERTAIN NOTICING REQUIREMENTS

THE CITY COUNCIL OF THE CITY OF CAMARILLO ORDAINS AS FOLLOWS:

SECTION 1. Findings. The City Council finds:

A. Under the Camarillo Municipal Code all violations of Title 10 are deemed infractions.

B. In adopting Ordinance No. 994, which established Chapter 10.32, the City Council approved heightened civil fines of $500, $1000, and $2500 for a first, second and third violation of the chapter.

C. However, Government Code section 53069.4 limits the amount of administrative fines to a maximum of $500 when a violation would otherwise be an infraction.

D. In order to avoid this $500 cap, the infraction designation needs to be removed.

E. Accordingly, to ensure that the financial deterrent of heightened fines is effective, it is necessary to amend Chapter 10.32.

SECTION 2. Amendment to Section 10.32.040. Section 10.32.040 of Chapter 10.32 of Title 10 of the Camarillo Municipal Code is amended to read as follows:

"10.32.040 Penalties.

A. It is a civil violation of this chapter for any responsible person to conduct, aid, allow, permit or condone a loud or unruly gathering at a residence or other private property.

B. Civil Fines. The fine schedule for administrative citations resulting from violations of this chapter is as follows:

1. A first violation is punishable by a $500 fine.

2. A second violation at the same residence or other private property, or by the same responsible person, within a 12-month period is punishable by a fine of $1000.

3. A third or subsequent violation at the same residence or other private property, or by the same responsible person, within a 12 month period is punishable by a fine of $2500."
C. The fines prescribed at subsection (B) are in addition to any response costs 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 for such loud or unruly gathering is different from the responsible person for any prior loud or unruly gathering at the same 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 city will 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 12 month period. A warning given pursuant to this chapter will remain in effect for the residence or other private property at a given address until a full 12 month period has elapsed during which there have been no responses to a loud or unruly gathering at that residence or other private property.

SECTION 3. Amendment to Section 10.32.050. Section 10.32.050 of Chapter 10.32 of Title 10 of the Camarillo Municipal Code is amended to read as follows:

"10.32.050 Liability for response costs.

A. Liability for response costs. If a 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 within 12 months of a warning given to a responsible person regarding a loud or unruly gathering at the same location, all responsible persons will be jointly and severally liable for the city’s costs of providing response costs for that response and all subsequent responses during the 12 month period. If a responsible person for the gathering is a minor, then the parents or guardians of that minor and the minor will be jointly and severally liable for the response costs. To incur liability for response costs imposed by this chapter, 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 chapter imposes vicarious as well as direct liability upon a responsible person.

B. Warning.

1. Prior to imposing any liability under subsection (A), when a law enforcement, fire or other emergency response provider makes an initial response to a loud or unruly gathering at a residence or other private property within the city, a written warning must be provided to any responsible person for the gathering that:

(a) a loud or unruly gathering has been found to exist; and

(b) any responsible person may be charged for the response costs incurred for subsequent responses to a loud or unruly gathering at the residence or other private property within a 12 month period from the date of the warning."
2. If a responsible person cannot be identified at the scene, the official may subsequently return to the residence or other private property and issue the warning to a then-present responsible person.

3. If a written warning is not provided to a responsible person who identifies himself or herself as an owner of the property, then a copy of the warning must be sent within 30 days of the initial response by first-class or certified mail to the owner of the residence or other private property, as identified on the last equalized assessment roll of the Ventura County Assessor.

4. A copy of the warning may also be given to any other known responsible person who does not reside at the residence or other private property in question by first-class or certified mail within 30 days of the initial response.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Publication. The City Clerk must certify to the adoption of this ordinance and cause this ordinance to be published in the manner required by law.

PASSED, APPROVED AND ADOPTED this ______ day of ______, 2006.

ATTEST:

______________________________
MAYOR

______________________________
CITY CLERK

APPROVED AS TO FORM:

______________________________
CITY ATTORNEY

Ordinance No. Page 3 of 4
I, Deborah Harrington, City Clerk of the City of Camarillo, hereby certify that the foregoing Ordinance No. ___ was introduced by the City Council on September __, 2006, and was subsequently passed and adopted by the City Council of the City of Camarillo at a regular meeting of the Council held on the ______ day of ____________, 2006, by the following vote:

AYES:

NOES:

ABSENT:

CITY CLERK