

MEETING DATE: May 26, 2015
TO: Honorable Mayor and Council Members
FROM: Adam McGill, Chief of Police
SUBJECT: Adopt Chapter 9.19 (Social Host Liability) of the Town of Truckee Municipal Code

APPROVED BY _____
Tony Lashbrook, Town Manager

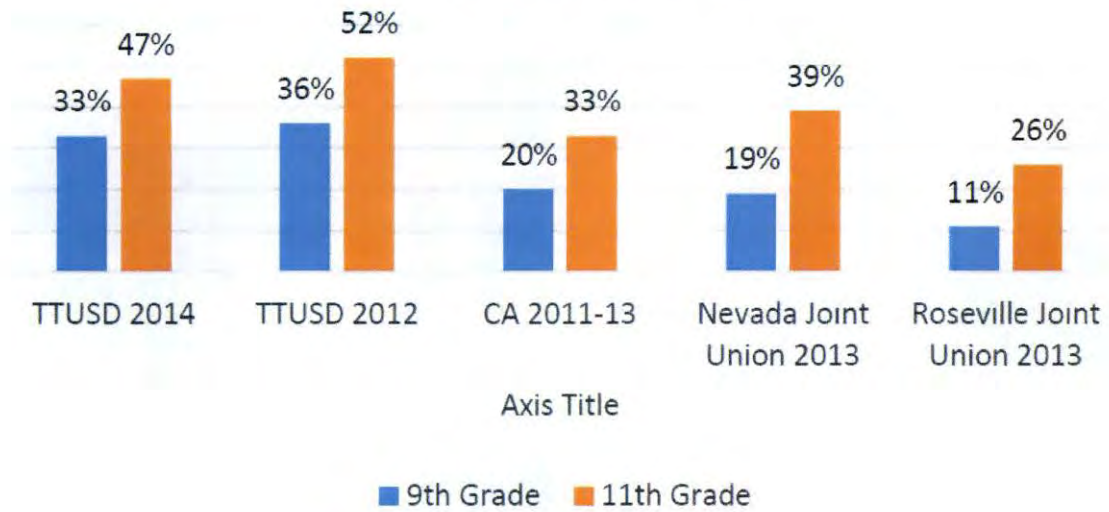
RECOMMENDATION: Waive the second reading and adopt Ordinance 2015-07, which adopts Chapter 9.19 (Social Host Liability) of the Town of Truckee Municipal Code to be used as a tool to reduce underage drinking and the potentially fatal effects of underage drinking and driving.

DISCUSSION: The use of alcohol, marijuana, and controlled substances by minors is against the law in California. Parties that occur on public or private property where alcohol is consumed, or where marijuana or controlled substances are used by minors are not only unlawful but often cause disturbances in the vicinity of the party as well as reduced quality of life for neighborhoods.

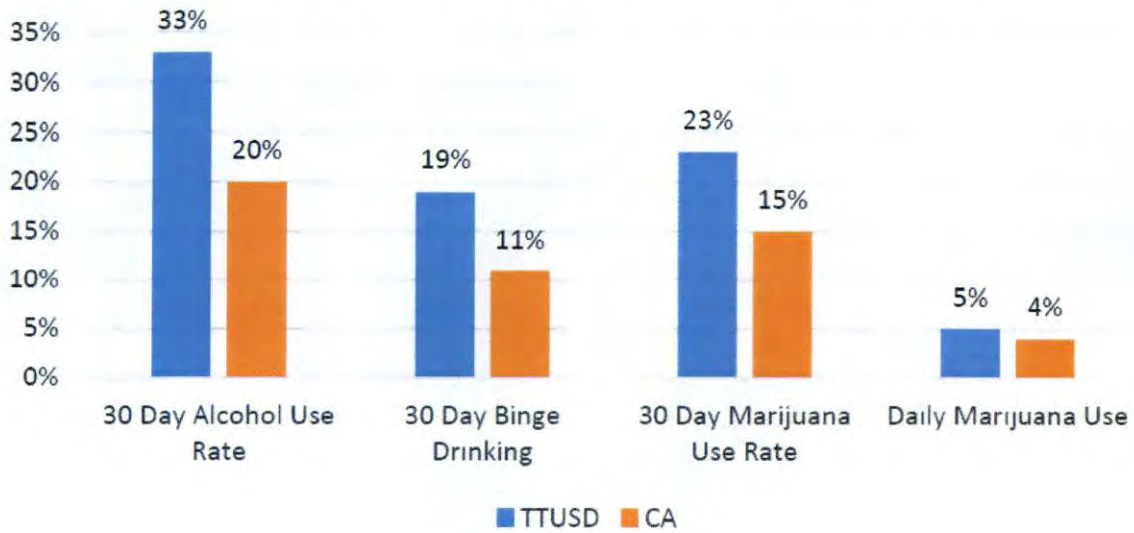
The Social Host Ordinance (SHO) provides law enforcement with the ability to hold adults accountable for hosting underage drinking parties. The SHO offers a mechanism whereby adults will be held responsible for allowing underage drinking to occur at their home/residence/property, and serves as a deterrent to many serious issues such as DUI and other alcohol related problems among our youth.

Social host ordinances have become a common public safety tool, both in education and enforcement. Currently 91 California cities and 12 counties have adopted ordinances similar to the one proposed today. The SHO provides an opportunity for the Town to join community stakeholders in sending a strong message as to the importance of this significant public safety and health issue facing Truckee.

Students Reporting ALCOHOL USE in the Past 30 Days



9th Grade Tahoe-Truckee Youth Alcohol and Marijuana Use Compared to CA State Averages



Youth Access to Alcohol

- Young people most often consume alcohol at a private home, either at a friend's home or at their own home.
- More than eight out of ten youth report that it was "very easy" or "fairly easy" to obtain alcohol.
- Underage drinkers cited older friends and relatives as the primary source for obtaining alcohol.

These facts show the need for a Social Host Ordinance in Truckee. The Social Host Ordinance will help curb or eliminate the practice of underage drinking at private residences and on public or private land.

Consequences of Underage Drinking

According to the National Institute on Alcohol Abuse and Alcoholism, underage drinking risks include:

- Death
- Serious injuries
- Impaired judgment
- Increased risk for physical and sexual assault
- Brain development problems
- Wildfire Hazards

According to National Institute on Alcohol Abuse and Alcoholism, the rate of fatal crashes among alcohol involved drivers between 16-20 years old is more than twice the rate for alcohol involved drivers 21 and older.

Civil Penalties

The proposed ordinance makes a violation a civil offense similar to other Town code offenses. A violator cannot be arrested for this ordinance or be taken to jail. The ordinance provides an option for cost recovery of Town services related to violations as well as a fine as outlined below.

- A. \$250.00 for a first violation;
- B. \$500.00 for a second violation within 12 months of the first violation;
- C. \$1,000.00 for each additional violation within 12 months of the first violation.

In addition to the already robust efforts of TTUSD, TTFWDD, TFHS, TT Community Collaborative, and TPD, this additional tool will help prevent many underage drinking problems. This ordinance will improve the peace, health, safety, and general welfare of the public, especially our youth.

FISCAL IMPACT: None.

PUBLIC COMMUNICATIONS: If Council adopts the Ordinance, there will be two legal notices in the

Sierra Sun.

ATTACHMENTS: Ordinance 2015-07

**TOWN OF TRUCKEE
California**

ORDINANCE 2015-07

**AN ORDINANCE ADOPTING CHAPTER 9.19 OF THE
TRUCKEE MUNICIPAL CODE REGARDING USE OF
ALCOHOL, MARIJUANA, AND CONTROLLED SUBSTANCES BY MINORS**

WHEREAS, the use of alcohol, marijuana, and controlled substances by minors is against the law in California; and

WHEREAS, parties occurring on public or private property where alcohol is consumed, or marijuana or controlled substances are used by, minors are not only unlawful but often cause disturbances in the vicinity of the party; and

WHEREAS, problems associated with such gatherings on private property are difficult to resolve unless the Police Department has the legal authority to enter the private premises and direct the attendees to disperse; and

WHEREAS, control of large parties, gatherings or events on public or private property is necessary when such activity is determined to be a threat to the peace, health, safety or general welfare of the public; and

WHEREAS, police officers frequently have been required to make return calls to the location of a party, gathering, or event in order to disperse uncooperative participants, causing a drain of manpower and resources and, in some cases, leaving other areas of the Town with inadequate police protection; and

WHEREAS, giving the police the ability to abate loud and disturbing gatherings or gatherings where alcohol is served to minors, or marijuana or controlled substances are used by minors, on private property will result in a decrease in abuse of intoxicants by minors, physical altercations and injuries, neighborhood vandalism and excessive noise, thereby improving public safety; and

WHEREAS, making adults who allow or facilitate the consumption of alcohol or the use of marijuana or controlled substances by minors at parties subject to citation for doing so will help reduce the incidence of such actions; and

* * * * *

The Town Council of the Town of Truckee Does Ordain as Follows:

Section 1.

Chapter 9.19 of the Truckee Municipal Code is hereby enacted to read as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

Section 2.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance. The Town Council of the Town of Truckee hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 3.

The Town Clerk is hereby directed to publish this ordinance in accordance with the law.

The foregoing Ordinance was introduced at a regular meeting of the Truckee Town Council held on the ___ day of _____ 201_, and adopted at a regular meeting of the Truckee Town Council, on the ___ day of _____; _____, moved for the adoption, the motion was seconded by _____ and was carried by the following vote:

AYES:

NOES:

ABSENT:

Alicia Barr, Mayor

APPROVED AS TO FORM:

ATTEST:

Judy Price, MMC, Town Clerk

Andy Morris, Town Attorney

EXHIBIT "A"

TRUCKEE MUNICIPAL CODE CHAPTER 9.19

Chapter 9.19 SOCIAL HOST LIABILITY

9.19.010 Findings and Purpose

A. The Town Council finds that parties on private property where alcohol is consumed, or marijuana or controlled substances are used, by minors are not only unlawful but often cause disturbances in the vicinity of the party.

B. Problems associated with such gatherings on private property are difficult to resolve unless the Police Department has the legal authority to enter the private premises and direct the host to disperse.

C. Control of large parties, gatherings or events on public or private property is necessary when such activity is determined to be a threat to the peace, health, safety or general welfare of the public.

D. Police officers frequently have been required to make return calls to the location of a party, gathering, or event in order to disperse uncooperative participants, causing a drain of manpower and resources and, in some cases, leaving other areas of the Town with inadequate police protection.

E. Giving the police the ability to abate loud and disturbing gatherings or gatherings where alcohol is served to minors, or marijuana or controlled substances are used by minors, on private property will result in a decrease in abuse of intoxicants by minors, physical altercations and injuries, neighborhood vandalism and excessive noise, thereby improving public safety

F. Accordingly, the Town Council of the Town of Truckee finds and declares that the purposes of this chapter are:

1. To protect public health, safety and general welfare;
2. To assist in the enforcement of laws prohibiting the consumption of alcohol and use of marijuana or controlled substances by minors;
3. To recover costs of providing police services to parties, gatherings, or events requiring a second response.

9.19.020 Definitions

The following words and phrases, whenever used in this chapter, shall have the meaning and be construed as defined in this section, unless it is apparent from the context that they have different meanings:

A. "Alcohol" or "alcoholic beverage" shall have the meaning given to that term under California Business & Professions Code Sections 23003 and 23004, as they may be amended or superseded, to include ethyl alcohol, hydrated oxide of ethyl, 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.

B. "Controlled substance" means any drug or substance described in California Health & Safety Code Section 11007, as it may be amended or superseded, provided that the term does not include any drug or substance for which an individual found to have possessed or consumed such drug or substance has a valid prescription issued by a licensed medical practitioner authorized to issue such a prescription.

C. "Juvenile" is any minor child under the age of 18 years.

D. "Marijuana" means any item described in California Health & Safety Code Section 11018, as it may be amended or superseded.

E. "Minor" is any person under the age of 21 years.

F. "Person" includes, but is not limited to:

1. The person who owns, rents, leases, and/or otherwise has control or is in charge of the premises where the party, gathering, or event takes place, irrespective of whether such person knew of the event or knew or intended that alcohol beverages would be possessed or consumed by minors;
2. The person who organized the event; or
3. If the person responsible for the event is a juvenile, then the parents or guardians of that juvenile, and the juvenile, shall be considered "persons".

G. "Police service costs" includes the salaries and benefits of the police officers for the amount of time actually spent in responding to, or in remaining at, the party, gathering or event at a rate established by resolution of the Town Council; the actual cost of any medical treatment to injured officers; the cost of repairing any damaged Town equipment or property; and any other costs and/or expenses of any kind, direct or indirect, incurred by the Town in connection with a violation of any provision of this chapter.

H. "Private residence or other private property" means a home, yard, open areas adjacent thereto, and accessory structures; apartment, condominium, hotel or motel room; or a hall or meeting room, community center, or any other dwelling unit, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, or only for a party or other social function, and whether owned, leased, rented, or used with or without compensation.

I. "Public property" shall be mean any property open to the public, including but not limited to property owned or managed by a local, state, or federal government.

9.19.030 Prohibition of Gatherings Where Minors Use or Consume Illegal Substances

A. No person shall suffer, permit, allow, or host a party, gathering, or event on public property or at his or her place of residence or private property, place or premises under his or her control where alcoholic beverages, marijuana, or controlled substances are in the possession of, or are being used or consumed by, any person under the age of 21 years. A violation of this section may occur irrespective of whether such person had actual knowledge of the event, intended that alcohol beverages would be possessed or consumed by minors, or was present at the event. Notwithstanding the foregoing, a landlord shall not be in violation of this paragraph unless he or she has knowledge that the party, gathering, or event is to take place or is taking place.

B. No person(s) who organizes, supervises, officiates, conducts or controls a party shall permit, allow, or host a party, gathering or event to take place or continue to take place where any minor is in possession of, or using or consuming, any alcoholic beverage, marijuana, or controlled substance.

C. Notwithstanding the foregoing, a person shall not be in violation of this section if he or she: (i) seeks immediate assistance from any law enforcement agency to remove any person who is possessing, using or consuming alcohol, marijuana or a controlled substance in violation of this chapter; or (ii) seeks immediate assistance from any law enforcement agency to terminate the gathering because the person has been unable to prevent minors from possessing, using or consuming alcohol, marijuana, or a controlled substance.

D. This section shall not apply to any location or place regulated by the California Department of Alcoholic Beverage Control.

9.19.040 Recovery of Police Response Costs

A. In addition to any and all other costs, expenses and penalties which may be assessed or imposed as a result of a violation of this chapter, any person who violates any provision of this chapter shall be liable and responsible for, and shall be required to reimburse the Town for, all police service costs and expenses incurred by the Town in connection with a second response to the same premises within a year of the first response, and any subsequent response within a year of the second response, due to the violation. The Town shall notify the person in writing of the imposition of such costs and expenses, and in so doing shall set forth such costs and expenses.

B. If the person responsible for the event is a juvenile, the parents or guardians of that juvenile, and the juvenile, shall be jointly and severally liable for the costs incurred for police services imposed pursuant to this chapter, irrespective of whether the parent(s) knew of the event or knew or intended that alcohol beverages would be possessed or consumed by minors.

C. When any violation of this chapter has occurred on real property owned in whole or in part by the person who has violated this chapter, any and all police service costs, expenses and penalties for which that person may be liable, and which remain unpaid after demand by the Town, shall become a lien on the property on which the violation has occurred. Such police service costs, expenses and penalties shall be collected in

the same manner as Town taxes, and thereafter the property upon which they are a lien shall be sold in the same manner as property now is sold for delinquent taxes.

D. The Town Attorney shall have the authority to file an action or proceeding to recover such police service costs, expenses and/or penalties, and to take any other action at law or equity which he or she may deem necessary to recover the same. In any such action or proceeding, the Town shall be entitled to recover its costs, including, but not limited to, its attorneys' fees.

9.19.050 Civil Penalties

In addition to any and all other police services, costs, fees, penalties and expenses which may be assessed or imposed as a result of violation of this chapter, any person who violates any provision of this chapter shall be liable and responsible for, and shall pay to the Town, a civil penalty of:

- A. \$250.00 for a first violation;
- B. \$500.00 for a second violation within 12 months of the first violation;
- C. \$1,000.00 for each additional violation within 12 months of the first violation.

The Town shall notify the person in writing of the imposition of such civil penalty. If the person violating this chapter is a juvenile, the juvenile and his or her parents or guardians shall be jointly and severally liable for the civil penalties imposed hereunder.

9.19.060 Administrative Citations and Appeals

Administrative citations may be issued for any violations of this chapter, pursuant to Chapter 1.03 of this code. Any person to whom an administrative citation is issued may appeal the citation by requesting a hearing within 21 days of the date of the citation, pursuant to Section 1.03.070 of this code.

9.19.070 Remedies Cumulative

The remedies provided under this chapter are cumulative, and shall not restrict the Town from using any other remedy to which it is entitled under law or equity. Nothing in this chapter shall be deemed to conflict with any penalty or provision of state law, or to prohibit any conduct authorized by the state or federal constitutions.