

ORDINANCE NO. 1342

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, ADDING A NEW CHAPTER 5.60 TO TITLE 5 OF THE NAPA COUNTY CODE RELATING TO PERMITS FOR ELDER AND/OR DEPENDENT ADULT CAREGIVERS

WHEREAS, the County of Napa joins the State in declaring that elders and dependent adults deserve special protection (see Penal Code Section 368(a)); and

WHEREAS, elders and dependent adults may have mental or physical impairments that make them less able to protect themselves, to understand and report criminal conduct, or to testify in court proceedings on their own behalf; and

WHEREAS, crimes against elders and dependent adults are particularly destructive given the mental and physical impairments they face, particularly because their ability to recover from the harm is significantly diminished; and

WHEREAS, the types of abuses committed against elders and dependent adults include financial abuse, physical abuse, neglect, isolation, false imprisonment, and mental abuse; and

WHEREAS, perpetrators of crimes against elders and dependent adults specifically target elders and dependent adults; and

WHEREAS, perpetrators commonly purport to befriend the elder and dependent adult to deceive that person; and

WHEREAS, perpetrators of crimes against elders and dependent adults are frequently persons the elder or dependent adult knows and trusts, including persons who are employed to perform home services or in-home services; and

WHEREAS, perpetrators of crimes against elders and dependent adults often have criminal records, which if made known would signal that they are more likely to abuse elder and dependent adults; and

WHEREAS, the regulation of persons who provide home services or in-home services to elders and dependent adults would help protect elders and dependent adults from such predators; and

WHEREAS, the Board of Supervisors of the County of Napa finds and declares that the purpose of this Ordinance is:

- (1) to protect the health and welfare of elders and dependent adults;

(2) to help ensure that persons who serve in a position of trust by providing home services or in-home services to elders and dependent adults have not committed crimes which signal the potential for abuse; and

(3) to give elders and dependent adults the knowledge that the person whom they employ has, at a minimum, been subject to a background check.

WHEREAS, the fines imposed by this Ordinance should not be enforced until beginning July 1, 2011 in order to provide caregivers and the public time to become acquainted with the new program and to provide the cities and town in Napa County an opportunity to adopt their own caregiver permit program and coordinate with the County in the implementation of the program.

The Board of Supervisors of the County of Napa, State of California, ordains as follows:

SECTION 1. A new Chapter 5.60 (Permits For Elder and/or Dependent Adult Caregivers) is hereby added to the Napa County Code to read in full as follows:

Chapter 5.60

PERMITS FOR ELDER AND/OR DEPENDENT ADULT CAREGIVERS

Sections:

- 5.60.010 Definitions.**
- 5.60.020 Permit -- Required.**
- 5.60.030 Permit -- Application.**
- 5.60.040 Permit -- Fees.**
- 5.60.050 Permit Issuance or Denial; Grounds for Denial.**
- 5.60.060 Permit -- Right to Appeal.**
- 5.60.070 Permit -- Limited Caregiver Permit.**
- 5.60.080 Threatening, Coercing, Intimidating, or Using Undue Influence - Prohibited.**
- 5.60.090 Permit -- Update and Renewal.**

5.60.010 Definitions.

“Business caregiver permit” means a permit to work for profit as a caregiver for a specific elder and/or dependent adult home service business.

“Caregiver” means any person that provides personal and/or domestic services for compensation or any form of consideration for an elder and/or dependent adult.

“Caregiver coordinator” means the county designated organization that accepts caregiver permit applications, forwards applications to the industry specialist for background checks, and notifies applicants and the county of applicant status.

“Caregiver permit” means a permit for an individual person to work for profit as an elder and/or dependent adult caregiver.

“Dependent adult” has the same meaning as used in Penal Code Section 368 (any person between the ages of eighteen and sixty-four, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental

abilities have diminished because of age. "Dependent Adult" includes any person between the ages of eighteen and sixty-four who is admitted as an inpatient to a twenty-four hour health facility).

"Disqualifying crimes" means a list of criminal offenses that disqualifies an applicant from obtaining a caregiver permit. The list shall be adopted by resolution on the date this ordinance is passed and may be amended by adoption of subsequent resolutions.

"Elder" has the same meaning as used in Penal Code Section 368 (any person who is sixty-five years of age or older).

"Elder and/or dependent adult home service business" means any business for profit which employs, arranges, or contracts for one or more persons to perform personal and/or domestic services for elders and/or dependent adults.

"Home services" or "in-home services" means providing personal and/or domestic services to an elder and/or dependent adult, or personal services and domestic services in the elder and/or dependent adult's temporary or permanent place of residence, which are intended to enable that individual to remain safely and comfortably in his or her own residence.

"Industry specialist" means a private company that enters into a contract with the caregiver coordinator to perform the background checks on individuals applying for a caregiver permit.

"Limited caregiver permit" means a permit to work for profit as a caregiver for a single elder and/or dependent adult only (rather than for multiple clients).

"Personal and/or domestic services" includes the following services for elders and/or dependent adults: domestic services performed on a regular basis more than one day a week such as housework, meal preparation, meal clean-up, laundry, grocery and other essential shopping, other errands, heavy house or yard cleaning; and/or personal services performed on a regular basis such as bathing, oral hygiene, grooming, dressing, feeding, assistance with ambulation and/or transfers, care and assistance with medical apparatus, taking an elder and/or dependent adult to and from medical appointments, or any other similar acts.

"Public authority" has the same meaning as used in Welfare and Institutions Code Section 12301.6.

"Responsible managing officer" means the employee designated by a corporation or partnership to complete and sign all applications on behalf of the corporate officers and partners.

"Undue influence" consists of any one or more of the following: (1) the use, by one in whom a confidence is reposed by another, or who holds a real or apparent authority over that other, of such confidence or authority, for the purpose of obtaining an unfair advantage over the other; or, (2) taking an unfair advantage of another's weakness of mind; or, (3) taking a grossly oppressive or unfair advantage of another's necessities or distress. Whether from weakness on one side, or strength on the other, or a combination of the two, undue influence occurs whenever there results that kind of supremacy of one mind over another by which that other is prevented from acting according to his or her own wish or judgment, and whereby the will of the other is overborne and he/she is induced to do an act which, if left to act freely, he/she would not do.

5.60.020 Permit – Required.

A. It is unlawful for any person to act as a caregiver without a valid caregiver permit. This section shall not apply to persons who are registered nurses, licensed vocational nurses, nurse practitioners, physician assistants, certified nursing assistants, physical therapists, certified home health aides, or similar occupations for which the person already possesses a valid and current state license or state certificate and has passed a state and FBI background check.

B. It is unlawful for any person to operate an elder and/or dependent adult home service business without all caregiving employees receiving a business caregiver permit.

C. This section does not apply to the county Board of Supervisors, a public authority, or a non-profit consortium established to implement an In-Home Supportive Services Program as described in Welfare and Institution Code Sections 12301.6. et seq.

D. This section does not apply to a facility that is licensed and regulated by the State of California through a process that requires the facility's employees to be the subject of a background check prior to employment.

E. Violation of this ordinance is a misdemeanor or infraction, punishable by a fine, imprisonment in the county jail up to one year, or a combination of both.

5.60.030 Permit – Application.

A. Each application for an individual permit to act as a caregiver shall contain the following information and shall be submitted to the caregiver coordinator:

1. The full true name and any other names ever used by the applicant;
2. The current residential address and telephone number of the applicant;
3. Each residential and business address of the applicant for the five years immediately preceding the date of the application, and the inclusive dates of each address;
4. All fictitious business names used by the applicant and the respective addresses of those businesses;
5. Written proof that the applicant possesses a valid social security number;
6. Written proof that the applicant is at least eighteen years of age unless the particular business has a different age requirement pursuant to state or federal law, in which case proof of the applicable state or federal law requirement shall be provided;
7. Applicant's height, weight, and color of eyes and hair;
8. Submit two passport type photographs;
9. Applicant's business, occupation and employment history for the five years immediately preceding the date of application, including addresses and dates of employment;
10. The name and business address of any employing individual elder and/or dependent adult or elder and/or dependent adult home service business within the last five years;
11. Whether the applicant has ever had any license or permit issued by any agency or board, or any city, county, state or federal agency revoked or suspended, or has had any professional or vocational license or permit revoked or suspended within five years immediately preceding the application, and, if so, the reason for the suspension or revocation;
12. All criminal convictions of the applicant, including those dismissed pursuant to Penal Code Section 1203.4, except traffic, and a statement of the dates and places of such convictions; and
13. Such other identification and information as may be required to substantiate the matters required to be set forth in the application.

B. Each application for a business caregiver permit shall contain the following information and be submitted to the caregiver coordinator:

1. If the applicant is a corporation, the name of the corporation exactly as shown on its articles of incorporation or charter, together with the state and date of incorporation and names and residential addresses of each of its current officers and directors, and of each stockholder holding more than twenty five percent of the stock of the corporation;
2. If the applicant is a partnership, the name and residential addresses of each of the partners, including limited partners;
3. If applicant is a limited partnership, a copy of the limited partnership's certificate of limited partnership as filed with the county clerk;

4. If one or more of the limited partners is a corporation, the applicant shall provide the information about that partner as stated in subsection (B)(1) of Section 5.60.030;
5. If the applicant is a non profit organization, the name of the organization exactly as shown on its IRC Section 501(c)(3) form, the legal formation of the organization together with the state and date of its formation and the names and residential addresses of each of its members and/or governing board;
6. If the applicant is a corporation, partnership, or non profit organization, the name of the responsible managing officer; and
7. The current business address and telephone number of the applicant;
8. Written proof that the applicant and employee(s) possess a valid social security number;
9. Written proof that the applicant and employee(s) are at least eighteen years of age unless the particular business has a different age requirement pursuant to state or federal law, in which case proof of the applicable state or federal law requirement shall be provided;
10. Together with the application, the applicant shall submit the following documents:
 - a. A notarized and/or witnessed declaration from the legal owner or responsible managing officer of the elder and/or dependent adult home services business stating:
 - i. That applicant is the legal owner or responsible managing officer of the elder and/or dependent adult home service business;
 - ii. The applicant's background has been checked as has that of each of his or her employees;
 - iii. That the background check included, at a minimum, a social security trace and address locator search, statewide criminal records search, federal criminal records search, and a driving records search, U.S. Sex Offenders Registries search for each individual for the past seven years or a criminal history record check was conducted by the California Department of Justice and optionally the Federal Bureau of Investigations;
 - iv. The applicant has been provided, reviewed, and is aware of the criminal exemptions that prevent an applicant from receiving a caregiver permit;
 - v. The applicant received and reviewed his or her employee(s) background report and the applicant certifies that the employee(s) do not have any disqualifying crimes, have not been convicted of any other felony in the past ten years (dating back from the date of application), are not on formal or informal probation or parole in any jurisdiction, and do not have a similar type of license, permit or certificate denied, suspended or revoked in the past five years;
 - vi. The applicant acknowledges that he or she knowingly, intelligently and voluntarily chose to employ the person(s) listed in the application;
 - vii. The applicant agrees to accept any and all risks associated with the decision to hire the above referenced individuals;
 - viii. The applicant agrees to continue to background check his or her employee(s) annually and review the information for disqualifying crimes. If a criminal history record check was conducted by the California Department of Justice and optionally the Federal Bureau of Investigations, he or she agrees to review the information received for any disqualifying crimes. If an employee has a subsequent disqualifying crime, the applicant agrees to return the permit and notify the recorder-county clerk within five days of becoming aware of the disqualifying crime. The applicant agrees to provide the employee with an appeal process;
 - ix. The applicant agrees to notify the recorder-county clerk within five days of termination of his or her employees. The notification shall be in writing and shall include the individual's business caregiver permit;

x. The applicant agrees to notify the recorder-county clerk within five days of hiring any new employee. The notification shall be in writing;

xi. The applicant, to the full extent permitted by law, shall hold harmless, defend at applicant's own expense, and indemnify the county, the caregiver coordinator and the officers, agents, employees and volunteers of the county and the caregiver coordinator from any and all liability, claims, losses, damages or expenses, including reasonable attorney fees, for personal injury (including death) or damage to property, arising from all acts or omissions of applicant's employees; and

xii. The applicant agrees to maintain a legible true and complete copy of the names and addresses of all persons whom applicant employs as caregivers, copies of the results of the background reports for each employee, proof that the applicant has inspected the background report, and all licenses, permits, or certificates required and/or issued by any government agency for the business to operate, for a period of seven years. The applicant agrees that these records shall be open for inspection by the county and caregiver coordinator within the ordinary course of business hours;

b. Liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better or equivalent self-insurance in which the applicant agrees to maintain in full force and effect while employing elder and/or dependent adult caregivers:

i. Current general and professional liability insurance in the amount of one million dollars per occurrence and three million dollars in the aggregate;

ii. Workers' compensation insurance covering all employees providing care;

iii. Crime/Employee Dishonesty Bond, including third party coverage, with a minimum coverage of ten thousand dollars;

c. Proof of current business license in every jurisdiction that the business operates in or, if a non profit organization, proof of non profit status; and

d. Proof of agreement or other evidence of relationship with company agency used to do background checks.

11. Such other identification and information as may be required to substantiate the matters required to be set forth in the application.

5.60.040 Permit – Fees.

A. An application fee in the amount adopted by resolution of the board shall be paid by each applicant at the time of application and upon annual renewal thereafter.

B. A permit fee in the amount adopted by resolution of the board shall be paid by each applicant at the time of issuance of the permit and upon annual renewal thereafter.

5.60.050 Permit Issuance or Denial; Grounds for Denial.

A. Upon submittal of a complete application, the caregiver coordinator shall forward the application to the industry specialist who shall conduct a background investigation to determine an applicant's fitness to conduct the occupation of caregiver. The application of an elder and/or dependent adult home service business will not be submitted to the industry specialist if all the supporting documents are submitted pursuant to subsection (B) of Section 5.60.030.

B. Except as otherwise provided in this code, upon completion of the investigation of an individual applicant, the county shall issue a permit unless:

1. The applicant has any misdemeanor or felony conviction for violation of the Penal Code Sections included on the list of disqualifying crimes;

2. The applicant has knowingly made a false or misleading statement of a material fact or omission of a material fact in the application;

3. The applicant has had a similar type of license, permit, or certificate previously denied, suspended for a total of six months, or revoked, within five years immediately preceding the date of the filing of the application, and the applicant can show no material changes in circumstances since such denial, suspension, or revocation;

4. The applicant is on informal or formal probation in any jurisdiction;

5. The applicant has had a felony conviction within ten years immediately preceding the date of the application; or

6. After request by the caregiver coordinator, the applicant fails to provide proof of any application requirement set forth in Section 5.60.30.

C. Except as otherwise provided in this code, upon submittal of the application and required documents by an elder and/or dependent adult home service business, the county shall issue a permit unless:

1. The applicant fails to provide proof of any application requirement set forth in subsection (B) of Section 5.60.30;

2. The applicant has knowingly made a false or misleading statement of a material fact or omission of a material fact in the application; or

3. The applicant failed to inform the recorder-county clerk in writing, within five calendar days of cessation of work, stating that an individual no longer works for the agency and failed to return the individual's business caregiver permit to the recorder-county clerk.

D. The caregiver permit shall be valid for a period of one year. Thereafter, it may be renewed for additional one year periods by submittal of a renewal application.

E. The business caregiver permit shall be valid until the employee no longer is employed by the elder and/or dependent adult home service business or the permit is revoked by elder and/or dependent adult home service business.

5.60.060 Permit -- Right to Appeal.

A. Any applicant denied a caregiver permit shall be afforded an appeal as follows:

1. For a denial under subsections (B)(2), (3), (6) and (C)(1), (2), and (3) of Section 5.60.050, an appeal as prescribed by the Chapter 2.88.

2. For a denial pursuant to a disqualifying crime, an appeal as prescribed by the industry specialist.

B. Any employee of an elder and/or dependent adult home service business whose permit is revoked shall be afforded an appeal as prescribed by the elder and/or dependent adult home service business.

5.60.070 Permit -- Limited Caregiver Permit.

A. A person who would otherwise qualify as an applicant for a caregiver permit but cannot do so because of a disqualifying conviction may request a limited caregiver permit that will authorize the applicant to perform home services for a single employing elder or dependent adult. An individual may possess only a single limited caregiver permit at any one time.

B. A limited caregiver permit may be issued if the following conditions have been satisfied:

1. Together with the application and payment of fees required for a permit under Sections 5.60.30 and 5.60.040, the applicant shall submit a notarized and/or witnessed declaration from the employing elder and/or dependent adult acknowledging:

- a. That he or she is aware that the elder and/or caregiver applicant is not eligible for an elder and/or dependent adult caregiver permit;
- b. That he or she has been provided, reviewed, and is aware of the criminal exemptions that prevent an applicant from passing the background check and he or she understands the applicant has a disqualifying conviction;
- c. That he or she desires to employ the applicant as an elder and/or dependent adult caregiver notwithstanding the applicant's ineligibility to obtain a non-limited permit due to previous criminal convictions;
- d. That he or she has knowingly, intelligently, and voluntarily chosen the applicant to be their caregiver;
- e. That he or she understands the possible danger and potential risk involved with hiring a caregiver who was unable to pass the background check and agrees to accept any and all risks associated with the decision to hire the applicant;
- f. That he or she, to the full extent permitted by law, shall hold harmless, defend at his or her own expense, and indemnify the county, the caregiver coordinator and the officers, agents, employees, and volunteers of the county and the caregiver coordinator, from any and all liability, claims, losses, damages or expenses, including reasonable attorney fees, for personal injury (including death) or damage to property, arising from all acts or omissions of the applicant.

C. A limited caregiver permit shall be valid for a period of one year. Thereafter, it may be renewed for additional one year periods by submittal of an application and current notarized and/or witnesses declaration and payment of the applicable fee. A limited caregiver permit shall not be issued to anyone that has previously had such a permit suspended or revoked.

D. A limited caregiver permit provided under this section shall be subject to any regulatory and/or criminal action as if it were a permit issued under Chapter 5.60.

5.60.080 Threatening, Coercing, Intimidating, or Using Undue Influence - Prohibited.

It is unlawful for any person to threaten, coerce, intimidate, or use undue influence upon an elder and/or dependent adult in order to obtain a statement required under Section 5.60.070. Any person found to have threatened, coerced, intimidated, or unduly influenced an elder and/or dependent adult may be the subject of criminal prosecution as provided in subsection (E) of Section 5.60.020 above.

5.60.090 Permit -- Update and Renewal.

Each individual permit holder shall apply for renewal of his or her permit prior to the expiration of said permit within one year of the issuance date. Renewal applications shall include any new information not contained in the original application.

Each business caregiver permit issued to the elder and/or dependent adult home service business shall remain in effect until the employee no longer is employed by the elder and/or dependent adult home service business or until the permit is revoked by elder and/or dependent adult home service business.

SECTION 2. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors of the County of Napa hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 3. This Ordinance shall be effective thirty (30) days from and after the date of its passage. Enforcement of the fine provisions in this Ordinance (Section 5.60.020(E)) shall be suspended until July 1, 2011.

SECTION 4. A summary of this Ordinance shall be published at least once five (5) days before adoption and at least once before the expiration of fifteen (15) days after its passage in the Napa Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and read at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the 18th day of May, 2010, and passed at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the 25th day of May, 2010, by the following vote:

AYES:	SUPERVISORS	WAGENKNECHT, DODD, LUCE, CALDWELL and DILLON
NOES:	SUPERVISORS	NONE
ABSTAIN:	SUPERVISORS	NONE
ABSENT:	SUPERVISORS	NONE

DIANE DILLON, CHAIR
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM Office of County Counsel	Approved by the Napa County Board of Supervisors
By: Carrie R. Gallagher (by e-signature) Deputy County Counsel	Date: May 25, 2010
By: Sue Ingalls (by e-signature) County Code Services	Processed by:
Date: May 14, 2010	_____ Deputy Clerk of the Board

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON MAY 25, 2010.

_____, DEPUTY
GLADYS I. COIL, CLERK OF THE BOARD

RESOLUTION NO. 2010-59

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF NAPA, STATE OF CALIFORNIA ESTABLISHING FEES FOR
OBTAINING A CAREGIVER PERMIT**

WHEREAS, the Board of Supervisors of the County of Napa adopted an ordinance adding a new Chapter 5.60 to Title 5 of the Napa County Code, establishing a program under which permits must be obtained by persons serving as caregivers for elderly and dependent adults; and

WHEREAS, there is a need to establish the fees charged by the County of Napa to recover the cost of services provided by the Caregiver Coordinator and the County Clerk-Recorder for obtaining a caregiver permit; and

WHEREAS, Chapter 12.5 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 54985) and Chapter 8 of Division 1 of Title 7 of the California Government Code (commencing with section 66016) authorize the County to establish fees to recover the cost of providing a service; and

WHEREAS, at least ten days prior to the date this resolution is to be considered, data was made available to the public indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including general fund revenues; and

WHEREAS, at least fourteen days prior to the date this resolution is to be considered, notice was mailed to those persons who had requested same; and

WHEREAS, notice of the hearing of the proposed fee was published twice in the manner set forth in section 6062a of the Government Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Napa as follows:

1. The Board hereby establishes those fees included in Exhibit "A," attached hereto and incorporated by reference herein;
2. The Board hereby directs the Clerk of the Board of Supervisors of the County of Napa to integrate the changes approved above into Section III of the Board Policy Manual, "Fees for Services Provided by County Departments and Agencies" in the manner set forth in Exhibit "A," attached hereto and incorporated by reference herein,
3. The Board finds this Resolution is statutorily exempt from the California Environmental Quality Act pursuant to Title 14, California Code of Regulations, section 15273(a)(1) and (2).

4. The establishment of fees authorized by this Resolution shall become effective on July 1, 2010.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of said Board held on the 25th day of May, 2010, by the following vote:

AYES: SUPERVISORS LUCE, WAGENKNECHT, DODD, CALDWELL
and DILLON

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

DIANE DILLON, Chair
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM
Office of County Counsel
By: Carrie R. Gallagher (by e-signature)
Deputy
Date: May 14, 2010

**APPROVED BY THE NAPA COUNTY
BOARD OF SUPERVISORS**
Date: May 25, 2010
Processed by:

Deputy Clerk of the Board

EXHIBIT "A"

The fees adopted by the Board of Supervisors by this Resolution are those noted below.

Application and Annual Renewal Fees

First Time Permit Application Processing Fee	\$90.00
First Annual Renewal Fee	\$79.00
All Subsequent Annual Renewals	\$67.00

Permit Fee

First Time and Annual Permit	\$20.00
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RESOLUTION NO. 2010-58

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF NAPA, STATE OF CALIFORNIA, ADOPTING A
LIST OF DISQUALIFYING CRIMES IN CONNECTION WITH
THE CAREGIVER PERMIT ORDINANCE**

WHEREAS, the County of Napa joins the State in declaring that elders and dependent adults deserve special protection; and

WHEREAS, on May 25, 2010, the County adopted a Caregiver Permit Ordinance to ensure that persons who serve in a position of trust by providing in home services to elders and dependent adults have not committed crimes which signal the potential for abuse; and

WHEREAS, a background check will be conducted on applicants for a caregiver permit as described in the Caregiver Permit Ordinance; and

WHEREAS, the County has created a list of criminal offenses that disqualifies an applicant from obtaining a caregiver permit.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Napa as follows:

1. The Board hereby adopts a list of criminal offenses that disqualifies an applicant from obtaining a Caregiver Permit which is included in Exhibit "A", attached hereto and incorporated by reference herein;
2. The Board finds this Resolution is statutorily exempt from the California Environmental Quality Act pursuant to Title 14, California Code of Regulations, section 15273(a)(1) and (2).
3. The adoption of the disqualifying criminal offenses authorized by this Resolution shall become effective on July 1, 2010.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of the Board held on the 25th day of May, 2010, by the following vote:

AYES: SUPERVISORS LUCE, WAGENKNECHT, DODD, CALDWELL and DILLON

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

DIANE DILLON, Chair
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM
Office of County Counsel
By: Carrie R. Gallagher (by e-signature)
Date: May 5, 2010

APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS
Date: May 25, 2010u
Processed by:

Deputy Clerk of the Board

Exhibit A

DISQUALIFYING CRIMES

- (1) Penal Code section 37 – Treason
- (2) Penal Code Section 128 - Perjury resulting in the conviction of an innocent person
- (3) Penal Code section 136. 1 with 186.22 —Felony Intimidation of Witnesses and Victims/ Gang Related
- (4) Penal Code sections 187, 190-190.4 and 192(a) — Any Murder/Attempted Murder/Voluntary Manslaughter
- (5) Penal Code section 203 — Any Mayhem
- (6) Penal Code section 206 —Torture
- (7) Penal Code sections 207, 208, 209, 209.5, 210 — Kidnapping
- (8) Penal Code section 211, 212, 212.5, 213, 214 — Any Robbery
- (9) Penal Code section 215 — Carjacking
- (10) Penal Code section 218 or 219 – Train Wrecking
- (11) Penal Code section 220 — Assault with intent to commit mayhem, rape, sodomy or oral copulation, etc.
- (12) Penal Code section 273.5 – domestic violence
- (13) Penal Code section 243.25 – battery against elder or dependent adult
- (14) Penal Code section 243.4 — Sexual Battery and attempted
- (15) Penal Code section 261(a)(1)(2)(3)(4) or (6) — Rape and attempted
- (16) Penal Code section 262(a)(1) or (4) Rape of Spouse
- (17) Penal Code section 264.1 — Rape in concert and attempted
- (18) Penal Code section 266 — Enticing minor into prostitution and attempted
- (19) Penal Code section 266c — Induce to sexual intercourse, etc. by fear or consent through fraud
- (20) Penal Code section 266h(b) — Pimping a minor
- (21) Penal Code section 266i(b) — Pandering a minor
- (22) Penal Code section 266j — Providing a minor under 16 for lewd or lascivious act
- (23) Penal Code section 267 — Abduction for prostitution and attempted
- (24) Penal Code section 269 — Aggravated assault of a child
- (25) Penal Code section 272 — Contributing to delinquency of a minor and attempted
- (26) Penal Code section 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] — Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
- (27) Penal Code section 273d — Willfully inflicting any cruel or inhuman corporal punishment or injury on a child
- (28) Penal Code section 273.5 or 243(e)(1) – domestic violence
- (29) Penal Code section 285 — Incest and attempted
- (30) Penal Code section 286 — Sodomy
- (31) Penal Code section 288 — Lewd or lascivious act upon a child under 14 and attempted
- (32) Penal Code section 288a — Oral copulation
- (33) Penal Code section 288.2 — Distributing lewd material to children and attempted
- (34) Penal Code section 288.3 - Contact with a minor to commit sexual offense
- (35) Penal Code section 288.4 – Meeting with minor for sexual purpose
- (36) Penal Code section 288.5 — Continuous sexual abuse of a child and attempted.
- (37) Penal Code section 288.7 — Sexual conduct with child 10 years or younger

- (38) Penal Code section 289 — Genital or anal penetration by foreign object and attempted
- (39) Offenses listed at Penal Code section 290(a)(2)(A) — Registration of sex offenders (All such offenses are included in this list)
- (40) Penal Code section 311.1— Sent or brought into state for Possession, or distribution: child-related pornography and attempted
- (41) Penal Code section 311.2(b)(c) or (d) — Sending or bringing into state, Possessing for distribution: child-related pornography and attempted
- (42) Penal Code section 311.3 — Sexual exploitation of a child and attempted
- (43) Penal Code section 311.4 — Using a minor to assist in making or distributing child pornography and attempted
- (44) Penal Code section 311.10 — Advertising or distributing child pornography and attempted
- (45) Penal Code section 311.11 — Possessing child pornography and attempted
- (46) Penal Code section 314(1) or (2) — Lewd or obscene exposure of private parts and attempted
- (47) Penal Code section 347(a) — Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, or reservoir
- (48) Penal Code section 368
 - (a) Elder or dependent adult abuse
 - (b) in circumstances likely to cause great bodily injury or death, caused or permits injury or suffering to an elder or dependent adult
 - (c) in circumstances other than those likely to cause great bodily injury or death, causes or permits injury or suffering to an elder or dependent adult
 - (d) non-caretaker who commits theft, embezzlement, forgery, fraud or identity theft of an elder or dependent adult
 - (e) caretaker who commits theft, embezzlement, forgery, fraud or identity theft of an elder or dependent adult
 - (f) false imprisonment of an elder or dependent adult
- (49) Penal Code section 417(b) — Drawing, Exhibiting, or Using Firearm or Deadly Weapon on the grounds of a day care center
- (50) Penal Code section 451(a) — Arson with great bodily injury
- (51) Penal Code section 451(b) — Arson of an inhabited structure or property –
- (52) Penal Code section 460(a) – First degree burglary
- (53) Penal Code sections 484, 487 or 488 – theft or 496 – receiving stolen property
- (54) Penal Code section 470 – forgery
- (55) Penal code section 502 – computer crimes
- (56) Penal code sections 503 – embezzlement
- (57) Penal Code sections 518 with 186.22— Extortion/gang related
- (58) Penal code section 530.5 – identity theft
- (59) Penal code section 597 – animal cruelty
- (60) Penal Code section 647.6 or prior to 1987 former section 647a — Annoy, molest child under 18 and attempted
- (61) Penal Code section 653f(c) — Solicit another to commit rape, sodomy etc. and attempted
- (62) Penal Code section 664/187 — Any Attempted Murder
- (63) Penal Code section 667.5(c)(7) - Any Felony punishable by death or imprisonment in the state prison for life without possibility of parole but not for an indeterminate sentence.
- (64) Penal Code section 667.5(c)(8) — Enhancement for any felony which inflicts great bodily injury

- (65) Penal Code section 667.5(c)(13) – Enhancement for violation of Penal Code sections 12308, 12309, 12310 – exploding or igniting or attempting to explode or ignite any destructive device or explosive with the intent to commit murder
- (66) Penal Code section 667.5(c)(14) – Any kidnapping -- Penal Code sections 207, 208, 209, 209.5 and 210
- (67) Penal Code section 667.5(c)(22) – Any violation of Penal Code 12022.53 – Enhancement for Listed felonies where use of firearm
- (68) Penal Code sections 12308, 12309, 12310 — exploding or igniting or attempting to explode or ignite any destructive device or explosive with the intent to commit murder
- (69) Penal Code section 12022.53 —Enhanced sentence for listed felonies where Use of Firearm
- (70) Penal Code section 11418(b)(1) or (b)(2) — Weapons of Mass Destruction
- (71) Business and Professions Code section 729 — Sexual Exploitation by Physicians, Surgeons, Psychotherapists, or Alcohol and Drug abuse Counselors
- (72) Health and Safety code sections 11150, 11152, 11157, 11162.5, 11162.6, and 11173 – forging prescriptions, false prescriptions
- (73) Health and Safety code sections 11360 – drug transportation and sales
- (74) Health and Safety code sections 11377, 11379 – controlled substances possession and transportation
- (75) Health and Safety code sections 11351, 11352, and 11353 – drug trafficking

Additional disqualifications:

- Applicant has been convicted of any other felony in the past 10 years (dating back from the date of application).
- Applicant is on formal or informal probation or parole in any jurisdiction.
- Applicant knowingly made false statements or representations of a material fact (or the omission of a material fact) on the application.
- Applicant had a similar type of license, permit or certificate denied, suspended or revoked in the past 5 years.