



Staff Reports Details (With Text)

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**Title:** Elder and Dependent Adult Protection Ordinance Update

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Date	Ver.	Action By	Action	Result
4/7/2020	1	CITY COUNCIL OF THE CITY OF NAPA		
3/17/2020	1	CITY COUNCIL OF THE CITY OF NAPA		

**To:** Honorable Mayor and Members of City Council

**From:** Steve Potter, City Manager

**Prepared By:** Liz Habkirk, Deputy City Manager

**TITLE:**  
Elder and Dependent Adult Protection Ordinance Update

**RECOMMENDED ACTION:**

Approve the first reading and introduction of an ordinance repealing Napa Municipal Code Chapter 5.22 (Elder Caregiver Permits) and replacing it with a new Chapter 5.22 (Elder and Dependent Adult Protection); and adopt a resolution designating the Deputy Director of the Napa County Health and Human Services Agency, Division of Comprehensive Services for Older Adults as the caregiver coordinator for the City of Napa.

**DISCUSSION:**

In 2011, the City Council adopted a new chapter 5.22 (“Elder Caregiver Permits”) to the Napa Municipal Code establishing application and permit requirements for caregivers providing personal and domestic services to elder and dependent adults. Through Agreement No. 7596 (“MOU”) with Napa County (“County”) and the Area Agency on Aging, the City designated the Area Agency on Aging as the organization charged with managing the permitting program. The MOU also requires the City to make changes to Napa Municipal Code (“NMC”) Chapter 5.22 as to be substantially the same as County Code Chapter 5.60 (“Napa County Caregiver Ordinance”). Portions of NMC Chapter 5.22 were amended in 2013.

California State Assembly Bill AB 1217, the Home Care Services Protection Act (Act), went into effect

on January 1, 2016. The Act requires the licensure and regulation of Home Care Organizations and affiliated Home Care Aides. It also provides for Independent Home Care Aides, not affiliated with a Home Care Organization, to voluntarily complete the application process and submit to, and pass, a criminal record screening in order to become registered.

In 2015, the County amended the Napa County Caregiver Ordinance in response to the Act, which made those sections specific to home caregiver businesses (Home Care Organizations), unnecessary. At the time, the Area Agency Serving Napa and Solano Counties was responsible for managing the caregiver permit program. As a result of the amended Napa County Caregiver Ordinance, the Area Agency on Aging Serving Napa and Solano ceased permitting businesses but continued to manage the permitting of individual caregivers with assistance from the County.

In June 2018, the Area Agency on Aging serving Napa and Solano Counties dissolved and Napa County took over the sole responsibility for managing the caregiver permitting program. This transition provided an opportunity for the County and the Commission on Aging to revisit the Napa County Caregiver Ordinance with a focus on enhancing efforts to enforce the ordinance and increasing protections to vulnerable elderly and dependent adults.

The current background check process does not require fingerprinting and there is no mechanism for the County to receive subsequent arrest/conviction reports; consequently, a caregiver may commit a disqualifying crime that goes undetected until their permit is renewed.

In the proposed amendments to the Napa County Caregiver Ordinance and NMC Chapter 5.22, caregivers will be mandated to register through the CDSS Home Care Aide Registry. Caregivers will be required to pass a live scan (electronic fingerprint) criminal record screening through the DOJ and the FBI and CDSS will receive subsequent reports of arrests and convictions from the DOJ. If notified by the DOJ, CDSS will be responsible for updating the Home Care Aide Registry accordingly. Law enforcement and community members alike will be able to access this on-line database to verify the status of a caregiver in order to determine if they have successfully completed the registration requirements and passed the criminal background check. This requirement will significantly increase protections to our vulnerable elderly and dependent adults in addition to reducing the County's administrative responsibilities.

On July 22, 2019, the Napa County Commission on Aging reviewed and approved the County's proposed revisions to the Napa County Caregiver Ordinance. On February 4, 2020, the Napa County Board of Supervisors adopted the revised Napa County Caregiver Ordinance mandating the use of the CDSS Home Care Aide Registry in order to strengthen protections to vulnerable elderly and dependent adults.

With Council's approval, Napa Municipal Code Chapter 5.22 ("Elder Caregiver Permits") will be repealed in its entirety and replaced with an updated chapter that mirrors the Napa County Caregiver Ordinance, meeting the requirements of the MOU and transferring the responsibility for background checks and permit issuance from the County to CDSS, except in limited situations. The Napa County Deputy Director of Health and Human Services, Division of Comprehensive Services for Older Adults would serve as the caregiver coordinator, verifying home care aide registration and overseeing the limited permit program established by NMC Chapter 5.22, on behalf of the City pursuant to the proposed resolution delegating such authority to Napa County.

## **FINANCIAL IMPACTS:**

None.

**CEQA:**

The City Manager has determined that the Recommended Action described in this Staff report is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c).

**DOCUMENTS ATTACHED:**

ATCH 1 - Ordinance with EX A (New Chapter 5.22 (Elder and Dependent Adult Protection))

ATCH 2 - Resolution

**NOTIFICATION:**

Legal notices of report were published in the Napa Valley Register at least 10 days prior to the hearing date.