

**ORDINANCE NO.\_\_\_\_**

**AN ORDINANCE OF THE CITY OF DUBLIN**

**ADDING CHAPTER 5.94 TO THE DUBLIN MUNICIPAL CODE**

**RELATING TO UNDERAGE DRINKING**

**The City Council of the City of Dublin does hereby ordain as follows:**

**Section 1.** Chapter 5.94 shall be added to the Dublin Municipal Code to read as follows:

**Chapter 5.94**

**SOCIAL HOST ORDINANCE**

Sections:

5.94.010	Purpose.
5.94.020	Definitions.
5.94.030	Hosting, permitting, or allowing a loud or unruly gathering.
5.94.040	Exceptions.
5.94.050	Reasonable steps to prevent consumption of alcohol; self-reporting.
5.94.060	Violation – Penalty.
5.94.070	No mandatory duty of care.
5.94.080	Preemption.

**5.94.010 Purpose.**

- A. To protect the public health, safety and general welfare; and
- B. To promote the reduction of underage drinking by imposing penalties on persons responsible for loud or unruly gatherings where alcohol is consumed by, served to or in the possession of minors; thereby enhancing the enforcement of laws prohibiting the consumption of alcohol by minors and reducing the costs of providing police services to parties, gatherings, or events by requiring hosts to ensure minors are not consuming alcoholic beverages.

**5.94.020 Definitions.**

For the purpose of this chapter, the following definitions shall apply:

“Alcohol” shall have the meaning of the definition of “alcohol” in Section 23003 of the

California Business and Professions Code, as that section may be amended from time to time. As of the introduction of this chapter, Section 23003 defines "alcohol" to mean "ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced."

"Alcoholic beverage" shall have the meaning of the definition of "alcoholic beverage" in Section 23004 of the California Business and Professions Code, as that section may be amended from time to time. As of the introduction of this chapter, Section 23004 defines "alcoholic beverage" to include "alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of 1 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."

"Loud or unruly gathering" means a party or gathering of two or more persons at a residence or on other private property or rented public property upon which loud or unruly conduct occurs and at which alcohol is consumed by minors. Such loud or unruly gatherings include but are not limited to gatherings resulting in:

1. Excessive noise;
2. Excessive traffic;
3. Obstruction of public streets and/or the presence of unruly crowds that have spilled into public streets;
4. Public drunkenness or unlawful public consumption of alcohol or alcoholic beverages;
5. Assaults, batteries, fights, domestic violence or other disturbances of the peace;
6. Vandalism;
7. Litter; or
8. Any other conduct which constitutes a threat to the public health, safety, or quiet enjoyment of residential property or the general welfare.

"Minor" means any person less than twenty-one (21) years of age.

"Social Host" means any person who permits, allows, or hosts a gathering at his or her place of residence or other private property, public place, or any other premises under his or her control where alcoholic beverages have been consumed by a minor.

### **5.94.030 Hosting, permitting, or allowing a loud or unruly gathering.**

The following shall apply to the permitting, allowing, or hosting of a loud or unruly gathering where alcoholic beverages have been consumed by a minor:

- A. Except as permitted by Article 1, Section 4, of the California Constitution, it is unlawful for any person to permit, allow, or host a loud or unruly gathering at his or her place of residence, or on other private property or rented public property, if such person either knows or reasonably should have known that a minor has consumed an alcoholic beverage.
- B. A person who permits, allows, or hosts a loud or unruly gathering shall be deemed to have actual or constructive knowledge that a minor has consumed alcoholic beverages if the person has not taken all reasonable steps to prevent the consumption of alcoholic beverages by minors as set forth in Section 5.94.050(A) below.
- C. Any person who permits, allows, or hosts a loud or unruly gathering shall be rebuttably presumed to have actual or constructive knowledge that minors have consumed alcoholic beverages if such person is present at the premises of the gathering at the time any minor consumes an alcoholic beverage.

### **5.94.040 Exception.**

This Chapter shall not apply to any location or place regulated by the California Department of Alcohol and Beverage Control.

### **5.94.050 Reasonable steps to prevent consumption of alcohol; self-reporting.**

- A. It is the duty of any person who permits, allows or hosts a loud or unruly gathering at his or her place of residence or other private property, public place, or any other premises under his or her control, to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps include, but are not limited to, the following: controlling access to alcoholic beverages at the gathering; controlling the quantity of alcohol beverages at the gathering; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that minors do not consume alcoholic beverages at the gathering; and monitoring the activities of minors at the gathering.
- B. A person who hosts a loud or unruly gathering shall not be in violation of this Chapter if he or she seeks assistance from the Police Department or other law enforcement agency to remove any person who refuses to abide by the host's performance of the duties imposed by this Chapter, or terminates the gathering because the host has been unable to prevent minors from consuming alcoholic beverages despite having taken all reasonable steps to do so, as long as such request is made before any other person makes a complaint about the gathering.

C. A person who hosts a loud or unruly gathering shall not be in violation of this Chapter if any person at the gathering seeks emergency assistance to respond to any medical emergency occurring on the premises.

**5.94.060 Violation – Penalty.**

A. Violation of this Chapter shall be an infraction.

B. Nothing in this Chapter in any way limits any other remedy that may be available to the City, or any penalty that may be imposed by the City, for violations of this Chapter.

**5.94.070 No mandatory duty of care.**

This ordinance is not intended to impose, and shall not be construed or given effect in a manner that imposes upon the City, or any officer, employee, agent, or representative of the City, a mandatory duty of care toward persons or property within and without the City limits, so as to provide a basis of civil liability for damages, except as may otherwise be imposed by law.

**5.94.080 Preemption.**

This chapter shall not be interpreted in any manner that conflicts with the laws or constitutions of the United States or the state of California.

**Section 2.** Severability. The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

**Section 3.** Effective Date. This Ordinance shall take effect and be enforced thirty (30) days following its adoption.

**Section 4.** Posting. The City Clerk of the City of Dublin shall cause this Ordinance to be posted in at least three (3) public places in the City of Dublin in accordance with Section 36933 of the Government Code of the State of California.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

AYES:

NOES:

ABSENT:

ABSTAIN:

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Tim Sbranti, Mayor

ATTEST:

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Caroline Soto, City Clerk

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