

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

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF MARIN TO REDUCE UNDERAGE DRINKING BY  
PROHIBITING LOUD OR UNRULY GATHERINGS WHERE  
ALCOHOL IS SERVED TO, CONSUMED BY OR IN THE  
POSSESSION OF UNDERAGE PERSONS AND AUTHORIZING  
CIVIL FINES FOR VIOLATION AND IMPOSING CIVIL FEES FOR  
THE RECOVERY OF COSTS FOR PUBLIC SAFETY RESPONSES  
TO SUCH GATHERINGS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN HEREBY  
ORDAINS AS FOLLOWS:

**SECTION I.** Chapter 6.75 of the Marin County Code is hereby added to read as  
follows:

**CHAPTER 6.75**

**PROHIBITION OF LOUD OR UNRULY GATHERINGS WHERE ALCOHOL IS SERVED  
TO, CONSUMED BY OR IN THE POSSESSION OF UNDERAGE PERSONS AND  
IMPOSITION OF CIVIL FINES FOR VIOLATION AND IMPOSITION OF CIVIL FEES  
FOR THE RECOVERY OF COSTS FOR PUBLIC SAFETY RESPONSES TO SUCH  
GATHERINGS**

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**6.75.010      Legislative Purpose**

The purposes of this Ordinance are:

- (a) to protect the public health, safety and general welfare;
- (b) to promote the reduction of underage drinking by imposing a Civil Fine on persons responsible for loud or unruly gatherings where alcohol is consumed by, served to or in the possession of underage persons;
- (c) to facilitate the enforcement of laws prohibiting the service to, consumption of or possession of alcoholic beverages by underage persons; and
- (d) to offset the municipal costs associated with providing fire, police, and other emergency services to loud or unruly gatherings, by imposing a civil fee upon social hosts and/or landowners who knowingly allow such loud or unruly gatherings to occur on their premises, at their residences, or at rented facilities where alcoholic beverages are served to, consumed by, or in the possession of underage persons.

**6.75.020      Legislative Findings**

The Board of Supervisors finds as follows:

- (a) The County of Marin, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents;
- (b) The occurrence of loud or unruly gatherings on private property where alcoholic beverages are served to, consumed by or in the possession of underage persons is harmful to the underage persons themselves and is a threat to the public health, safety, or quiet enjoyment of residential property and the general welfare;
- (c) The County of Marin has made numerous and substantial efforts to enforce underage drinking laws; yet, despite these efforts, alcohol use by youth remains a serious problem in the County, contributing significantly to the incidence of adolescent crime, addiction, sexual assault, truancy, driving

under the influence of alcohol, and motor vehicle crashes involving alcohol and causing injury and/or death;

- (d) Underage persons often obtain alcoholic beverages at gatherings held at private residences or at rented residential and commercial premises that are under the control of a person who knows or should know of the service to, possession by, and/or consumption of alcohol by underage persons. Persons responsible for the occurrence of loud or unruly gatherings on private property over which they have possession or control have failed to ensure that alcoholic beverages are not served to, consumed by or possessed by underage persons at these gatherings;
- (e) Residents have failed to prevent the occurrence or reoccurrence of loud or unruly gatherings, including those where alcoholic beverages are served to, consumed by or possessed by underage persons, on private property, which seriously disrupts neighboring residents' quiet enjoyment of their property;
- (f) Control of loud or unruly gatherings on private property where alcoholic beverages are served to, consumed by or in the possession of underage persons is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public;
- (g) Persons held responsible for abetting or allowing loud or unruly gatherings where alcohol is served to, consumed by or in the possession of underage persons will be more likely to properly supervise or to stop such conduct at gatherings held on property in their possession or under their control;
- (h) In the past and present, law enforcement, fire and other emergency response services personnel have responded and are required to respond, sometimes on multiple occasions, to loud or unruly gatherings on private property at which alcoholic beverages are served to, consumed by or in the possession of underage persons, and responses to such gatherings result in a disproportionate expenditure of public safety resources of Marin County, which are underwritten by general municipal taxes paid to the County by its taxpayers and residents, and also result in a delay of Sheriff responses to regular and emergency calls to the rest of the County;

- (i) Problems associated with loud or unruly gatherings at which alcoholic beverages are served to, consumed by or in the possession of underage persons are difficult to prevent or deter unless the Marin County Sheriff's Office has the additional legal authority to issue a civil citation for a civil fine and/or a civil citation for the cost of public safety response;
- (j) The intent of this Ordinance is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. Persons who actively or passively aid, abet, or allow loud or unruly gatherings shall be held liable for the nuisances created by such gatherings, the Civil Fine(s) for such violations and the costs associated with responding to such gatherings;
- (k) Section 25658 of the State of California Business and Professions Code makes it unlawful for a person under the age of twenty-one (21) years to purchase or attempt to purchase, or consume alcoholic beverages and makes it unlawful for any person to sell any alcoholic beverage to any person under the age of twenty-one (21) years;
- (l) According to local, state and federal surveys, alcohol is overwhelmingly and consistently the most widely used drug at all adolescent age levels. A child who begins alcohol use prior to age fifteen (15) is four times as likely to experience alcohol dependence than one who refrains from alcohol use until age twenty (20) or older;<sup>1</sup>
- (m) This County of Marin Board of Supervisors therefore determines that this Ordinance is a reasonable and necessary means to protect and promote the health, safety, and general welfare of the youth and other residents of the County of Marin.

**6.75.030      Title**

This Ordinance shall be known as the "Social Host Accountability Ordinance."

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<sup>1</sup> Grant, B.F. and D.A. Dawson. Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey *Journal of Substance Abuse* 9:103-110, 1997.

#### **6.75.040      Definitions**

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

- (a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- (b) "Alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, liquor, 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.
- (c) "Juvenile" means any person less than eighteen (18) years of age.
- (d) "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. Such loud or unruly conduct constitutes a public nuisance and includes but is not limited to:
  - (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.
- (e) "Minor" means any person less than twenty-one (21) years of age.
- (f) "Person responsible for the event" means and includes, but is not limited to:
  - (1) the person who owns, rents, leases or otherwise has control of the premises where the gathering occurs; and/or

- (2) the person in charge of the premises; and/or
  - (3) the person who organized the event. If the person responsible for the event is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable for the Civil Fine and/or for the costs incurred for public safety services pursuant to this chapter.
- (g) "Public Safety Services" and/or "Response Costs" means the costs associated with responses by law enforcement, fire and other emergency response providers to loud or unruly gatherings, including but not limited to:
- (1) the portion of the cost of salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with the loud or unruly gathering(s), and the administrative costs attributable to such response(s);
  - (2) the cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured responding to, remaining at or leaving the scene of a loud or unruly gathering; and
  - (3) the cost of the use of any County equipment or property, and the cost of repairing any County equipment or property damaged, in responding to, remaining at or leaving the scene of a loud or unruly gathering.
- (h) "Underage person" means any person less than twenty-one (21) years of age and shall have the same meaning as "minor," defined in subsection (e) above.

**6.75.050 Prohibition of Loud or Unruly Gatherings Where Alcohol Is Served to, Consumed by or in the Possession of Underage Persons**

Except as permitted by Article 1, Section 4, of the California Constitution, no person shall knowingly suffer, permit or host a gathering at his or her place of residence or other private property, place or premises or host a gathering at a public place under his or her control where two or more persons under the age of 21 are present, where the gathering is loud or unruly and alcoholic

beverages are in the possession of, being consumed by, or served to any underage person.

**(a) Violation(s)/Civil Fine(s)**

It shall be a civil violation for a person to knowingly conduct or allow a loud or unruly gathering where alcohol is served to, consumed by or in the possession of an underage person or persons on premises owned by the person responsible for the event, on premises rented by or to the person responsible for the event, on premises where the person responsible for the event resides or on premises where the person responsible for the event is in control of such premises during the loud or unruly gathering. The Sheriff, at his or her discretion, may immediately issue a citation for this civil violation upon evidence of the violation. There is no requirement of a first warning in order for the Sheriff to issue this civil citation.

- (1) Civil Fine: A first violation of this Section shall result in a citation with a \$750.00 fine. A second violation shall result in a citation with a \$1,500.00 fine. A third or subsequent violation shall result in a citation with a \$2,500.00 fine.
- (2) The Sheriff shall give notice of a violation of this Section by issuing a citation to any and all responsible persons identified by the Sheriff within 30 days of the violation. The citation shall also give notice of the right to request an administrative hearing to challenge the validity of the citation and the time for requesting that hearing [see Section 6.75.055].
- (3) The Civil Fine prescribed in subsection (1) is in addition to any Civil Cost Recovery Fee for public safety responses that may be assessed pursuant to subsection (b) of this section.
- (4) In the event that the responsible person who is in violation of this section is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable for the civil violation.

**(b) Imposition of Civil Cost Recovery Fee for Public Safety Responses**

In addition to any Civil Fine imposed for violation of this section, when any loud or unruly gathering where alcohol is served to, consumed by or in the possession of underage person(s) occurs on private property and a public safety officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the public safety officer shall give to the person(s) responsible for the event warning that a second or follow up violation of this Section on the same date or on any later date will result in his/her/their liability for the cost of providing public safety services (i.e., fire, ambulance, sheriff, and other emergency providers). The requirement of a first warning does not limit the ability of public safety personnel to issue a civil citation for the imposition of civil penalties for cost recovery on the same day that the warning is given if the warning does not end the loud or unruly gathering. The cost recovery for public safety responses shall be separate and distinct from a citation and fine for a civil violation described in subsection (a) of this section.

- (1) The amount of cost recovery under this subsection shall be calculated pursuant to 6.75.040(g) of this Chapter.
- (2) In the event that the responsible person who is in violation of this section is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable for the imposition of civil penalties for the cost of providing public safety services.
- (3) Civil Cost Recovery Fee(s) will not be imposed in those situations where those present at the gathering call for emergency services for an actual emergency at the premises.



**6.75.055     Hearings on the Imposition of Civil Fine and/or Imposition of Civil Cost Recovery Fee for Public Safety Response; Appeals**

**(a)     Administrative Hearing**

Any person subject to a Civil Fine pursuant to Section 6.75.050(a) or subject to a Civil Cost Recovery Fee for public safety responses pursuant to Section 6.75.050(b) shall have the right to request an administrative hearing within 45 days of the issuance of a citation for a civil violation of this Ordinance [Section 6.75.050(a)] and/or the issuance of a citation for the imposition of Civil Cost Recovery Fees for a public safety response as specified in this Ordinance [Section 6.75.050(b)] pursuant to the authority granted to the Board of Supervisors by Government Code Section 25845, subdivision (i). To request such a hearing, the person requesting the hearing shall notify the Marin County Administrator's Office in writing within 45 days of the issuance of the citation.

The Marin County Administrator's Office shall refer any request for a hearing under Section 6.75.050(a) and/or Section 6.75.050(b) to an Administrative Law Judge. The Administrative Law Judge shall conduct a hearing on the matter within 90 days of the request for the hearing unless one of the parties requests a continuance for good cause. The Administrative Law Judge shall render a decision within 30 days of the conclusion of the hearing. Either party may appeal the decision of the Administrative Law Judge pursuant to the requirements set forth below in subsection (b).

**(b)     Appeal from Decision of Administrative Law Judge**

The person upon whom a Civil Fine is imposed pursuant to Section 6.75.050(a) and/or upon whom a Civil Cost Recovery Fee is imposed pursuant to Section 6.75.50(b) may appeal the decision of the Administrative Law Judge. The County may also appeal the decision of the Administrative Law Judge. No appeal can lie unless the party filing the appeal has first properly requested and obtained a hearing under Section 6.75.055(a).

The Appeal must be filed within 20 days after service of the final decision issued by the Administrative Law Judge

pursuant to California Government Code Section 53069.4, subdivision (b). The procedures outlined in Government Code 53069.4 shall apply.

**6.75.060      Civil Fine and Civil Cost Recovery Fee for Public Safety Responses – Debt to County; Enforcement**

The amount of a Civil Fine and/or Civil Cost Recovery Fee for Public Safety Responses shall be deemed a debt owed to the County by the person found in violation of Section 6.75.050 and therefore liable for a fine under Section 6.75.050(a) and/or fees under Section 6.75.050(b), and, if that person is a juvenile, then also his/her parents or guardians. Any person owing such fine and/or fees shall be liable in an action brought in the name of the County for recovery of such fine and/or fees. These recovery costs may include reasonable attorney fees incurred in the action if the County prevails, as the County reserves the right to seek to recover reasonable attorney fees, on a case by case basis, pursuant to California Government Code Section 25845, subdivision (c). In those cases in which the County seeks to recover reasonable attorney fees, the other party may likewise do so.

**6.75.070      Severability and Preemption**

If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provision or application, and to this end the provisions of this section are severable.

The civil fines and fees imposed by this Ordinance do not preclude other potential civil actions or criminal prosecution under any other provision of law, including but not limited to Penal Code Section 272 and Business and Professions Code Sections 25658, 25658.2 and 25662.

**6.75.080      Effective Date**

This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same, in the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation published in the County of Marin.

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Marin, held on the 17th day of October, 2006, by the following vote:

AYES:

NOES:

ABSENT:

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PRESIDENT OF THE BOARD OF SUPERVISORS

ATTEST

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Clerk