# ORDINANCE 2330

## AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 18 ARTICLE III, MINORS RELATED TO SOCIAL HOST LIABILITY FOR PARTIES AT WHICH UNDERAGE DRINKING AND DRUG USE OCCURS

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AS FOLLOWS:**

**SECTION 1 :** Chapter 18 Title III of the Los Gatos Town Code is hereby amended and restated as follows:

### CHAPTER 18.10 SOCIAL HOST ORDINANCE


**18.30.010** Findings and Purpose
**18.30.015** Definitions
**18.30.020** Duty of the Social Host
**18.30.025** Prohibition of Underage Gatherings on Private and Public Property
**18.30.030** Hosting by Juvenile
**18.30.035** Exemption
**18.30.040** Penalties for Violations
**18.30.042** Recovery of Response Costs
**18.30.045** No Mandatory Duty of Care


### 18.30.010 Findings and Purpose.

The Town Council of the Town of Los Gatos does hereby find that:

1. The occurrence of underage social gatherings, defined in this ordinance as a gathering of two or more underage persons on private or public property where intoxicants are consumed by underage persons, is harmful to such persons and a threat to public welfare, health, and safety. The Surgeon General's Call to Action (2007) is hereby incorporated by reference, to further establish the health, safety and public welfare concerns that exist with underage drinking or cannabis use.

2. Reliable research indicates that underage consumption of intoxicants is a contributing factor in the three leading causes of teenage deaths: 1) unintentional injury, 2) homicide and 3) suicide. Underage drinking is associated with alcohol abuse and a negative impact on the developing brain of youth. Likewise, consumption of intoxicants is associated with violent crimes including sexual offenses, DUI, and alcohol-related traffic deaths. Underage drinking is a common factor in public disturbances, vandalism, and physical altercations, all of which may require intervention by local law enforcement.

3. Research has identified easy access to intoxicants and permissive attitudes as two key factors that contribute to underage drinking, cannabis, or other drug use.

4. Local, state and national studies have established that underage youth most commonly procure intoxicants from social sources (parties, friends, homes) and others who purchase it for them.

5. Underage social gatherings frequently occur on private or public property where adults who own or control the property have failed to ensure that alcoholic beverages, cannabis, or other intoxicating products are neither served to, nor consumed by underage persons. Furthermore, there are times when parents or other adults are present at the social gathering who condone the underage drinking, cannabis, or controlled substance use and provide the alcohol, cannabis, or controlled substance products.

6. Problems associated with underage social gatherings on private or public property are difficult to prevent and deter unless the Los Gatos Police Department has the legal authority to direct the social host to disperse the gathering and to cite the social host.

7. Law enforcement personnel have in the past been required to respond to underage social gatherings on private and public property where intoxicants are provided to and consumed by underage persons. Such calls for service can result in a disproportionate expenditure of public safety resources and delay official responses to other calls.

8. The Town Council of the Town of Los Gatos, pursuant to the Town's police powers under Article XI, sections 3 and 5 of the California Constitution, has the authority to enact and enforce laws that promote the public health, safety and general welfare of its residents.

9. An ordinance that imposes liability with penalties on social hosts is necessary to deter and prevent such gatherings. Social hosts or anyone who organizes, supervises, aids, conducts, permits, or controls the underage social gathering need not be present at such gathering to incur liability under this ordinance.

10. The purposes of this ordinance are to:

    a) protect the public health, safety, and welfare by deterring the service to and consumption of alcoholic beverages or cannabis products by underage persons; and

    b) reduce the cost to the public of providing police response services. These purposes are achieved by issuing a criminal citation which requires the social host to pay a fine and fees for the actual costs incurred by the Town; and

The Town Council, therefore, finds that underage social gatherings held on private or public property are a threat to the public peace, health, safety and general welfare, and a public nuisance as they affect the entire Los Gatos community as well as the neighborhoods in which they occur.

**18.30.015 Definitions.**

For the purposes of this chapter, the following definitions apply:

(a) "Alcohol." The definition of "alcohol" in Section 23003 of the California Business & Professions Code, as amended from time to time, shall apply to this chapter. 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."

(b) "Alcoholic beverage." The definition of "alcoholic beverage" in Section 23004 of the California Business & Professions Code, as amended from time to time, shall apply to this chapter. As of the introduction of this chapter, section 23004 defines "alcoholic beverage" to mean alcohol, spirits, liquor, wine, beer that contains one-half of one percent or more alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed or combined with other substances."

(c) "Cannabis" means all parts of the plant Cannabis Sativa Linnaeus, Cannabis Indica, or Cannabis Ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal purposes. "Cannabis" also means marijuana as defined by section 11018 of the Health and Safety Code, and amended by the California Control, Regulate, and Tax Adult use of Marijuana Initiative, and as defined by other applicable state laws. "Cannabis" does not mean "industrial hemp" as defined by section 11018.S of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

(d) "Cannabis Product" means cannabis or a cannabis product, respectfully, intended to be sold for either medical or adult use.

(e) "Controlled Substance" means a drug or substance whose possession and use are regulated under the California Controlled Substances Act (Health & Safety Code Section 11000 et seq.). Such term does not include any drug or substance for which the individual found to have consumed or possessed such substance has a valid prescription issued by a licensed medical practitioner authorized to issue such a prescription, or in the case of medical cannabis, a recommendation for medical marijuana from an approved provider, or a State of California medical identification card.

(f) "Intoxicants" means alcohol, controlled substances and/or cannabis as defined herein.

(g) "Juvenile" means any person under eighteen years of age.

(h) "Private or public property" means any location such as a residence and adjoining property, an apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other

social function or used with or without permission or compensation.

(i) "Response costs" means the costs associated with responses by law enforcement to underage social gatherings including but not limited to:

(1) salaries and benefits of law enforcement personnel for the amount of time spent responding to, remaining at, or otherwise dealing with unruly or underage gatherings

(2) the cost of any medical treatment to or for any law enforcement personnel injured responding to, remaining at or leaving the scene of an underage social gathering;

(3) the cost of repairing any Town equipment or property damage, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of an underage social gathering; and

(4) any costs recoverable in accordance with California Civil Code section 1714.9.

(j) "Social Host" means any person or persons with a right of possession of private or public property at which an underage social gathering occurs, including, but not limited to the following:

(1) the owner of record as of the time of the underage social gathering or tenant or lessee of the property;

(2) any person who exercises control over the private or public property at the time of the underage social gathering;

(3) anyone who organizes, supervises, officiates, aids, conducts, allows, permits or controls the underage social gathering.

(4) A social host need not be present at such gathering to incur liability under this ordinance.

(k) "Town" means the Town of Los Gatos.

(l) "Underage social gathering" means a party or gathering of two or more persons held on private or public property in the Town where intoxicants are consumed by any underage person.

(m) "Underage person" means any person under twenty-one years of age.

**18.30.020 Duty of Social Host.**

It is the duty of the Social Host to take reasonable steps to prevent underage access to intoxicants on private and public property. Such steps include but are not limited to controlling the quantity of intoxicants; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that underage persons do not consume intoxicants while at the gathering; and supervising the activities of underage persons at the gathering.

**18.30.025 Prohibition of Underage Social Gatherings on Private and Public Property.**

It is unlawful and a public nuisance for any person to knowingly host an underage social gathering on private or public property in the Town. For purposes of this chapter, a person knowingly hosts an underage social gathering whenever the social host is aware that an underage person has consumed intoxicants or reasonably should have been aware had the social host taken reasonable steps to prevent consumption of intoxicants by underage persons in accordance with Chapter

**18.30.030. Hosting by Juvenile.**

In the event that a juvenile hosts an underage social gathering at a residence or on other private or public property in the Town in violation of this chapter, the parents or guardians of that juvenile may be jointly and severally liable for any penalties and response costs imposed pursuant to this chapter.

**18.30.035 Exemption.**

This chapter does not apply to conduct involving the use of alcoholic beverages that is protected by Article I, Section 4 of the California Constitution.

**18.30.040 Penalties for Violations.**

(a) The enforcement officer, at his or her discretion, may immediately issue a citation for violation of this Chapter upon evidence of the violation. There is no requirement of a first warning in order for the enforcement officer to issue this citation.

(b) Administrative Fine: A first violation of this chapter shall result in a citation with a $1,500 fine. A second violation and subsequent violations shall result in a citation with a $3,000 fine.

(c) The enforcement officer shall give notice of a violation of this chapter by issuing a citation to any and all responsible persons identified by the chapter within 10 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.

(d) The administrative fine prescribed in this section is in addition to any cost recovery fee for public safety responses that may be assessed pursuant to section 18.30.040.

**18.30.045 Recovery of Response Costs.**

When the Police make an initial response to an underage social gathering on private or public property and a police officer issues a citation for violation of this chapter, the officer shall, in writing, inform any responsible person(s) at the property or location that:

(a) An underage social gathering exists; and

(b) The social host(s) will be charged for any response costs incurred for subsequent responses to the property for hosting an underage social gathering within a 12-month period.

(c) This warning will be given to all social hosts at the time of the first response to an underage social gathering where a citation is issued for violation of this chapter.

(d) Within 30 calendar days of the initial citation, a written warning will be delivered via certified mail to the owner of record of the involved property.

(e) When a police officer responds to an underage social gathering at a residence or other private property within the Town within 12 months of a citation and warning given to social hosts at the same property, and such officer issues a second or subsequent citation pursuant to this chapter, all responsible persons shall be jointly and severally liable for the Town's response costs concerning such second or subsequent underage social gathering, but only to the extent that the identified social host(s) concerning the first citation at such property remain the social host(s) for the second or subsequent citation at such property.

(f) 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 serving, consumption of or possession of intoxicants by underage person(s) at any gathering. The cost recovery for public safety responses shall be separate and distinct from a citation and administrative fine for a violation described in section 18.30.035

**18.30.047 No Mandatory Duty of Care.**

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

**SECTION II. CEQA FINDINGS.** This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential to result in physical change in the environment, directly or indirectly. This Ordinance is also exempt under CEQA Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

**SECTION III. SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The Town Council of the Town of Los Gatos declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

**SECTION IV. EFFECTIVE DATE AND PUBLICATIO**N. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 19th day of April 2022 and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 3rd day of May 2022. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 3rd day of May 2022, by the following vote:

COUNCIL MEMBERS:

AYES: Mary Badame, Matthew Hudes, Maria Ristow, Marico Sayoc, Mayor Rob Rennie

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 5/11/22

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 5/11/2022