

ORDINANCE NO. 19-1936

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTIONS 4211 THROUGH 4211.9 OF CHAPTER 2 (ALCOHOLIC BEVERAGES) OF ARTICLE IV (PUBLIC PEACE) OF THE CARSON MUNICIPAL CODE TO INCLUDE THE USE OR CONSUMPTION OF CANNABIS, CONTROLLED SUBSTANCES, AND TOBACCO PRODUCTS BY MINORS WITHIN THE PROHIBITIONS OF THE CITY'S SOCIAL HOST ORDINANCE, AND RENAMING SAID CHAPTER ACCORDINGLY

WHEREAS, on June 18, 2013, the City Council of the City of Carson ("City") adopted Ordinance No. 13-1522, adding Sections 4211 through 4211.9 to Chapter 2 (Alcoholic Beverages) of Article IV (Public Peace) of the Carson Municipal Code (the "CMC"); and

WHEREAS, CMC Sections 4211 through 4211.9, collectively, is commonly known as the City's Social Host Ordinance (the "Social Host Ordinance"); and

WHEREAS, the Social Host Ordinance, in its current form, imposes liability upon persons over the age of 21 for hosting events at which minors consume alcohol, and upon minors for consuming alcohol in public places, and in places not open to the public without the supervision of their parent or legal guardian; and

WHEREAS, the Social Host Ordinance was adopted in response to studies which showed that a common way for minors to obtain alcohol was at events hosted by persons over the age of 21; and

WHEREAS, studies have shown that ordinances such as the Social Host Ordinances, which have been adopted by many cities statewide, are an effective means of preventing minors' access to and consumption of alcohol; and

WHEREAS, at the November 8, 2016 statewide general election, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), thereby legalizing limited non-medicinal adult use of cannabis and cannabis products (hereafter "cannabis") by persons above the age of 21 in California; and

WHEREAS, the passage of the AUMA is believed to have reduced the availability of cannabis through the illegal or black market; and

WHEREAS, because minors are legally unable to obtain cannabis via the adult-use cannabis market under AUMA, and because of the reduction of the availability of cannabis through the black market, parties or social events held or hosted by adults have become a method whereby minors obtain cannabis; and

WHEREAS, consumption of cannabis by minors can lead to public health and safety risks to those who consume it and to others, including causing medical and cognitive developmental issues and the risk of traffic accidents due to impaired driving; and

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health threat, as evidenced by the fact that 480,000 people die prematurely from smoking-related diseases

every year, making tobacco the leading cause of preventable death. The World Health Organization estimates that tobacco accounts for over eight million deaths per year. According to the Centers for Disease Control and Prevention, cigarette smoking remains the leading cause of preventable death and disability in the United States, with over 16 million Americans having at least one disease caused by smoking; and

WHEREAS, the City Council recognizes that young people are particularly susceptible to the addictive properties of tobacco products, and are particularly likely to become lifelong users. An estimated 5.6 million youth aged 0 to 17 are projected to die prematurely from a tobacco-related illness if prevalence rates do not change. National data show that about 95 percent of adult smokers begin smoking before they turn 21. The ages of 18 to 21 are a critical period when many smokers move from experimental smoking to regular, daily use; and

WHEREAS, electronic cigarettes are a tobacco product that contain nicotine, which is highly addictive, and other chemicals found in regular cigarettes, such as formaldehyde, and lead, which are harmful and can cause cancer, birth defects, and other health problems. With the multitude of flavors, colorful packaging, tech appeal, and advertising, electronic cigarettes can be very appealing to kids and teens, and have become a primary new method for tobacco companies to addict minors; and

WHEREAS, parties, events or gatherings hosted by adults are a means for minors to gain access to tobacco products, given that tobacco products cannot legally be purchased by or sold to minors in California; and

WHEREAS, controlled substances comprise all of the addictive and dangerous drugs that are illegal under federal law, the Controlled Substances Act (“CSA”), without a medical prescription. Drugs and other substances that are considered controlled substances under the CSA are divided into five schedules, based on whether they have a currently accepted medical use in treatment in the United States, their relative abuse potential, and likelihood of causing dependence when abused; and

WHEREAS, Schedule I controlled substances have no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse. Schedule II/IIIN controlled substances have a high potential for abuse which may lead to severe psychological or physical dependence. Schedule III/IIIN controlled substances have a potential for abuse less than substances in Schedules I or II and abuse may lead to moderate or low physical dependence or high psychological dependence. Schedule IV controlled substances have a low potential for abuse relative to substances in Schedule III. Schedule V controlled substances have a low potential for abuse relative to substances listed in Schedule IV and consist primarily of preparations containing limited quantities of certain narcotics.

WHEREAS, unprescribed or improper use of controlled substances is illegal; and

WHEREAS, recently, controlled substances, including fentanyl and other opioids, have proliferated in the illegal controlled substance market, and according to the National Institute on Drug Abuse, the number of overdose deaths in California involving heroin (a type of opioid) and synthetic opioids (mainly fentanyl) have increased in recent years; and

WHEREAS, the rise in illegal controlled substance activity illustrates the need to protect the public and minors from the dangerous and negative effects of controlled substances that may be provided to and consumed by minors at parties, events or gatherings hosted by adults; and

WHEREAS, to protect the public health, safety and welfare of the City's youth and all residents and visitors of the City, the City Council desires to amend the Social Host Ordinance to include the consumption or use of cannabis, controlled substances, and tobacco products by minors within the scope of its prohibitions.

WHEREAS, to provide more detailed guidance for adult hosts to follow in regards to their responsibilities to preclude minors from accessing alcohol, cannabis, controlled substances and tobacco products at events they host, the City Council sees fit to impose certain "reasonable steps" that it is the duty of the adult host to follow in order to comply with the Social Host Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that the recitals set forth above are true and correct, and said recitals are incorporated herein by reference as findings.

SECTION 2. The title of Chapter 2 (Alcoholic Beverages) of Article IV (Public Peace) of the Carson Municipal Code is hereby renamed as follows (additions in ***bold italics***): "Alcoholic Beverages; ***Social Host Regulations.***"

SECTION 3. Sections 4211 through 4211.9 of Chapter 2 (Alcoholic Beverages; Social Host Regulations) of Article IV (Public Peace) of the Carson Municipal Code are hereby amended as follows (additions shown in ***bold italics***, deletions shown in ~~striketrough~~):

"4211 ~~Alcohol~~ Consumption or Use of Alcohol, Cannabis, Controlled Substances and Tobacco Products by Minors Prohibited – Purpose and Intent.

The City Council finds and determines that minors often obtain alcoholic beverages, ***cannabis, controlled substances, and tobacco products*** at parties held at private premises. The City Council further finds and determines that persons who will be held responsible for abetting or tolerating such conduct will be more likely to properly supervise or stop such parties on property under their control.

4211.1 Definitions.

For purposes of CMC 4211 through 4211.9, the following terms shall have the following meanings:

(A) "Adult" shall mean a person who is twenty-one (21) years of age or older.

(B) "Cannabis" shall mean all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound,

manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For purposes of CMC 4211 through 4211.9 only, "Cannabis" includes "cannabis products."

(C) "Cannabis products" shall mean cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to concentrated cannabis (as defined in California Health & Safety Code Section 11006.5, as may be amended), or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

(BD) "Control" shall mean any form of dominion including ownership, tenancy, or other possessory right.

(E) "Controlled Substance(s)" shall mean the substances designated as controlled substances under Section 202 of the federal Controlled Substances Act and the schedules published in the regulations promulgated thereunder, 21 C.F.R. §1308.01 et seq., all as may be amended from time to time. Notwithstanding the foregoing, for purposes of CMC 4211 through 4211.9 only, "controlled substances" does not include "cannabis."

(F) "Electronic Cigarette" shall mean any electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. The term includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an e-cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. The term does not include any inhaler prescribed by a licensed doctor.

(DG) "Enforcement services" shall mean the salaries and benefits of police officers or other code enforcement officers for the amount of time actually spent in responding to or in remaining at the residence or premises and the administrative costs attributable to the incident, the actual cost of any medical treatment to injured police officers or other code enforcement officers as a result of injuries suffered in responding to or in remaining at the residence or premises, the cost arising from the use of any City equipment in responding to or remaining at the residence or premises, and the cost of repairing any damaged City equipment or property used in responding to or in remaining at the residence or premises.

(H) "Industrial Hemp" shall mean a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture,

salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

(~~E~~I) "Minor" shall mean a person who is less than twenty-one (21) years of age.

(J) "Tobacco Product" means any of the following: (1) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff; (2) An electronic cigarette; (3) Any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include a nicotine replacement product approved by the United States Food and Drug Administration.

(~~E~~K) "Residence" or "premises" shall mean a house, yard, apartment, condominium, or other dwelling unit, a hotel or motel room, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or for living space or for a party, meeting, or other social function or gathering, and whether owned, leased, rented, or used with or without compensation.

4211.2 Consumption or Use of Alcohol, Cannabis, Controlled Substances and Tobacco Products by Minor Prohibited in Public Place, Place Open to Public, or Place Not Open to Public.

Except as otherwise permitted by State law, it shall be unlawful for any minor to:

(A) Consume ***or use*** at any public place or any place open to the public any alcoholic beverage, ***cannabis, controlled substance, or tobacco product***; ~~or~~

(B) Consume ***or use*** at any place not open to the public any alcoholic beverage unless his or her parent or legal guardian in connection with the consumption of the alcoholic beverage is supervising that minor.

4211.3 Hosting, Permitting, or Allowing a Party, Gathering, or Event Where Minors Consuming or Using Alcoholic Beverages, Cannabis, Controlled Substances or Tobacco Products Prohibited.

(A) Except as permitted by Article I, Section 4, of the California Constitution, it shall be unlawful for any person to ***knowingly*** host, permit, or allow a party, gathering, or event at his or her place of residence or other private property, place, or premises under his or her control where two (2) or more minors are present and alcoholic beverages, ***cannabis, controlled substances or tobacco products*** are being consumed ***or used*** by any minor.

(B) It is the duty of any person who knowingly hosts, permits or allows a party, gathering, or event at his or her place of residence or other private property, place, or premises under his or her control to take all reasonable steps to prevent the

consumption or use of alcoholic beverages, cannabis, controlled substances and tobacco products by any minor at the party, gathering, or event. Reasonable steps are: (1) controlling access to alcoholic beverages, cannabis, and tobacco products at the party, gathering or event; (2) prohibiting controlled substances at the party, gathering or event (except pursuant to valid medical prescription as stated in Section 4211.4(D)); and (3) supervising the activities of minors at the party, gathering or event.

(C) For purposes of subsection (B), a person “knowingly” hosts, permits, or allows a party, gathering, or event at his or her place of residence or other private property, place, or premises under his or her control where two (2) or more minors are present and alcoholic beverages, cannabis, controlled substances or tobacco products are being used or consumed by any minor, whenever the person either knows that such conduct is occurring or reasonably should have known that such conduct was occurring had the person taken all reasonable steps set forth in subsection (B).

~~(B)~~ *(D)* This Section shall not apply to conduct involving the use of alcoholic beverages which occurs exclusively between a minor child and his or her parent or legal guardian.

~~(C)~~ *(E)* This Section shall not apply to any location or place that is regulated by the California Department of Alcohol and Beverage Control.

4211.4 Protected Activities.

The provisions of CMC 4211.2 and 4211.3 shall not apply to *any of the following*:

(A) Legally protected religious ceremonies;

(B) The consumption or use of cannabis for medicinal purposes by a minor holding a physician’s recommendation in compliance with State law, including the Compassionate Use Act of 1996 (Health and Safety Code Section 11362.5), the Medical Marijuana Program Act (Health and Safety Code Sections 11362.7 et seq.), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code Sections 26000 et seq.);

(C) The consumption or use of industrial hemp, including cannabidiol (CBD) oil derived therefrom;

(D) The consumption or use of a controlled substance by a minor as prescribed to the minor by a licensed medical practitioner authorized to issue the prescription.

4211.5 Fines.

The Los Angeles County Sheriff’s Department or duly authorized code enforcement officer is authorized to issue an administrative citation for a violation of CMC 4211.2 or a violation of CMC 4211.3. Any person who violates said Sections is subject to citation and punishment in accordance with CMC 1203.3. Fines for violations of CMC 4211.2 or 4211.3 are as follows:

- (i) A fine not exceeding \$250.00 for a first violation;
- (ii) A fine not exceeding \$500.00 for a second violation of the same ordinance or permit within one (1) year from the date of the first violation;
- (iii) A fine not exceeding \$1,000 for each additional violation of the same ordinance or permit within one (1) year from the date of the first violation.

4211.6 Civil Liability for Enforcement Services.

When a party, gathering, or event prohibited by CMC 4211.3 occurs and Los Angeles County Sheriff's Department or duly authorized code enforcement officers are called to the scene, the person(s) having control of the residence or premises shall be liable for the cost of providing enforcement services. If the person having control is a minor and if a parent or legal guardian is served with a copy of the civil citation issued to the minor, the parent or legal guardian of that minor shall be liable for the costs incurred for said enforcement services up to the limits allowed by State law.

4211.7 Reimbursement for Cost of Enforcement Services.

The actual cost of enforcement services described in CMC 4211.6 shall be deemed a debt owed to the City recoverable in a civil action and shall be recoverable in a civil action, including reasonable attorney fees and costs.

4211.8 Reservation of Legal Options.

The City of Carson does not waive its right to seek reimbursement for actual costs of enforcement services through other legal remedies or procedures. The procedure provided for in CMC 4211.9 is in addition to any other statute, ordinance, or law, civil or criminal. This subsection in no way limits the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by CMC 4211.2 or 4211.3.

4211.9 Administrative Citation Procedures.

(A) All citations issued pursuant to this Chapter shall be subject to the administrative citation procedures set forth in Chapter 2.5 of Article I."

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, 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. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 6. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this 3rd day of September, 2019.

APPROVED AS TO FORM:

CITY OF CARSON:

Sunny K. Soltani, City Attorney

Albert Robles, Mayor

ATTEST:

Donesia Gause-Aldana, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Donesia Gause-Aldana, City Clerk of the City of Carson, California, hereby attest to and certify that the foregoing ordinance, being Ordinance 19-1936 passed first reading on the 20th day of August, 2019, adopted by the Carson City Council at its meeting held on the 3rd day of September, 2019, by the following roll call vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

Donesia Gause-Aldana, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Donesia Gause-Aldana, City Clerk of the City of Carson, California, do hereby certify that Ordinance No. 19-1936 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *Our Weekly*, a newspaper of general circulation on the following date(s):

Adopted Ordinance: _____

In witness whereof, I have hereunto subscribed my name this _____ day of _____, 2019.

Donesia Gause-Aldana, MMC, City Clerk