

ORDINANCE NO. 13-O1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AZUSA, ADDING SECTIONS 46-129 TO 46-132 TO ARTICLE IV OF CHAPTER 46 OF THE AZUSA MUNICIPAL CODE TO PROHIBIT THE HOSTING OF GATHERINGS AT WHICH ALCOHOLIC BEVERAGES AND/OR OTHER HARMFUL SUBSTANCES ARE CONSUMED BY MINORS.

WHEREAS, the City of Azusa (“City”), 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 citizens; and

WHEREAS, underage drinking causes violent and unruly behavior at residences or other locations that have been the subject of multiple police calls; and

WHEREAS, Sections 1-34, 1-35, and 14-421 of the Azusa Municipal Code permit recovery of costs associated with the City’s enforcement or abatement nuisances in accordance with state law; and

WHEREAS, the City Council finds that unsupervised where alcohol is consumed by minors constitute nuisances and are harmful to the minors and to the communities where such parties are held; and

WHEREAS, in addition to alcohol, consumption of other substances that are harmful to minors frequently occurs at such parties and gatherings, including marijuana and other controlled substances, inhalants and tobacco products; and

WHEREAS, the Azusa Police Department’s ability to abate gatherings where alcohol or other harmful substances are consumed by minors will result in a decrease in abuse of alcohol and other harmful substances by minors, as well as decreases in physical altercations and injuries, neighborhood vandalism, and excessive noise disturbance, thereby improving public safety; and

WHEREAS, problems associated with such gatherings are difficult to resolve unless the Azusa Police Department has the legal authority to effectively direct the host to disperse the party; and

WHEREAS, control of large parties, gatherings or events where minors are consuming alcohol or other harmful substances is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public; and

WHEREAS, the purpose of these Sections is to address the problems identified above and to protect the public health, safety and general welfare by enhancing the enforcement of laws prohibiting the consumption of alcohol and other harmful substances by minors and reducing the costs of providing police services to parties, gatherings, or events requiring a response, by

requiring hosts to ensure minors are not consuming alcoholic beverages or other harmful substances.

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

SECTION 1. FINDINGS. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Sections 46-129 to 46-132 are hereby added to Article IV of Chapter 46 of the Azusa Municipal Code to read as follows:

Sec. 46-129. – Definitions.

Sec. 46-130. – Host Obligations.

Sec. 46-131. – Violation; Penalty.

Sec. 46-132. – Collection of Enforcement Costs.

Sec. 46-129. Definitions.

As used in Section 46-129 through 46-132, the following words and phrases have the meanings set forth in this Section:

A. "Alcohol" shall have the same meaning as in California Business and Professions Code section 23003, as it may be amended from time to time, or any successor section.

B. "Alcoholic Beverage" shall have the same meaning as in California Business and Professions Code section 23004, as it may be amended from time to time, or any successor section.

C. "Controlled Substance" shall mean any controlled substance listed in the California Uniform Controlled Substances Act (California Health and Safety Code section 11000 et seq.) or the federal Controlled Substances Act (21 USC 801 et seq.), as they may be amended from time to time.

D. "Gathering" means a group of two (2) or more persons who have assembled or are assembling for a social occasion or social activity at a residence or on other public or private property.

E. "Guardian" means: (1) a person who, under court order, is the guardian of the person of a Minor; or (2) a public or private agency with whom a Minor has been placed by the court.

F. "Harmful Substances" shall include all of the following, as defined in this Section: Alcohol, Alcoholic Beverage, Controlled Substance, Inhalant, Marijuana and Tobacco Products.

G. "Inhalant" includes but is not limited to any aerosol or aerosol spray, any volatile solvent including but not limited to toluene or any substance or material containing toluene, any gas including but not limited to nitrous oxide or any substance containing nitrous oxide, nitrites (commonly known as "poppers," "snappers," or "whippets"), and any other chemical substance or chemical compound that is inhaled for the purpose of becoming intoxicated.

H. "Marijuana" shall have the same meaning as in California Health and Safety Code section 11018 or United States Code, Title 21, section 802, as they may be amended from time to time, or any successor sections.

I. "Minor" means any person under 21 years of age for purposes of Alcohol, Alcoholic Beverages, Controlled Substances, Inhalants and Marijuana, and under the age of 18 years of age for purposes of Tobacco Products.

J. "Parent" means a person who is a natural parent, adoptive parent, or step-parent of another person.

K. "Premises" means any residence or other private property, individual unit or place, including any commercial or business premises.

L. "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

M. "Tobacco Products" shall have the same meaning as in Section 6-58 of this Municipal Code.

Sec. 46-130. Host Obligations.

A. Except as permitted by state law, it is unlawful for any person to permit, allow, or host 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 any Harmful Substances have been consumed by a Minor, if such person either knows or reasonably should know that a Minor has consumed any Harmful Substances.

B. Any person who permits, allows or hosts a Gathering shall be rebuttably presumed to have actual or constructive knowledge that Minors have consumed Harmful Substances if such person is present at the premises of the Gathering at the time any Minor consumes a Harmful Substance, or if that person has not taken all reasonable steps necessary to prevent the consumption of Harmful Substances by Minors, as set forth in subdivision Section 46-130(E) below.

C. This Section shall not apply to Gatherings where religious services and/or activities protected by Article I, Section 4 of the California Constitution are exercised, nor shall the prohibition apply to conduct involving the use of alcoholic beverages exclusively between a Minor and his or her Parent or Guardian.

D. This Section shall not apply to any location or place regulated by the California Department of Alcohol and Beverage Control via an appropriate license or permit.

E. It is the duty of any person who permits, allows or hosts a Gathering at his or her place of residence, other private property, public place, or any other premises under his or her control, where Minors will be present, to take all reasonable steps to prevent the consumption of Harmful Substances by any Minor at the Gathering.

Reasonable steps shall include, at a minimum, the following: (1) preventing any access by Minors to any Harmful Substances at the Gathering; (2) controlling access to Alcoholic Beverages and Tobacco Products at the Gathering; (3) controlling the quantity of Alcoholic Beverages and Tobacco Products at the Gathering to an amount which can be monitored and its access controlled effectively; (4) verifying the age of persons who consume Alcoholic Beverages or Tobacco Products at the Gathering by inspecting drivers licenses or other government-issued identification cards; (5) prohibiting the use of Controlled Substances and Marijuana at the Gathering; (6) prohibiting the defined use of Inhalants at the Gathering (e.g. inhaled for the purpose of becoming intoxicated); and (7) monitoring the activities of all persons at the Gathering, including Minors.

F. A person who hosts a Gathering shall not be in violation of Section 46-129 through 46-132 if he or she, before any other person makes a complaint to the Azusa Police Department or other law enforcement agency, seeks assistance from the Azusa Police Department or other law enforcement agency to either: (1) remove any person who refuses to abide by the host's rules or requirements with respect to his or her performance of the duties imposed by Section 46-129 through 46-132; or (2) terminate the Gathering because the host has been unable to prevent Minors from consuming Harmful Substances, despite having taken all reasonable steps to do so.

Sec. 46-131. Violation; Penalty.

A. Criminal violations of Section 46-129 through 46-132 shall be misdemeanors and shall be punishable as set forth in Section 1-10 of this Code.

B. Amounts of fines and/or penalties for violations of Section 46-129 through 46-132 shall be established by resolution of the City Council.

C. Nothing in Section 46-129 through 46-132 in any way limits any other remedy that may be available to the City, or any penalty that may be imposed by the City.

Sec. 46-132. Collection of Enforcement Costs.

Every violation of Section 46-129 through 46-132 shall be deemed to be a public nuisance and abated by the City. The City may seek reimbursement for actual costs associated with the enforcement of Section 46-129 through 46-132 pursuant to Sections 1-34, 1-35, and 14-421 of the Azusa Municipal Code, as well as any other applicable law.”

SECTION 3. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly, or indirectly.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after its adoption.

SECTION 5. SEVERABILITY. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council of the City of Azusa hereby declares that it would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 6. PUBLICATION. The City Clerk shall certify the adoption of this Ordinance and shall cause the same to be posted as required by law.

PASSED, APPROVED and ADOPTED this 7th day of October, 2013.

/s/ Joseph Romero Rocha, Mayor

ATTEST:

/s/ Jeffrey Lawrence Cornejo, Jr., City Clerk

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

I, JEFFREY LAWRENCE CORNEJO, JR., City Clerk of the City of Azusa, do hereby certify that the foregoing Ordinance No. 13-O1, was duly introduced and placed upon its first reading at a regular meeting of the Azusa City Council on the 16th of September, 2013 and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the Azusa City Council on the 7th day of October, 2013 by the following vote to wit:

AYES: COUNCILMEMBERS: GONZALES, CARRILLO, ALVAREZ, ROCHA
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: MACIAS

/s/ Jeffrey Lawrence Cornejo, Jr., City Clerk

APPROVED AS TO FORM:

/s/ Marco A. Martinez, City Attorney

A SUMMARY OF THIS ORDINANCE WAS PUBLISHED IN THE SAN GABRIEL VALLEY TRIBUNE ON OCTOBER 11, 2013.