

ORDINANCE NO.

AN ORDINANCE AMENDING ARTICLE 7, OF CHAPTER 1, OF PART V OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO THE ESTABLISHMENT OF AMPLIFIED AND EXCESSIVE NOISE REGULATIONS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. Section 5-01-1205 is hereby amended to add the following:

5-01-1205 LEGISLATIVE FINDINGS AND INTENT:

(j) In addition to social gatherings resulting in the underage consumption of alcohol and recreational marijuana, said gatherings have also led to an increase in noise complaints arising from crowds and amplified sound devices within rural, residential, and other traditionally quiet unincorporated areas of the County, during traditionally quiet times;

(k) The County has exhausted significant amounts of law enforcement and staff time in responding to said noise complaints, often arising from the same individuals and instances on private property;

(l) In order to control unpermitted unnecessary, excessive, and annoying noise in the unincorporated areas of Tulare County, it is hereby declared to be the policy of the County to regulate unpermitted amplified and/or excessive noises at unreasonable volumes and at unreasonable times;

(m) It is also determined that unpermitted, unreasonable noise levels occurring at unreasonable hours are detrimental to the public health, welfare and safety, and are contrary to public interest. Therefore, it is necessary to establish amplified and excessive noise regulations in order to protect the County's residents. Thus, the Board of Supervisors does ordain and declare that creating, maintaining, causing, or allowing to be created, caused or maintained, any noise in a manner prohibited by or not in conformity with the provisions of this chapter shall constitute unlawful behavior and shall be treated as such.

Section 2. Section 5-01-1210 is hereby amended to add the following:

5-01-1210 DEFINITIONS:

(j) "Amplified Sound Device" refers to a device whose volume is increased by any electric, electronic, mechanical, or motor-powered means, including, but not limited to, loudspeakers, public address systems, car audio systems, radios, record players, tape players, disc players, MP3 players, iPods, phones, television sets.

(k) "Excessive Noise Sources" include, but are not limited to, non-amplified sounds arising from parties, such as shouting, group chanting, acoustic musical instruments. Additionally, the frequent, repetitive, or continuous sounds from starting, operating, repairing, rebuilding, or testing of motor vehicles, motorcycles, dirt bikes, or other off-highway vehicles, or any internal combustion engines, are deemed to be excessive noise sources and thus subject to this chapter.

(l) "Traditionally Quiet Areas" refers to consistently zoned residential and rural unincorporated areas of the County of Tulare.

Section 3. Section 5-01-1215 is hereby amended to read as follows:

5-01-1215 PROHIBITION:

- (a) It is unlawful for any person to permit, allow, host, or continue to permit, allow, or host a party on private property under his or her control if underage person(s) are present and the person(s) in control of the property knows or reasonably should know that (i) alcoholic beverages are being furnished to or consumed by any underage person(s), or (ii) marijuana is being furnished to or smoked, vaporized, ingested, or otherwise consumed by any underage person(s).
- (b) "Quiet Hours" shall be observed in traditionally quiet areas between the hours of 9 P.M. to 7 A.M. on Sunday through Thursday and 11 P.M. to 8 A.M. on Friday through Sunday. During Quiet Hours, sound levels resulting from unpermitted Amplified Sound Devices and Excessive Noise Sources are prohibited from exceeding sixty-five (65) decibels, as measured at the boundary of the landowner(s)' property.
- (c) The prohibition on amplified sound devices and excessive noise sources during Quiet Hours does not apply to those amplified sound devices utilized by emergency personnel in carrying out their official duties.

Section 4. Section 5-01-1230 is revised to read as follows:

5-01-1230 SEPARATE VIOLATION FOR EACH INCIDENT:

Each incident in violation of this ordinance shall constitute a separate offense. An "incident" refers to each time County staff, law enforcement, fire, and/or other emergency personnel responds to a party or an alleged violation of Section 5-01-1215 above. If a response is required multiple times to the same party or amplified/excessive noise complaint on the same date, each response shall be a separate offense.

Section 5. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof [a

summary] shall be published once in the _____, a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of _____, 20__, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

COUNTY OF TULARE

By: _____
Chair, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Approved as to Form:
County Counsel

By _____
Deputy
Matter # _____

Attachment B
Social Host Ordinance – Full Text

ARTICLE 7. SOCIAL HOST ORDINANCE

5-01-1200 SHORT TITLE:

This Article shall be known and cited as the "Social Host Ordinance."

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1205 LEGISLATIVE FINDINGS AND INTENT:

The board of supervisors finds and determines as follows:

- (a) The County of Tulare, 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) Underage consumption of alcoholic beverages and recreational marijuana increases the risk for alcohol and drug abuse, respectively; physical altercations; violent crimes, including rape and other sexual offenses; accidental injuries; driving under the influence; neighborhood vandalism; and excessive noise disturbance; all of which may require intervention by local law enforcement;
- (c) Underage person(s) often obtain alcoholic beverages or recreational marijuana at parties held at private residences or at rented residential and commercial premises that are under the control of a person or persons who know(s) or should know of the underage service, possession and/or consumption. Some person(s) responsible for private property have failed to ensure that alcoholic beverages or recreational marijuana are neither served to nor consumed by underage person(s) at parties held on premises under their possession or control;
- (d) Law enforcement, fire and other emergency response services personnel have and are required to respond, sometimes on multiple occasions during a single evening, to parties on private property at which alcoholic beverages or recreational marijuana are served to or consumed by underage persons. Responses to such parties result in a significant expenditure of time and resources by County staff, and they divert public safety resources from other areas of the county;
- (e) For these reasons, parties held on private property where alcoholic beverages or recreational marijuana are served to or consumed by underage person(s) pose an immediate threat to public health, safety, quiet enjoyment of property, and the general welfare of the communities where such parties are held, and control of such parties is necessary to protect the general welfare;
- (f) It is difficult to prevent and deter problems associated with parties at which alcoholic beverages or recreational marijuana are used by underage person(s) unless those responsible for hosting, supervising, or tolerating such parties are subject to criminal and/or civil liability for their conduct;

(g) Person(s) held responsible for abetting or tolerating parties where underage consumption of alcohol or recreational marijuana occurs will be more likely to properly supervise and stop such conduct at parties held on private property under their possession and control;

(h) Enhancing law enforcement's ability to abate parties on private property where underage persons are using alcoholic beverages or recreational marijuana will result in a decrease in alcohol or drug abuse by underage persons, as well as a decrease in other public safety issues related to such drug and alcohol use, such as driving under the influence, excessive noise disturbances, physical altercations and injuries, and neighborhood vandalism;

(i) The prohibitions found in this Article are reasonable and expected to deter the consumption of alcoholic beverages and/or recreational marijuana by underage persons by holding the person(s) who knowingly allow service to or consumption by underage person(s) responsible.

(j) In addition to social gatherings resulting in the underage consumption of alcohol and recreational marijuana, said gatherings have also led to an increase in noise complaints arising from crowds and amplified sound devices within rural, residential, and other traditionally quiet unincorporated areas of the County, during traditionally quiet times;

(k) The County has exhausted significant amounts of law enforcement and staff time in responding to said noise complaints, often arising from the same individuals and instances on private property;

(l) In order to control unpermitted unnecessary, excessive, and annoying noise in the unincorporated areas of Tulare County, it is hereby declared to be the policy of the County to regulate unpermitted amplified and/or excessive noises at unreasonable volumes and at unreasonable times;

(m) It is also determined that unpermitted, unreasonable noise levels occurring at unreasonable hours are detrimental to the public health, welfare and safety, and are contrary to public interest. Therefore, it is necessary to establish amplified and excessive noise regulations in order to protect the County's residents. Thus, the Board of Supervisors does ordain and declare that creating, maintaining, causing, or allowing to be created, caused or maintained, any noise in a manner prohibited by or not in conformity with the provisions of this chapter shall constitute unlawful behavior and shall be treated as such.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1210 DEFINITIONS:

The following terms as used in this Article shall have the meaning ascribed to them in this section as follows:

(a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(b) "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, 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) "Control" means any form of dominion, including ownership, tenancy, license or any other possessory right.

(d) "Marijuana" means all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*; 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, including the separated resin, whether crude or purified, obtained from cannabis. It includes all cannabis products that can be smoked, vaporized, inhaled, ingested, or consumed, including dried flowers, concentrated cannabis, extracts, and edible cannabis products.

(e) "Nonmedical marijuana" means marijuana or cannabis that is not being used or consumed in accordance with a physician's recommendation.

(f) The term "party" means any party, gathering, event, meeting, or other assembly of two or more individuals on private property for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

(g) The term "person" means and includes, but is not limited to, any individual business, corporation or other organization, but it does not include a public entity.

(h) The term "private property" means any private residence or other private premises, individual unit or place, including any commercial or business premises, a hotel or motel room or bed and breakfast unit, home, yard, apartment, condominium, mobile home, cottage, cabin, trailer, tent or other dwelling unit, abandoned or vacant warehouse or other building or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or for a party or other social function, and whether owned, leased, rented, licensed, or used with or without compensation.

(i) The term "underage person" means any person under twenty-one (21) years of age.

(j) "Amplified Sound Device" refers to a device whose volume is increased by any electric, electronic, mechanical, or motor-powered means, including, but not limited to, loudspeakers, public address systems, car audio systems, radios, record players, tape players, disc players, MP3 players, iPods, phones, television sets.

(k) "Excessive Noise Sources" include, but are not limited to, non-amplified sounds arising from parties, such as shouting, group chanting, acoustic musical instruments. Additionally, the frequent, repetitive, or continuous sounds from starting, operating, repairing, rebuilding, or testing of motor vehicles, motorcycles, dirt bikes, or other off-highway vehicles, or any internal combustion engines, are deemed to be excessive noise sources and thus subject to this chapter.

(l) "Traditionally Quiet Areas" refers to consistently zoned residential and rural unincorporated areas of the County of Tulare.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1211 EXEMPTIONS:

(a) This Article shall not apply to activities protected by Article 1, Section 4 of the California Constitution or the First or Fourteenth Amendments to the United States Constitution.

(b) This Article shall not apply to conduct involving the consumption or possession of marijuana by an underage person if that underage person is either a qualified patient that possesses a recommendation from a physician, or a person with an identification card, as provided in Health and Safety Code sections 11362.7 et seq.

(c) This Article shall not apply to any location or place regulated by the California Alcoholic Beverage Control Act.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1215 PROHIBITION:

(a) It is unlawful for any person to permit, allow, host, or continue to permit, allow, or host a party on private property under his or her control if underage person(s) are present and the person(s) in control of the property knows or reasonably should know that (i) alcoholic beverages are being furnished to or consumed by any underage person(s), or (ii) marijuana is being furnished to or smoked, vaporized, ingested, or otherwise consumed by any underage person(s).

(b) "Quiet Hours" shall be observed in traditionally quiet areas between the hours of 9 P.M. to 7 A.M. on Sunday through Thursday and 11 P.M. to 8 A.M. on Friday through Sunday. During Quiet Hours, sound levels resulting from unpermitted Amplified Sound Devices and Excessive Noise Sources are prohibited from exceeding sixty-five (65) decibels, as measured at the boundary of the landowner(s)' property.

(c) The prohibition on amplified sound devices and excessive noise sources during Quiet Hours does not apply to those amplified sound devices utilized by emergency personnel in carrying out their official duties.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1220 DUTY TO TAKE REASONABLE STEPS; PRIMA FACIE EVIDENCE:

(a) It shall be the duty of any person having control of any private property who hosts, permits, or allows a party to take place on said private property to take all reasonable steps to prevent furnishment of alcohol or marijuana to underage persons, and to prevent the use by underage persons of alcohol or marijuana at the party. Reasonable steps include (i) monitoring and/or controlling access to alcoholic beverages or marijuana at the party; (ii) verifying the age of persons attending the party by inspecting drivers' licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages or nonmedical marijuana while at the party; (iii) requiring guests to leave the property if there is

reason to suspect that the guests have furnished or intend to furnish alcohol or marijuana to underage persons; (iv) supervising the activities of underage persons at the party.

(b) A person who has control of any private property shall be presumed to have actual or constructive knowledge that alcoholic beverages are being furnished to or consumed by any underage person(s), or marijuana is being furnished to or smoked, vaporized, ingested, or otherwise consumed by any underage person(s), if the person (i) is present at the party and (ii) has failed to take all reasonable steps as set forth in subdivision (a) above. A person's presence at the private property under their control shall be prima facie evidence that such person(s) had the knowledge or should have had the knowledge specified in Section 5-01-1215.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1225 NUISANCE:

Conduct prohibited by Section 5-01-1215 is hereby declared to be a public nuisance, and is subject to abatement as provided in Article 11 of Chapter 1 of Part IV of this Code.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1230 SEPARATE VIOLATION FOR EACH INCIDENT:

Each incident in violation of this ordinance shall constitute a separate offense. An "incident" refers to each time County staff, law enforcement, fire, and/or other emergency personnel responds to a party or an alleged violation of Section 5-01-1215 above. If a response is required multiple times to the same party or amplified/excessive noise complaint on the same date, each response shall be a separate offense.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1235 CRIMINAL PENALTIES FOR VIOLATION:

A violation of section 5-01-1215 shall constitute either a misdemeanor or an infraction, and shall be punishable as specified in Section 125 of this Code.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1240 RESERVATION OF LEGAL OPTIONS:

By adopting this Article, the County of Tulare does not waive its right to seek other legal remedies. The procedure provided for in this Article is in addition to any other statute, ordinance or law, whether civil or criminal. This Article in no way limits the authority of law enforcement or private citizens to make arrests for any criminal offenses arising out of conduct regulated by this Article, nor does it limit in any way the prosecution's ability to initiate and prosecute a criminal offense arising out of the same circumstances.

(Added by Ord. No. 3526, effective 3-8-18)

5-01-1245 SEVERABILITY:

If any section, subsection, sentence, clause, phrase or word of this Article or Chapter, or interpretation thereof, is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article or

Chapter. The Tulare County Board of Supervisors hereby declares that it would have passed and adopted this chapter and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

(Added by Ord. No. 3526, effective 3-8-18)