

RESOLUTION ADOPTING AN ORDINANCE PROHIBITING THE SMOKING OF TOBACCO PRODUCTS AND CANNABIS PRODUCTS AND THE CONSUMPTION OF CANNABIS PRODUCTS ON ALL PROPERTY OWNED BY OR UNDER THE CONTROL OF THE CITY OF DERBY AND THE SMOKING OF CANNABIS PRODUCTS IN THE OUTDOOR SECTIONS OF RESTAURANTS WITHIN THE CITY

WHEREAS, on June 20, 2021, Governor Ned Lamont signed into law SB 1201, An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis.

WHEREAS, SB 1201 allows, *inter alia*, individuals aged 21 or older to possess, use, or otherwise consume cannabis and cannabis products. It generally limits possession to (1) 1.5 ounces of cannabis plant material and five ounces of such material in a locked container in the person's residence or locked vehicle glove box or trunk or (2) equivalent cannabis product amounts or combined amounts.

WHEREAS, existing law, as amended by SB 1201, §84, authorizes a municipality to define, prohibit and abate within the municipality all nuisances and causes thereof, and all things detrimental to the health, morals, safety, convenience and welfare of its inhabitants and cause the abatement of any nuisance at the expense of the owner or owners of the premises on which such nuisance exists.¹

WHEREAS, existing law, as amended by SB 1201, §84, authorizes a municipality to provide for the health of the inhabitants of the municipality and do all things necessary or desirable to secure and promote the public health and to regulate, on any property owned by or under the control of the municipality, any activity deemed to be deleterious to public health, including the burning of a lighted cigarette, cigar, pipe or similar device, whether containing, wholly or in part, tobacco or cannabis, as defined in section 1 of SB 1201, and the use or consumption of cannabis, including, but not limited to, electronic cannabis delivery systems, as defined in section 19a-342a, or vapor products, as defined in said section, containing cannabis.²

WHEREAS, the smoking and consumption of recreational cannabis and the use of electronic tobacco and cannabis delivery systems and vapor products containing tobacco and cannabis on property owned by or under the control of the City and in outdoor sections of restaurants within the City creates a health and safety risk.

WHEREAS, the City of Derby seeks to protect, preserve and promote the health, safety, welfare and quality of life of its residents by regulating the smoking and consumption of tobacco and cannabis products and all means by which tobacco and cannabis products can be smoked or consumed on property owned by or under the control of the City and in outdoor sections of restaurants within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN / ALDERWOMEN OF THE CITY OF DERBY:

¹ Conn. Gen. Stat. §7-148 (c)(7)(E)

² Conn. Gen. Stat. §7-148 (c)(7)(H)(xi)

ORDINANCE PROHIBITING THE SMOKING OF TOBACCO PRODUCTS AND CANNABIS PRODUCTS AND THE CONSUMPTION OF CANNABIS PRODUCTS ON ALL PROPERTY OWNED BY OR UNDER THE CONTROL OF THE CITY OF DERBY AND THE SMOKING OF CANNABIS PRODUCTS IN THE OUTDOOR SECTIONS OF RESTAURANTS WITHIN THE CITY

SECTION 1: Purpose. It is recognized that the smoking and consumption of tobacco and cannabis products and the use of electronic tobacco and cannabis delivery systems and vapor products containing tobacco and/or cannabis on property owned by or under the control of the City and in outdoor sections of a restaurant is deleterious to the health, safety and welfare of the residents of the City of Derby.

SECTION 2: Definitions.

As used in this ordinance, the following terms shall have the meanings indicated:

- a. **"cannabis"** shall have the same meaning as set forth in Conn. Gen. Stat. §21a-240.
- b. **"cannabis product"** shall have the same meaning as set forth in SB 1201 § 1 (7).
- c. **"electronic delivery systems"** shall mean both an "electronic cannabis delivery systems" as defined in Conn. Gen. Stat. §19a-342a (2), as amended by SB 1201, §87 (a)(3) and an "electronic tobacco delivery systems" as defined by the definition of "electronic nicotine delivery system" in Conn. Gen. Stat. §21a-415 (6), as amended by SB 1201, §87 (5).
- d. **"outdoor sections of a restaurant"** means an area of a restaurant which has no roof or other ceiling enclosure or an area in the immediate proximity of a restaurant within which patrons of a restaurant are served and/or consume food and beverages.
- e. **"property owned by or under the control of the City"** shall include all public property, including but not be limited to sidewalks, streets, roads, public rights of way, playgrounds, parks, fields, property owned by a land trust, municipal land, municipal buildings, polling places, public transportation vehicles and facilities and educational facilities.
- f. **"restaurant"** means a food service establishment, including but not limited to any bar, cafeteria, coffee shop, delicatessen, or sandwich stand, that gives or offers for sale food to the public, guests, invitees or employees, as well as any kitchen or catering facility in which food is prepared and served.
- g. **"Smoke" or "Smoking"** means the burning of a lighted cigar, cigarette, electronic delivery system, pipe or any other matter or substance which contains tobacco and/or cannabis.
- h. **"tobacco products"** shall have the same meaning as set forth in Conn. Gen. Stat. §12-330a (2), except that for purposes of this ordinance "tobacco products" includes any cigarette as defined in Conn. Gen. Stat. §12-285 (b)(1).

- i. **"City"** shall mean the City of Derby.
- j. **"vapor products"** shall have the same meaning as set forth in Conn. Gen. Stat. §19a-342a (4), as amended by SB 1201, §87 (5).

SECTION 3: Burning, smoking and consumption prohibited.

No person shall burn, smoke and/or consume a lighted cigarette, cigar, pipe or similar device, whether containing, wholly or in part, tobacco and/or cannabis, including but not limited to electronic delivery systems or vapor products containing tobacco and/or cannabis on property owned by or under the control of the City.

SECTION 4: Smoking prohibited at outdoor areas of restaurants.

No person shall smoke tobacco and/or cannabis products, in any form, or use electronic delivery systems or vapor products containing tobacco and/or cannabis upon or within the limits of any outdoor sections of a restaurant.

SECTION 5: Penalties for Offense.

Any person who violates any provision of this ordinance shall be fined \$50 for each violation. Any business that violates any provision of this chapter shall be fined \$1,000 for each violation.

SECTION 6: No conflict with state statutes.

This ordinance shall not be construed to conflict with any state statute, rule or regulation.

SECTION 7: Severability. If any provision, paragraph, sentence, word or part of this ordinance or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this ordinance, which can be given effect without the invalid provision, paragraph, sentence, word, part or application, and to this end the provisions of this ordinance are severable.

SECTION 8: Effective Date.

This ordinance shall take effect on the later of October 1, 2021, or thirty (30) days after its publication in a newspaper having general circulation in the City of Derby.