

## ORDINANCE NO. XXXX

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AMENDING FULLERTON MUNICIPAL CODE CHAPTER 7.26 TO UPDATE FIREWORKS REGULATIONS AND APPROVING A CEQA EXEMPTION DETERMINATION

THE CITY COUNCIL OF THE CITY OF FULLERTON ORDAINS AS FOLLOWS:

SECTION 1. Findings: The City Council of the City of Fullerton finds and determines as follows:

- A. The City has the power to regulate the sale, use and discharge of fireworks, pursuant to state law, including Health and Safety Code Section 12541.
- B. Fullerton voters approved Measure X On November 6, 2012, which adopted Ordinance No. 3183 establishing the sale and use of safe and sane fireworks.
- C. City Council adopted Resolution No. 2022-18 On March 1, 2022, establishing Rules and Regulations for safe and sane fireworks sale and use in the City of Fullerton.
- D. City Council now desires to update existing fireworks regulations to address host liability, increase administrative fines and provide reimbursement for State Fire Marshal costs associated with disposal of dangerous fireworks.
- E. City Council finds that fireworks discharge significantly increases the risk of ignition and spread of fires in the City of Fullerton and fireworks regulation violations create an immediate and significant danger to health and safety.
- F. This Ordinance is a valid exercise of the local police power and in accord with State law and the fines established herein are determined to be proportionate to the underlying offense.
- G. All legal prerequisites to the adoption of this Ordinance have occurred.

SECTION 2. Code Amendment. City Council amends Fullerton Municipal Code Title 7 (Public Safety and Morals), Chapter 7.26 (Fireworks Prohibited) to add the following sections:

CHAPTER 7.26: FIREWORKS

7.26.010. Fireworks prohibited except as authorized herein.

It is unlawful for any person to possess, store, to offer for sale, expose to sale, sell at retail, or use or explode any fireworks, except as provided herein. The sale, possession and discharge of "safe and sane" fireworks for private display shall be permitted within the City, in accordance with rules and regulations adopted by City Council ordinance or resolution City Council, relating to the following: who may sell such fireworks; the limited dates and times when such fireworks may be sold and discharged; the manner, location, and any required permits for the sale, storage, possession, discharge and/or disposal of such fireworks; etc.

For purposes of this chapter, "safe and sane" shall include those fireworks bearing the seal of the State Fire Marshal and that are "safe and sane fireworks" within the provisions of California Health and Safety Code Section 12529, or any successor provision thereto, and/or any other relevant provisions of state law relevant thereto, including the California Code of Regulations, State Fire Marshal Regulations or Guidelines, etc.

Notwithstanding the above, the Fire Chief shall have the power to adopt reasonable rules and regulations for granting permits for supervised public displays of fireworks by a jurisdiction, fair, association, amusement park, other organizations or for the use of fireworks by artisans in pursuit of their trade. A competent operator approved by the Fire Chief Every shall handle such use or display and shall be of such character and so located, discharged or fired so as, in the opinion of the Fire Chief, after proper investigation, not to be hazardous to property or endanger any person

7.26.020 Definitions.

In addition to the definitions set forth in Sections 1.10.020 and 7.26.010, for the purpose of this Chapter and Resolution No. 2022-18, the following words and phrases are defined as follows:

- A. Host" shall mean a person who either i) is in control of private property, including, but not limited to, an owner, tenant, landlord or property manager of the property or ii) organizes, supervises, officiates, conducts, controls, or is otherwise in charge of the activity on the property.
- B. "Rules and Regulations" shall mean the rules and regulations adopted by City Council pursuant to Section 7.26.010 including Resolution No. 2022-18 adopted on March 1, 2022 or such resolution as City Council may adopt in the future which shall supersede Resolution No. 2022-18.

7.26.030 Host Liability.

- A. It shall be unlawful for a host to permit or fail to prevent the sale, use or discharge of dangerous fireworks on the host's property or on an adjacent public or private street or sidewalk.

- B. There is a rebuttable presumption that the record owner of a private property as shown on the county's latest equalized property tax assessment roll, and any lessee of the property, have notice of fireworks discharge violations occurring on the property or on an adjacent public or private street or sidewalk.
- C. This section shall not apply to a host who contacts law enforcement or fire officials for assistance in terminating the sale, use or discharge of fireworks if the request is made before any other person contacts law enforcement or fire officials to report the activity.

7.26.040 Parent Liability.

Every parent, guardian or other person who has the legal care, custody or control of any person under the age of 18 years, and who knows or reasonably should know that such minor is in violation of this chapter, may be issued an administrative citation in addition to any administrative citation issued to such minor.

7.26.050 Violations.

- A. Violations of this chapter shall be punishable by criminal, civil and administrative penalties in accordance with Chapter 1.10 of this Code. Each violation, whether on the same day or a different day, shall constitute a separate violation and shall be subject to a separate criminal, civil or administrative penalty.
- B. Each person who violates any provision of this chapter or the Rules and Regulations as it relates to the possession, use, storage, sale and/or display of fireworks, other than the sale or use of safe and sane fireworks, shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of Offenses in One-Year Period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
First	\$3,000.00	\$250.00	\$3,250.00
Second	\$5,000.00	\$500.00	\$5,500.00
Third	\$7,000.00	\$1,000.00	\$8,000.00

- C. Payment of an administrative fine shall not excuse or discharge a citee from the duty to immediately abate and correct a violation of this chapter, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of this chapter.

**SECTION 3.** CEQA Exemption. Adoption of this ordinance does not have the potential to cause significant effects on the environment because it reduces the use and discharge of dangerous fireworks that might otherwise occur. Therefore, the project is exempt from the California Environmental Quality Act (CEQA)

pursuant to 14 California Code of Regulations Section 15061(b)(3). There is no possibility that the proposed ordinance will have a significant effect on the environment.

SECTION 4. SEVERABILITY. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

ADOPTED BY THE FULLERTON CITY COUNCIL ON \_\_\_\_\_.

\_\_\_\_\_  
Fred Jung  
Mayor

ATTEST:

\_\_\_\_\_  
Lucinda Williams, MMC  
City Clerk

\_\_\_\_\_  
Date