

ORDINANCE NO. 2022-06-14-1202

AN URGENCY ORDINANCE AMENDING TITLE 8, CHAPTER 8.92, SECTIONS 8.92.010 AND 8.92.090 AND ADDING SECTIONS 8.92.140 AND 8.92.150 OF THE STOCKTON MUNICIPAL CODE RELATING TO ADMINISTRATIVE PENALTIES FOR UNLAWFUL FIREWORKS AND STRICT LIABILITY FOR THE UNLAWFUL IGNITION, USE, DISCHARGE, OR DISPLAY OF FIREWORKS BY OTHER PERSONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. DECLARATION OF URGENCY

Pursuant to Section 508 of the City of Stockton Charter, the City Council of the City of Stockton has determined that the provisions contained herein are necessary for the immediate preservation of the public peace, health, or safety within the incorporated areas of the City. This determination is based on the following facts and circumstances:

1. Fireworks can cause significant anxiety in adults and children, especially veterans and others with post-traumatic stress, as well as pets; and
2. Fireworks pose a serious risk of fire and the City historically experiences an increase of fire damage as result of the use of fireworks on or around the Fourth of July Holiday; and
3. During the period of June 28 to July 5, 2021, the City experienced three building fires, twenty-four grass fires, twenty-one outside rubbish and trash fires, and numerous other fireworks related fires; and
4. There is a need for deterrence and enforcement tools with which emergency responders can hold those posing a significant risk to public health and safety accountable for the unlawful possession and detonation of fireworks in this City.

SECTION II. AMENDMENT OF CODE

Title 8, Chapter 8.92, section 8.92.010 of the Stockton Municipal Code is amended and shall read as follows:

8.92.010 Definitions.

The following words and phrases, as used in this chapter, are defined as follows:

- A. "Applicant" means a nonprofit organization that applies for a fireworks sales permit as provided in this chapter.

B. "City Manager" means the City Manager of the City of Stockton and/or designee or designees.

C. "Dangerous fireworks" mean: (1) dangerous fireworks as set forth in California State Fireworks Law (Sections 12505 and 12561 of the Health and Safety Code and the relevant sections of Title 19, Code of Regulations, Subchapter 6), as hereinafter may be amended from time to time, which are hereby incorporated by reference; or (2) safe and sane fireworks, as defined in subsection J below, that have been modified in any respect from their original design

D. "Fire Chief" means the Fire Chief of the City of Stockton or the Fire Chief's designee.

E. "Nonprofit organization" means:

1. Any organization that: (a) has been created for charitable, religious, philanthropic or educational purposes, (b) has obtained tax exempt status from the Internal Revenue Service or the State Franchise Tax Board, (c) has had a Stockton zip code mailing address for more than 12 consecutive months immediately prior to filing an application, and (c) primarily serves City residents;

2. An organization that: (a) itself has not obtained tax exempt status from the Internal Revenue Service or the State Franchise Tax Board but is an integral part of a recognized national organization that has obtained such tax exempt status, (b) has had a Stockton zip code mailing address for more than 12 consecutive months immediately prior to filing an application, and (c) primarily serves City residents;

3. Any organization that: (a) has not obtained tax exempt status from the Internal Revenue Service or the State Franchise Tax Board but has been created for charitable, religious, philanthropic or educational purposes and the net proceeds of such organization are committed to the promotion of the objectives of the organization and not for private gain, (b) has had a Stockton zip code mailing address for more than 12 consecutive months immediately prior to filing an application, and (c) primarily serves City residents.

F. "Permit" means a fireworks sale permit.

G. "Permittee" means an applicant to which the City has issued a permit.

H. "Person" means and includes any individual, firm, partnership, joint venture, association, concern, corporation, state, trust, business trust, receiver, syndicate, or any other group of combination acting as a unit.

I. "Residents of the City" or "City residents" mean and include owners of businesses and/or property in the City as well as occupants of residential dwellings.

J. "Response costs" means costs associated with law enforcement, fire, medical, or other emergency personnel responding to, remaining at, and leaving the scene where dangerous fireworks, or safe and sane fireworks at a prohibited date, time, or location, were used or discharged, including but not limited to:

1. Salaries and benefits of law enforcement, fire, medical, or other emergency personnel;
2. Administrative costs;
3. The cost of any medical treatment of injuries to any law enforcement, fire, medical, or other emergency personnel;
4. The cost of using any city equipment;
5. The cost of repairing any damaged city equipment or property; and
6. Any other costs related to enforcement of this chapter.

K. "Safe and sane fireworks" or "fireworks" mean safe and sane fireworks as set forth in California State Fireworks Law (Sections 12529 and 12562 of the Health and Safety Code and the relevant sections of Title 19, Code of Regulations, Subchapter 6), as hereinafter may be amended from time to time, which are hereby incorporated by reference.

L. "Social host" means a person who either:

1. Is in charge of a property, including, but not limited to, an owner, tenant, landlord, or property manager; or
2. Organizes, supervises, officiates, conducts, controls, or is otherwise in charge of the activity on a property.

M. "Stockton zip code" means those zip codes as established from time to time by the Fire Chief.

SECTION III. AMENDMENT OF CODE

Title 8, Chapter 8.92, section 8.92.090 of the Stockton Municipal Code is amended and shall read as follows:

8.92.090 Administrative penalties—Appeals.

A. In addition to any other remedy available at law, any person who violates any provision of this chapter is subject to an administrative penalty in an amount as provided below:

1. \$1,000 for a first violation;
2. \$2,000 for a second violation within one year of a previous violation; and
3. \$3,000 for each additional violation within one year of two or more previous violations

B. Any person who ignites, uses, discharges, or displays any dangerous firework or safe and sane firework in violation of 8.92.015 shall be liable for the response costs relating to the violation. The amount of response costs constitutes a debt owed to the City. All persons, including strictly liable social hosts and those with the care, custody or control of offending minors, who violate this chapter in the same incident are jointly and severally liable for response costs.

C. This chapter may be enforced by the officials provided in section 1.24.020.

D. Violations of this chapter may be served by first-class or certified mail.

E. Payment for violations of this chapter shall be remitted to the City within 30 calendar days of the date of the notice. Payment of any such costs may be stayed upon the filing of a timely appeal.

F. A person charged under this chapter may, within 10 calendar days of the date of the notice, appeal in accordance with Chapter 1.44 of this Code. Failure to timely file an appeal constitutes a failure to exhaust available administrative remedies and bars any further review or appeal of the violation.

G. Violations of this chapter are hereby declared to be a public nuisance.

H. All remedies prescribed under this chapter are cumulative and the election of one or more remedies does not bar the City from the pursuit of any other remedy to enforce this chapter.

SECTION IV. AMENDMENT OF CODE

Title 8, Chapter 8.92, section 8.92.140 is added to the Stockton Municipal Code and shall read as follows:

8.92.140 Strict liability for unlawful ignition, use, discharge, or display of fireworks by another person.

A. Ignition, Use, Discharge, or Display by Minors. Any person having the care, custody, or control of a person under 18 years of age shall be strictly liable for any unlawful ignition, use, discharge, or display of dangerous fireworks or safe and

sane fireworks in violation of section 8.92.015. Nothing in this subsection A shall limit the liability of any social host for a violation of this chapter.

B. **Social Host Liability.** Any social host shall be strictly liable for any unlawful ignition, use, discharge, or display of any dangerous fireworks or safe and sane fireworks in violation of 8.92.015 at their property or gathering; except that:

1. No person who has the right to use, possess or occupy a unit in a multifamily residential property under a lease, rental agreement or contract shall be liable under this subsection B for violations of section 8.92.015 occurring in the common areas of the property.

2. No social host shall be liable under this subsection B who initiates contact with law enforcement or fire officials to assist in removing any person from the property or terminating the activity in order to comply with this chapter, if the request for assistance is made before the arrival of law enforcement or fire officials to the property and before any other person contacts law enforcement or fire officials to complain about the violation of this chapter.

3. No owner of private property shall be liable under this subsection B for a violation of section 8.92.015 on that property if that owner can demonstrate that at the time of such violation they:

- a. Rented or leased the property to another;
- b. Were not present; and
- c. Had no prior knowledge of the violation.

C. **Violations in the Right-of-Way.** No social host shall aid or abet another person's violation of a provision of this chapter in a public right-of-way adjacent to the social host's property. A social host aids and abets another person's violation of a provision of this chapter if he or she knows of the other person's unlawful purpose and the social host specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the other person's commission of that violation.

SECTION V. AMENDMENT OF CODE

Title 8, Chapter 8.92, section 8.92.150 is added to the Stockton Municipal Code and shall read as follows:

8.92.150 Reward Fund.

The City Manager may establish a special fund consisting of penalties collected from violations of this chapter to pay rewards in the amount of no more than \$250 to individuals providing information leading to the identification of, and successful criminal or civil action

against, any person violating this chapter. The City Manager may create rules concerning administration of the fund and eligibility for rewards.

SECTION VI. SEVERABILITY

If any section of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION VII. EFFECTIVE DATE

This ordinance shall take effect and be in full force immediately after its passage.

ADOPTED: 6/14/22

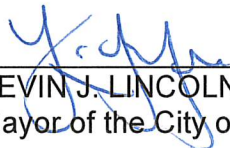
EFFECTIVE: 6/14/22

ATTEST:



ELIZA R. GARZA, CMC
City Clerk of the City of Stockton





KEVIN J. LINCOLN II
Mayor of the City of Stockton