

RESOLUTION NO. 24-050

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, RESCINDING RESOLUTION NO. 22-133 AND AMENDING THE ADMINISTRATIVE CITATION FINES TO BE ASSESSED FOR VIOLATIONS OF THE CITY'S FIREWORKS ORDINANCE INVOLVING ILLEGAL FIREWORKS

WHEREAS, the City Council of the City of Carson, a charter city ("City"), has broad authority under Article XI, Section 7 of the California Constitution and the City's Charter ("Charter") to establish, impose, and determine the amounts of administrative fines for violations of the Carson Municipal Code ("CMC"); and

WHEREAS, the City has the authority, pursuant to Chapter 2.5 (Administrative Citations) of Article I (General Provisions) of the CMC, to assess administrative fines by means of issuance of administrative citations for any and all violations of the CMC; and

WHEREAS, CMC Section 1203.3(d) provides that the administrative fines assessed by means of administrative citations issued for violations of the CMC shall be in the amounts specified by resolution of the City Council, or where no amount is specified, \$100 for a first violation, \$200 for a second violation of the same ordinance within one year from the date of the first violation, and \$500 for each additional violation of the same ordinance within one year from the date of the first violation; and

WHEREAS, for the protection of public safety, the City has adopted fireworks regulations, codified at Sections 3101 - 3101.10, inclusive, of Chapter 1 (Fire Prevention) of Article III (Public Safety) of the CMC (the "Fireworks Ordinance"); and

WHEREAS, illegal fireworks, defined in the Fireworks Ordinance as any fireworks other than "safe and sane fireworks" (which in turn is defined to have the meaning given in California Health and Safety Code Section 12529), pose a threat to public safety, as they have the potential to cause fires and bodily injury, in addition to causing public nuisance conditions such as loud noises, explosions, and smoke; and

WHEREAS, the Fireworks Ordinance prohibits the sale of illegal fireworks in the City; and

WHEREAS, CMC Section 3101.0(d) of the Fireworks Ordinance provides that "[i]t shall be unlawful for any person to discharge, use or possess illegal fireworks within the City of Carson"; and

WHEREAS, on June 21, 2022, the City Council adopted Resolution No. 22-133 pursuant to CMC Section 1203.3(d), which: (i) set the administrative fines for violations of the Fireworks Ordinance involving illegal fireworks at \$2,000 for a first violation, \$3,000 for a second violation within one year from the date of the first violation, and \$5,000 for each additional violation within one year from the date of the first violation; (ii) made the administrative fines mandatory, with the exception of fines for violation of Section 3101.07 ("Liability of Resident Where an Illegal Use of Fireworks Occurs"), which were made

discretionary only as to residents from which illegal fireworks are discharged if the resident was not actively and directly involved in the discharge of same; and (iii) rescinded and repealed prior City Resolution No. 21-065; and

WHEREAS, the administrative fine amounts set by Resolution No. 22-133 have remained in effect since its adoption; and

WHEREAS, illegal fireworks continue to be sold, discharged, used and possessed rampantly in the City around the Fourth of July season annually despite being prohibited by the Fireworks Ordinance and punishable by the administrative fines set forth above (in addition to constituting misdemeanors). The total number of administrative citations the City issued for illegal fireworks violations in 2023 was 52, which number was approximately average when compared with other years since 2018, despite the increased fines. These figures, taken together with the fact that the City devoted substantially the same amount of resources to enforcement of such violations since 2018 (having budgeted the same amount each year for the Los Angeles County Sheriff's Department task force that is charged with enforcing such violations in the City), indicate that the increased fines adopted in 2022 pursuant to Resolution No. 22-133 did not have a significant deterrent effect, and that a further increase to the fine amounts is necessary to achieve a significant deterrent effect; and

WHEREAS, according to mysafela.org: (i) on average, 19,500 fires related to fireworks are reported to fire departments every year; (ii) fireworks cause \$105 million dollars annually in property damage; (iii) on average, 9,100 fireworks injuries send people to area hospitals; and (iv) fireworks kill on average 5 people per year – often children; and

WHEREAS, the City of Carson is at high risk of dangerous and costly building fires being caused by illegal fireworks, given the dense urban development and the high percentage of industrial facilities in the City, including oil refineries and other industrial facilities using or storing hazardous materials which if accidentally released due to a fire or explosion could pose a threat to public health and safety; and

WHEREAS, accordingly, due to the fire danger and risk of bodily injury associated with illegal fireworks, the City Council finds that it must act to again increase the administrative fines for violations of the Fireworks Ordinance involving illegal fireworks in order to increase the deterrent effect of the City's prohibition of illegal fireworks, thereby reducing the number of violations and protecting public safety; and

WHEREAS, as of May 2024, less than half of the administrative citations issued during 2023 had been paid, despite the citations being long overdue and largely uncontested. Administrative citations for Fireworks Ordinance violations generally must be paid or appealed within 15 days of issuance of the citation, as the violations are not correctable/remediable. If no appeal is filed during said time period, the fine becomes final and can no longer be contested by the recipient. Very few of the 2023 citations were appealed. Accordingly, the City Council finds it is now necessary and appropriate to modify the fine structure in a manner that incentivizes timely payment of fines, rather than further increasing the base fine amounts. As for the unpaid citations, City staff continues with efforts at collection. If unsuccessful collecting, City staff intends to work with a process server to notify the citee that the City will file small claims court actions. For accounts that progress through small claims court but remain unpaid, the City will file a claim with the Franchise Tax Board of the State of California; and

WHEREAS, the City Council now sees fit to increase the administrative fine amounts for violations of the Fireworks Ordinance by: (i) providing for the applicable fine amount to increase by 10% if and when the citation is not timely paid or appealed (e.g., 15 days after the date of violation/issuance of the citation); and (ii) providing for the unpaid delinquent administrative fine amounts (i.e., the applicable base fine amount plus the 10% increase upon a citee's failure to timely pay or appeal, net of any partial amount paid by the citee) to accrue simple interest at the rate of 10% per annum, commencing upon failure to timely pay/appeal and continuing until the fine amount is paid to or otherwise collected by the City; and

WHEREAS, the City Council also sees fit to keep the administrative fines (as adjusted pursuant to this resolution) mandatory, with the exception of fines for violation of Section 3101.07 ("Liability of Resident Where an Illegal Use of Fireworks Occurs") of the Fireworks Ordinance, which fines the City Council previously determined, pursuant to Resolution No. 22-133, should be discretionary only as to residents of premises from which illegal fireworks are discharged if the resident was not actively and directly involved in the discharge of same, and the City Council does not now wish to disturb that determination; and

WHEREAS, for consistency with the aforementioned modified fine structure regarding illegal fireworks violations, the City Council sees fit to rescind and repeal Resolution No. 22-133.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference as though set forth in full as findings of fact.

SECTION 2. In addition to any criminal, civil or other legal remedies that may be available to the City of Carson to enforce violations of the Carson Municipal Code or applicable state codes:

A. Any violation of the City's Fireworks Ordinance (as defined above) involving illegal fireworks, as defined in CMC Section 3101.05(d), including but not limited to any violation of CMC Section 3101.0(d), shall be assessed an administrative citation fine as follows: (1) \$2,000 for a first violation; (2) \$3,000 for a second violation within one year from the date of the first violation; and (3) \$5,000 for each additional violation within one year from the date of the first violation. *Notwithstanding the foregoing, the penalty amounts specified in the preceding sentence shall automatically and immediately increase by ten percent (10%) if and when the citee fails to either pay or appeal the subject administrative citation within the required timeframe in accordance with Chapter 2.5 of Article I of the CMC and the terms of the citation. Furthermore, the unpaid delinquent penalty amounts (inclusive of said 10% increase) shall thereafter accrue simple interest at the rate of ten percent (10%) per annum until paid to or otherwise collected by the City. The City's administrative citation forms for violations of the Fireworks Ordinance shall specify the penalty increase and interest terms of this paragraph.*

B. Notwithstanding paragraph (A) above, any resident of premises who is in violation of CMC 3101.07 (“Liability of Resident Where an Illegal Use of Fireworks Occurs”) due to the discharge of illegal fireworks from the premises, but who was not actively and directly involved in the discharge of same, may be assessed an administrative fine according to the fines amounts/structure set forth in paragraph (A) above (including penalty increases and interest for failure to timely pay or appeal).

C. Any violation of the City’s Fireworks Ordinance (as defined above) not involving illegal fireworks, as defined in CMC Section 3101.05(d), may be assessed an administrative citation fine of \$1,000.

SECTION 3. The adoption of this Resolution shall have the effect of rescinding and repealing Resolution No. 22-133.

SECTION 4. This Resolution shall be effective immediately upon its adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

[signatures on the following page]

PASSED, APPROVED and ADOPTED by the City Council of the City of Carson, California, at a regular meeting held on the 4th day of June, 2024.

Lula Davis-Holmes, Mayor

ATTEST:

Dr. Khaleah K. Bradshaw, City Clerk

APPROVED AS TO FORM:

Sunny K. Soltani, City Attorney