

ORDINANCE NO. 21-2114

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 3101.10 (VIOLATIONS OF FIREWORKS REGULATIONS) OF CHAPTER 1 (FIRE PREVENTION) OF ARTICLE III (PUBLIC SAFETY) OF THE CARSON MUNICIPAL CODE TO PROVIDE THAT SPECIFIED FINE AMOUNTS MAY BE VARIED BY RESOLUTION

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 issue administrative citations for any and all violations of the CMC; and

WHEREAS, CMC Section 1203.3(d) provides that the administrative fines assessed and cited pursuant to administrative citations 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 the CMC (the “Fireworks Ordinance”), which is contained within Chapter 1 (Fire Prevention) of Article III (Public Safety) of the CMC; and

WHEREAS, illegal fireworks, defined in CMC Section 3101.05 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, on April 3, 2007, the City Council adopted Resolution No. 07-032 pursuant to CMC Section 1203.3(d), providing that any violation of CMC Sections 3101.0, 3101.1, 3101.7, 3101.8, or 3101.9 of the Fireworks Ordinance may be assessed an administrative citation fine of up to \$1,000, except that violations for possessing and/or discharging fifty or fewer individual pieces of non-aerial fireworks shall be not less than \$500 if the violation is that

person's first violation for possessing and/or discharging fifty or fewer individual pieces of non-aerial fireworks, and rescinding and repealing prior City Resolution No. 06-44; and

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

WHEREAS, illegal fireworks continue to be possessed, sold and used rampantly in the City around the Fourth of July season despite being prohibited by the Fireworks Ordinance and punishable by the administrative fines set forth above (in addition to constituting misdemeanors), and the City Council has determined that an increase in the administrative fines for violations of the Fireworks Ordinance involving illegal fireworks is necessary 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, concurrently with the introduction of this Ordinance, the City Council adopted Resolution No. 21-065 pursuant to CMC Section 1203.3(d), providing that all violations of the Fireworks Ordinance involving illegal fireworks shall be subject to administrative fines as follows: (1) \$1,000 for a first violation, (2) \$2,000 for a second violation within one year from the date of the first violation, and (3) \$3,000 for each additional violation within one year from the date of the first violation, and that all other violations of the Fireworks Ordinance shall be subject to administrative fines of \$1,000 per violation, and rescinding and repealing Resolution No. 07-032; and

WHEREAS, the City's Fireworks Ordinance, at CMC Section 3101.10(c), currently provides that "any person violating the provisions of CMC 3101.7 to 3101.9 shall be subject to a penalty of \$1,000 for a first-time violation, and thereafter \$1,000 for each additional violation of such provisions." Accordingly, to the extent CMC Sections 3107.7 - 3101.9, inclusive, regulate illegal fireworks, CMC Section 3101.10(c) could create a conflict with Resolution No. 21-065. Additionally, CMC Section 3101.10(c) is unduly restrictive in that it inhibits the ability of the City Council to set the administrative fine amounts for violations of these provisions by resolution pursuant to CMC Section 1203.3(d). Accordingly, the City Council sees fit to amend CMC Section 3101.10(c) to allow the specified administrative fine amounts for such violations to be varied by resolution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The forgoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Section 3101.10 (Violations of Fireworks Regulations) of Chapter 1 (Fire Prevention) of Article III (Public Safety) of the Carson Municipal Code is hereby amended to read in its entirety as follows (added text shown in ***bold italics***):

“(a) Any person violating any provision of CMC [3101](#) to [3101.9](#), inclusive, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring the permit herein provided for, shall be guilty of a misdemeanor.

(b) In addition thereto, any such misrepresentation or violation shall constitute grounds for revocation of the permit by the City Council, on twenty-four (24) hours’ notice to the permittee, or if any such violation is committed in the presence of the Sheriff, or any deputy, or Fire Chief, or any other City officer, the City Manager shall be empowered, upon receiving a written and signed report thereof from any such officer, to close any such sales booth or stand forthwith.

(c) Any person violating the provisions of CMC [3101.7](#) to [3101.9](#) shall be subject to a penalty of \$1,000 for a first-time violation, and thereafter \$1,000 for each additional violation of such provisions, ***except as otherwise provided in a resolution adopted by the City Council pursuant to CMC 1203.3(d)***. Any person found to have violated the provisions of CMC [3101.7](#), [3101.8](#), or [3101.9](#), or any combination of the same, more than two (2) times in a single year shall be prohibited from applying for any permit under CMC [3101.7](#) through [3101.9](#) for a period of one (1) year.

(d) If any provision(s) of this Chapter or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this Chapter are declared to be severable. The City Council hereby declares that they would have adopted this Chapter and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.”

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted and codified in the manner required by law.

[signatures on the following page]

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this
1st day of June, 2021.

Lula Davis-Holmes, Mayor

ATTEST:

Joy Simarago, Deputy City Clerk

APPROVED AS TO FORM:

Sunny K. Soltani, City Attorney