



Legislation Text

File #: 2024-0433, Version: 1

Report to Mayor and City Council

Tuesday, June 04, 2024

Discussion

SUBJECT:

CONSIDER: (1) INTRODUCTION OF ORDINANCE NO. 24-2411 TO AMEND CARSON MUNICIPAL CODE SECTION 3101.5 TO (I) REQUIRE PERMITTEES TO SUBMIT DOCUMENTATION SUPPORTING THEIR REPORTED REVENUES, COSTS OF OPERATION, AND USE OF NET PROCEEDS OF THEIR FIREWORKS STANDS AND (II) REQUIRE CITY AUDITING OF PERMITTEES' REPORTED REVENUES, COSTS OF OPERATION, AND USE OF NET PROCEEDS OF FIREWORKS STANDS; AND (2) ADOPTION OF RESOLUTION NO. 24-050 TO AMEND THE ADMINISTRATIVE CITATION FINE AMOUNTS FOR VIOLATIONS OF THE CITY'S FIREWORKS ORDINANCE INVOLVING ILLEGAL FIREWORKS (CITY COUNCIL)

I. SUMMARY

This item is being brought to the City Council pursuant to the request and recommendation of the fireworks ad hoc subcommittee at its April 23, 2024 meeting.

The proposed ordinance would require retail fireworks stand permittees to submit documentation supporting their reported revenues, costs of operation and use of net proceeds of their permitted fireworks stands. The proposed ordinance would also require City auditing of permittees' reported revenues, costs of operation, and use of net proceeds of permitted fireworks stands to verify the truthfulness and accuracy of same and compliance with the City's fireworks stand permitting regulations, Carson Municipal Code (CMC) Section 3101.

Violations of City's Fireworks Ordinance involving illegal fireworks (i.e., not safe and sane fireworks) are currently punishable by administrative fines of \$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 of the first violation. The proposed resolution would provide for the applicable base fine amount to increase by 10% if and when the citation is not timely paid or appealed (e.g., within 15 days after the date of violation/issuance of the citation) and for the unpaid delinquent 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 the citee's failure to timely pay/appeal the citation and

continuing until the fine amount is paid to or otherwise collected by the City.

II. RECOMMENDATION

TAKE all of the following actions:

(1) INTRODUCE for first reading, by title only and with further reading waived, ORDINANCE No. 24-2411, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 3101.5 (GENERAL PROVISIONS) OF CHAPTER 1 (FIRE PREVENTION) OF ARTICLE III (PUBLIC SAFETY) OF THE CARSON MUNICIPAL CODE TO: (1) REQUIRE PERMITTEES TO SUBMIT DOCUMENTATION SUPPORTING REPORTED REVENUES, COSTS OF OPERATION, AND USE OF NET PROCEEDS OF PERMITTED FIREWORKS STANDS; AND (2) REQUIRE AUDITING OF PERMITTEES' REPORTED REVENUES, COSTS OF OPERATION, AND USE OF NET PROCEEDS OF PERMITTED FIREWORKS STANDS TO VERIFY TRUTHFULNESS AND ACCURACY OF SAME AND COMPLIANCE WITH THE CITY'S PERMITTING REGULATIONS."

(2) ADOPT 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."

III. ALTERNATIVES

TAKE another action that Council deems appropriate.

IV. BACKGROUND

Proposed Ordinance

CMC 3101.5(b) currently requires fireworks stand permittees to file a statement of accounting and report with the City Revenue Division stating the gross funds derived from the sale of fireworks, costs of fireworks inventory sold, and itemized operating expenses. It also provides that the City Revenue Division shall have the right to request and review supporting documentation for all fireworks sales receipts and expenses, and it is the City Revenue Division's practice to do so. Additionally, CMC 3101.5(c) currently requires permittees to file a report with the Revenue Division giving a description of the nonprofit, charitable, or religious service projects for which the permittee used its net proceeds, together with an accounting of the funds derived from its operations under the permit.

The proposed ordinance would amend CMC 3101.5(b)-(c) to require permittees to submit

documentation supporting their reported revenues, costs of operation, and use of net proceeds of their permitted fireworks stands and to require City to audit permittees' reported revenues, costs of operation, and use of net proceeds of permitted fireworks stands to verify the truthfulness and accuracy of same and compliance with the city's permitting regulations.

Proposed Resolution

Many cities in California are facing challenges with the noise and hazard of illegal fireworks being discharged within their communities, particularly around Fourth of July, and are implementing different programs and tools to address these issues. Carson is no exception. The City 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.

The City Council and the fireworks ad hoc subcommittee have expressed a desire to address these concerns by deterring and ideally eliminating the use of illegal fireworks while continuing to permit the use and sales of legal safe and sane fireworks subject to appropriate restrictions. One of the measures the City Council has taken in recent years in an effort to eliminate illegal fireworks being used rampantly each year is increasing the administrative fines assessed for violations of the City's Fireworks Ordinance involving illegal fireworks.

On June 21, 2022, the City Council adopted Resolution No. 22-133, setting the administrative fines for violations of the City's 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. This represented an increase from the previous \$1,000/\$2,000/\$3,000 fine schedule that was adopted in 2021, which itself represented an increase over prior years. The fine adjustments via these resolutions are authorized pursuant to CMC 1203.3(d) and CMC 3101.10(c).

Despite the increased fine amounts, illegal fireworks continue to be sold, discharged, used and possessed rampantly in the City around the Fourth of July season. 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.

Another important piece of data is that as of May 2024, less than half of the administrative citations issued for violations of the City's Fireworks Ordinance 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 subcommittee recommended modifying the fine structure in a manner that incentivizes timely payment of fines, rather than further increasing the base fine amounts. In particular, the subcommittee recommended that penalty amounts be increased by a set percentage if not timely paid or appealed, and that late interest accrue on unpaid delinquent amounts thereafter.

As for the unpaid citations, City staff continues with efforts at collection. If unsuccessful collecting (whether for citations already issued or those issued in the future), 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 (via staff) will file a claim with the Franchise Tax Board of the State of California. This enhanced collection process, together with the proposed fine structure adjustments for citations issued moving forward, could significantly improve the City's collection rate as well as increasing the amount ultimately collected for those citations where the citee fails to act timely.

The subcommittee directed staff to analyze data from nearby, comparable-sized cities in order to determine the recommended penalty increase and interest amounts.

Staff was able to obtain and analyze data from Lomita, Torrance, Huntington Beach, Downey, and Bellflower. Of these cities, only Torrance had interest on unpaid delinquent fine amounts; their interest rate is 10% per year, which is the same rate provided in the proposed ordinance that is before the City Council.

As far as late penalty increases (which generally are applied by these cities when citations are not paid within 30-45 days), Lomita has a \$100 increase on a \$1,000 base fine amount (for a total of \$1,100). Torrance has a 25% increase on a \$1,000 base fine amount (for a total of \$1,250). Downey and Bellflower have 100% increases, but have low base fine amounts (\$100 for first citation, \$200 for second citation, \$500 for third citation). Huntington Beach has no such increase, and has a base fine amount of \$500. Additionally, staff was able to confirm that Lawndale has higher base fine amounts of \$2,500 for first violations and \$5,000 for subsequent violation, but was not able to confirm that Lawndale imposes any interest or penalty increases for late payments. Based on this data, pursuant to the subcommittee's direction, staff recommends a 10% penalty increase for fines not timely paid or appealed given Carson's significant base fine amounts.

Accordingly, the proposed resolution would increase the administrative fine amounts for violations of the Fireworks Ordinance involving illegal fireworks by providing for the applicable base fine amount to increase by 10% automatically 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 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. The resolution would rescind and repeal Resolution No. 22-133, replacing it with a modified fine structure that contains the aforementioned adjustments but is otherwise unchanged. If the proposed resolution is adopted, the City's administrative citations forms will be revised to specify the penalty increase and interest terms.

V. FISCAL IMPACT

There will be no fiscal impact on City expenditures; however, if the proposed resolution is adopted, the City will be able to impose increased fine amounts on future (i.e., 2024 Fourth of July season and beyond) citations that are not timely paid or appealed, and anticipates recovering a larger portion of the administrative fines imposed than in the past due to the adjustments and staff's enhanced collection process.

VI. EXHIBITS

1. Ordinance No. 24-2411 (pgs. 6-10)
2. Resolution No. 24-050 (pgs. 11-15)

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