

ORDINANCE NO. 0005-2021

AN URGENCY ORDINANCE OF THE CITY OF MCFARLAND AMENDING CERTAIN PORTIONS OF CHAPTERS 1.14, AND 8.08 OF THE MCFARLAND MUNICIPAL CODE RELATING TO ADMINISTRATIVE CITATIONS AND FINES FOR VIOLATIONS OF THE CITY'S FIREWORKS REGULATIONS

Section 1. Recitals.

WHEREAS, the use of illegal fireworks has sparked fires throughout the City of McFarland ("City) and caused fire crews to respond to fires caused by illegal and dangerous fireworks; and

WHEREAS, the use of illegal fireworks create a significant hazards to personal safety and property; and

WHEREAS, the Police Department receives numerous calls related to the use of fireworks in the days leading up to and after the 4th of July holiday each year; and

WHEREAS, the use of fireworks within the City is ongoing, and enforcement of these regulations has proven difficult; and

WHEREAS, in order to address this serious public safety issue, City staff has sought ways to deter the possession and lighting of illegal fireworks in the City, including by increasing penalties; and

WHEREAS, there is a need to amend the regulations to further deter the use of illegal fireworks within the City; and

WHEREAS, the City Council has determined that the public health, safety, and welfare will be served by: (1) authorizing the Chief of Police or designees to issue administrative citations for illegal firework violations; (2) authorizing the City Council to establish administrative fines by separate resolution; and (3) authorizing the issuance of a citation to a property owner or person leasing or occupying property where an illegal firework is observed.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

Section 2. **Urgency Findings.** In accordance with California Government Code, Section 36937 an in order to protect the public health, safety and welfare, the City Council of the City of McFarland find as follows:

- A. The use of fireworks within the City is ongoing, and enforcement of these regulations has proven difficult. The use of illegal fireworks cause property damage and a danger to life. The Council, therefore, adopts this Urgency Ordinance to become effective immediately upon adoption pursuant to Government Code Section 36937 and to remain in effect until rescinded to provide City enforcement officials with a means to deter the use of illegal fireworks.
- B. In addition, the City wishes to have these new regulations in place for the 2021 4th of July celebration when access and use of illegal fireworks increases throughout the region. The City would like to further mitigate the use of illegal fireworks in order to protect the public peace, health, and safety of its residents.
- C. The City Council also finds that this Urgency Ordinance is necessary to promote the immediate preservation of the public peace, health, and safety by establishing administrative fines for the possession or use of fireworks and their associated dangers within City's boundaries.

D. Finally, the City Council finds that the regulation contained in this Urgency Ordinance are reasonable in order to preserve the public peace, health, and safety of its residence ahead of the 4th of July holiday.

Section 3. Section 1.14.020 of Title 1, Chapter 1.14 of the McFarland Municipal Code is hereby amended to read as follows:

“Responsible person” means a natural person or legal entity, that an officer determines is responsible for causing or maintaining a violation of this code, who is the owner, tenant, cotenant, lessee, sublessee or other person with any right to possession of the property where a violation of city codes occurs that is related to the use of property; the owner, majority stockholders, corporate officers, trustees, and general partners of a legal entity; and the on-site manager who normally works daily at the site and is responsible for the activities at such premises. Responsible person also includes the parent or legal guardian of a minor that commits a violation of this code.”

Section 4. Section 1.14.040 of Title 1, Chapter 1.14 of the McFarland Municipal Code is hereby amended to read as follows:

E. Notwithstanding the foregoing, Violations of Section 8.08.020 of this code shall subject a responsible person to an immediate administrative citation and fine in an amount determined by separate resolution of the City Council. Fines for fireworks violations shall be due within seven calendar days of the date of issuance of the administrative citation or the date noted on the administrative citation, whichever is sooner.

Section 5. Title 8, Chapter 8.08 of the McFarland Municipal Code is hereby amended to read and renumbered, after inserting the following new 8.08.010 and 8.08.020, as follows:

8.08.010 – Dangerous Fireworks defined.

The term “dangerous fireworks,” as used in this chapter, shall be the same as set forth in the Health and Safety Code, Section 12505.

8.08.020. – Prohibition.

It is unlawful for any person or entity in the city to sell, offer for sale, give away, discharge or have in his or her or its possession or custody any dangerous fireworks, as defined in Section 8.08.010.

| <u>Previous Code Section Number</u> | <u>New Code Section Number</u> |
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| <u>8.08.010</u> | <u>8.08.030</u> |
| <u>8.08.020</u> | <u>8.08.040</u> |
| <u>8.08.030</u> | <u>8.08.050</u> |
| <u>8.08.040</u> | <u>8.08.060</u> |
| <u>8.08.050</u> | <u>8.08.070</u> |
| <u>8.08.060</u> | <u>8.08.080</u> |
| <u>8.08.070</u> | <u>8.08.090</u> |
| <u>8.08.080</u> | <u>8.08.100</u> |
| <u>8.08.090</u> | <u>8.08.110</u> |
| <u>8.08.100</u> | <u>8.08.120</u> |
| <u>8.08.110</u> | <u>8.08.130</u> |
| <u>8.08.120</u> | <u>8.08.140</u> |
| <u>8.08.130</u> | <u>8.08.150</u> |

8.08.150 - Violation—Penalty.

A. The Chief of Police or his or her designee, upon determining a violation of 8.08.020, may issue an administrative citation, in accordance with Chapter 1.14 to the responsible party.

1. The City Council may establish an administrative fine for violation of Chapter 8.08.020 by separate resolution.

B. Additionally, Persons violating this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment in the city or county jail for a

period not to exceed thirty days, or by both such fine and imprisonment. Further, the license shall be revoked.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 7. CEQA Determination. The City Council finds that this urgency ordinance is not subject to the requirements of the California Environmental Quality Act, pursuant to (Guidelines) Section 15060(c)(2) & (3) as there is no potential for physical changes to the environment as this ordinance implements administrative regulations only for the possession, sale and discharge of fireworks only.

Section 8. Effective Date. This Urgency Ordinance was adopted by the necessary 4/5th vote of the members of the City Council pursuant to California Government Code §§36934 and 36937 and shall take effect immediately upon its adoption for the preservation of public health, safety, and welfare.

Section 9. Certification; Publication. The City Clerk shall certify to the passage and adoption of this Urgency Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED, PASSED AND ADOPTED at a regular meeting of the City Council of the City of McFarland, California, on the 10th day of June 2021, by the following vote:

| | Aye | Nae | Abstain | Absent |
|-----------------------|------------|------------|----------------|---------------|
| Sally Gonzalez | √ | | | |
| Maria T. Perez | √ | | | |
| Eric Rodriguez | | | | |
| Saul Ayon | √ | | | |
| Ricardo Cano | √ | | | |


Sally Gonzalez, Mayor

I hereby certify that the foregoing Urgency Ordinance was duly and regularly adopted by the City Council of the City of McFarland at a regular meeting thereof held on the 10th day of June, 2021.

ATTEST:


Francisca Alvarado, City Clerk
Posted: June 24, 2021

