

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, AMENDING CHAPTER 9.22 OF TITLE 9 OF THE CITY OF LA HABRA MUNICIPAL CODE RELATING TO FIREWORK USE, DISCHARGE, POSSESSION, STORAGE AND SALE ON PRIVATE PROPERTY

WHEREAS, the City of La Habra, pursuant to its police power, may adopt regulations to protect the health, safety, and welfare of the public under Cal. Const. art. XI, § 7 and Cal. Govt. Code § 37100, and thereby is authorized to declare what use or condition constitutes a public nuisance; and

WHEREAS, the City has the authority under Cal. Govt. Code § 53069.4 to issue administrative citations for violations of the City's ordinances; and

WHEREAS, the unlawful use, discharge, possession, storage and sale of fireworks in the City puts the public at risk of injury and property damage and is a drain on limited police and fire resources; and

WHEREAS, in 2022, La Habra police officers responded to 140 calls for service regarding fireworks during the 4th of July week and issued 25 citations. Additionally, the police department confiscated 50 pounds of illegal fireworks ; and

WHEREAS, the City Council finds that holding the owner or tenant of private property responsible for unlawful activity that occurs there is an established and effective method of reducing unlawful activity, particularly where officers rarely witness the individual unlawfully discharging fireworks; and

WHEREAS, the City Council finds that it is in the interest of the health, safety and welfare of the City to hold owners and tenants of private property responsible for the unlawful use, discharge, possession, storage and sale of fireworks on their property; and

WHEREAS, the City of La Habra, California, pursuant to the provisions of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res, § 21000) and State CEQA guidelines (14 CCR 15000), has determined that this ordinance is exempt pursuant to Section 15601(b)(3) of Title 14 of the California Code of Regulations.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LA HABRA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.22 "Fireworks" of Title 9 "Public Peace and Welfare" of the La Habra Municipal Code is repealed and replaced as follows:

Section 9.22.010 Definitions.

For purposes of this chapter, the following definitions shall apply:

A. "Fireworks" means any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. The term "fireworks" includes, but is not limited to, devices designed by the manufacturer as fireworks, firecrackers, torpedoes, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke parts, aerial bombs, and firework kits. "Fireworks" includes both "dangerous fireworks" and "safe and sane" fireworks as those terms are defined in the Health and Safety Code.

B. "Property" means any private property, including but not limited to a home, yard or field, whether or not occupied as a dwelling and whether owned, leased, rented or used with or without compensation.

C. "Responsible person" includes, but is not limited to:

1. The person or persons who owns, rents, leases or otherwise has possession of the residence or other private property;
2. The person or persons in immediate control of the residence or other private property;
3. The person or persons who organize, supervise, sponsor, conduct, allow, control or controls access to the unlawful use, discharge, possession, storage or sale of fireworks.

Section 9.22.020 Use, discharge, possession, storage or sale of fireworks.

A. It is unlawful and a public nuisance for any person to use, discharge, possess, store or sell fireworks on public or private property without a permit issued by the chief of police for supervised public displays of fireworks by a jurisdiction, fair association, amusement park, or other organization.

B. It is unlawful and a public nuisance for a responsible person to allow the use, discharge, possession, storage or sale of fireworks on private property when the responsible person knows or should know of the use, discharge, possession, storage or sale of fireworks at the property.

Section 9.22.030 Enforcement.

Violations of this chapter are punishable as set forth in Chapters 1.08 and 1.20 of this code, except that misdemeanor citations for violations of this Chapter issued under Chapter 1.08 shall impose a fine not to exceed \$2,500.00. Nothing in this Chapter limits any of the penalties provided in the Health and Safety Code or Penal Code with regard to the unlawful use, discharge, possession, storage or sale of fireworks.

SECTION 2. Section 1.08.020(A)(45) (“Unlawful possession of fireworks”) of Chapter 1.08 (“General Penalty”) of Title 1 (“General Provisions”) is hereby repealed and replaced as follows:

45. Section 9.22.020, Use, discharge, possession, storage or sale of fireworks.

SECTION 3. If any section, sentence, clause, or phrase of this Chapter is for any reason held to be invalid by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council declares that it would have passed this ordinance and adopted this Chapter, and each section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2023.

James Gomez
Mayor

ATTEST:

Rhonda J. Barone, CMC
Acting City Clerk

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS.
CITY OF LA HABRA }

I, Rhonda J. Barone, CMC, Acting City Clerk of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. ____ introduced at a regular meeting of the City Council of the City of La Habra held on the 21st day of February, 2023, and was thereafter adopted at a regular meeting held on the ____ day of _____, 2023, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Said ordinance has been published or posted pursuant to law.

Witness my hand and the official seal of the City of La Habra this ____ day of _____, 2023.

Rhonda J. Barone, CMC
Acting City Clerk