

ORDINANCE NO. NS-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA ANA REPEALING AND REENACTING IN ITS
ENTIRETY ARTICLE II OF CHAPTER 14 OF THE SANTA
ANA MUNICIPAL CODE CONCERNING FIREWORKS
REGULATIONS AND CREATING CERTAIN PROHIBITIONS
AGAINST POSSESSION OR USE OF FIREWORKS

WHEREAS, during the past several years, the City of Santa Ana has experienced a significant increase in the use of Fireworks leading to an increased strain on emergency services and the overall quality of life of its residents; and

WHEREAS, during the 24-hour period of July 4, 2021, the City's Police dispatch center staff received 1,577 calls, which included 9-1-1 calls and calls to the non-emergency line, and resulted in 419 Fireworks-related calls-for-service. By comparison, on an average day, the City's Police dispatch center handles approximately 933 calls, both 9-1-1 and non-emergency calls, resulting in roughly 352 calls-for-service. This was a 69% increase over average daily calls and a 19% increase over average daily calls-for-service. During the peak time of 8:30 p.m. to 9:15 p.m., on July 4, 2021, the City's Police dispatch center received 191 calls, both 9-1-1 and non-emergency calls, which was an average of 4.2 calls per minute; and

WHEREAS, the use of illegal Fireworks begins well before July 4th and continues well after New Year's celebrations and has increasingly occurred in times of the year outside of the periods immediately preceding and following these major holidays; and

WHEREAS, a 2021 study by scientists at UC Irvine found that Independence Day Fireworks spark plumes of pollutants that can pose significant health risks; and

WHEREAS, the same 2021 study found that peak Fireworks pollution was two times higher in communities with lower socioeconomic status, larger underrepresented group populations and higher asthma rates; and

WHEREAS, the use of illegal Fireworks constitutes a substantial fire safety risk as well as causes a disproportionate adverse impact on military veterans, pets, and other vulnerable populations; and

WHEREAS, the use of "safe and sane Fireworks" significantly contributes to fire, health, and safety risk; and

WHEREAS, the City now seeks to take robust action to protect its residents, their pets, and their property from the use of all Fireworks by generally prohibiting them; and

WHEREAS, it is therefore necessary to repeal the City's existing regulations governing Fireworks, appearing as Article II of Chapter 14 of the Santa Ana Municipal Code, and enact new regulations.

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

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. Article II (Fireworks Regulations) of Chapter 14 of the Santa Ana Municipal Code (Fire Protection and Prevention and Emergency Services) is hereby repealed in its entirety.

Section 3. Article II (Fireworks Regulations) of Chapter 14 of the Santa Ana Municipal Code (Fire Protection and Prevention and Emergency Services) is hereby reenacted in its entirety to read as follows:

ARTICLE II. – FIREWORKS REGULATIONS

Sec. 14-51. - Definitions.

(a) “Fireworks” means the same as California Health and Safety Code section 12511, which defines that term as “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” and to include without limitation “devices designated by the manufacturer as Fireworks, torpedoes, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and firework kits.” For purposes of this article, “Fireworks” also includes both “dangerous Fireworks” and “safe and sane” Fireworks as defined in the California Health and Safety Code.

(b) “Host” includes but is not limited to:

(1) The person(s) who owns, rents, leases, or otherwise has possession or use of the property; or

(2) The person(s) in immediate control of the property; or

(3) The person(s) who organizes, supervises, sponsors, conducts, allows, attends, controls, or controls access to the Fireworks on the property.

(4) A government entity, including, but not limited to, a municipal corporation, school district, and/or political subdivision, is not a Host.

(c) “Response Costs” means costs associated with law enforcement, fire, medical, or other emergency personnel responding to, remaining at, and leaving the scene of a gathering, including but not limited to:

- (1) Salaries and benefits of law enforcement, fire, medical, or other emergency personnel;
- (2) Administrative costs;
- (3) The cost of any medical treatment of injuries to any law enforcement, fire, medical or other emergency personnel;
- (4) The cost of using any City equipment;
- (5) The cost of repairing any damaged city equipment or property; and
- (6) Any other costs related to enforcement of this article.

Sec. 14-52. - General prohibition against sale, use, storage, or possession of Fireworks.

It shall be unlawful for any person to possess, store, offer for sale, expose for sale, sell at retail, or use or explode any Fireworks, provided that the City shall have the power to conduct or contract for supervised public displays of Fireworks by the City at times designated by the City, subject to all applicable regulations, permits, and protocols governing the same.

Sec. 14-53. - Host's liability.

(a) No Host shall allow any person to violate a provision of this article on the Host's private property.

(1) Whenever a Host is present at the private property while another person violates a provision of this article, there shall be a rebuttable presumption that the Host knew or should have known of the violation.

(2) The provisions of this section shall not apply to a Host who initiates contact with law enforcement or fire officials to assist in removing any person from the property or terminating the activity in order to comply with this article, if the request for assistance is made before any other person contacts law enforcement or fire officials to complain about the violation of this article.

(b) No Host shall aid or abet another person's violation of a provision of this article in a public right-of-way adjacent to the Host's private property. A Host aids and abets another person's violation of a provision of this article if he or she knows of the other person's unlawful purpose and the Host specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the other person's commission of that violation.

Sec. 14-54. - Seizure of Fireworks.

The Police Chief, Fire Chief, or his or her designee, may seize, take, remove, or cause to be removed, at the expense of the owner, all fireworks possessed or displayed in violation of this article.

Sec. 14-55. - Violation and penalties.

(a) Violation of this article shall constitute grounds for issuance of an administrative citation, designated as an infraction, and assessment of a fine. The City's procedures on imposition of administrative fines, as described in Chapter 1 of this Code, are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, appeal, and review of administrative citations issued under this section. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor.

(b) In accordance with the City's administrative fine schedule for violations of Article II of Chapter 14, as set forth in Resolution No. 2016-033, for each violation, the amount of the penalty shall be One Thousand Dollars (\$1,000.00).

(c) In the event the fireworks are confiscated and must be disposed of by the Police Chief, Fire Chief, or their designees, there shall be an additional charge of Two Hundred Fifty Dollars (\$250.00) assessed for disposal fee.

(d) Each day of recurrence of any violation shall constitute a separate offense and may be treated as such pursuant to this section.

(e) Any person who violates section 14-52 and any Host who violates section 14-53 shall be liable for the Response Costs relating to the violation.

(1) All Hosts who violate section 14-53 in the same incident are jointly and severally liable for the Response Costs relating to the violation.

(2) If a person who violated this article is a minor, the responsible parent(s) and/or guardian(s) of the minor and the minor themselves shall be jointly and severally liable for the response costs incurred pursuant to this article.

(3) The amount of Response Costs constitutes a debt owed to the City.

(4) Notice of the Response Costs shall be served by first-class mail on the person(s) and/or Host(s) liable for such costs. The notice shall contain the following information:

(A) The name of the person(s) and/or Host(s) that is liable for the Response Costs;

(B) The address of the property where the incident occurred;

(C) The date and time of the response;

(D) The law enforcement, fire, or other emergency response personnel who responded; and

(E) An itemized list of the Response Costs.

(5) Payment for Response Costs shall be remitted to the City within thirty (30) calendar days of the date of the notice. The payment of any such costs shall be stayed upon the filing of a timely appeal.

(6) A person or Host charged with Response Costs may appeal the Response Costs in the manner described in Chapter 1 of this Code.

(f) Violations of this article are hereby declared to be a public nuisance.

(g) All remedies prescribed under this article are cumulative and the election of one or more remedies does not preclude the City from the pursuit of any other remedy to enforce this article.

Sec. 14-56. - Application of state law.

Nothing in this article shall limit any of the penalties provided in the California Health and Safety Code or the California Penal Code with regard to the offer for sale, exposing for sale, sale at retail, use or discharge of any Fireworks.

Secs. 14-57—14-89. - Reserved.

Section 4. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15308 of the State CEQA Guidelines because it can be seen with certainty that the Fireworks regulations, as provided for in this Ordinance, will not have a significant effect on the environment and that the regulations represent actions by a regulatory agency for the protection of the environment.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 6. This Ordinance shall become effective thirty (30) days after its adoption.

Section 7. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2022.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
Brandon Salvatierra
Deputy City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-_____ to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana

Informational Item: For Discussion Purposes Only