

URGENCY ORDINANCE NO. 2021-03

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA, AMENDING SECTION 30-137(c) OF THE AZUSA MUNICIPAL CODE RELATING TO ADMINISTRATIVE CITATIONS AND FINES FOR VIOLATIONS OF THE CITY OF AZUSA'S FIREWORKS REGULATIONS

WHEREAS, the Health and Safety Code section 12671 makes it unlawful for any person to sell, offer for sale, use, discharge, possess, store, or transport any type of fireworks within this state unless the State Fire Marshal has classified and registered such fireworks; and

WHEREAS, the Azusa Municipal Code currently allows for enforcement of fireworks violations via criminal penalties and administrative fines; and

WHEREAS, administrative fines associated with violations involving legally sold fireworks begin at \$250 for the first violation and \$500 for all subsequent violations; and

WHEREAS, fines associated with illegal fireworks are \$1,000 for the first and subsequent violations and fines are based on the number of violations committed annually; and

WHEREAS, every year, many Azusa residents and visitors celebrate the July 4th Independence Day holiday by discharging fireworks. In addition to discharging legally sold fireworks, a significant number of residents, visitors, adults, and minors discharge dangerous illegal fireworks; and

WHEREAS, the discharge of illegal fireworks has become significant enough that the Police Department now receives complaints about illegal fireworks through the year; and

WHEREAS, the Police Department works to take enforcement action related to the illegal discharge of fireworks year round. Enforcement for the discharge of illegal fireworks can be difficult since many people discharge the fireworks intermittently and/or from the privacy of their private backyards. Even if a possible offender or offender address is identified to officers, they must witness a violation to take enforcement action. Administrative citations can be written to an individual person or property owner; and

WHEREAS, even in cases where administrative citations for the discharge of illegal fireworks are issued, the \$1,000 fines are no longer a deterrent since some families pool funds among all invited guests to pay the fireworks fine; and

WHEREAS, in 2020 the Azusa Police Department had 793 calls for service associated with fireworks. 233 of those calls for service took place between July 1st and July 5th. During July 4th enforcement operations, 43 administrative citations were issued to violators. A total of 60 administrative citations were issued in 2020; and

WHEREAS, over the years Los Angeles County and the City have experience devastating wildfires which have greatly impacted the City; and,

WHEREAS, because of the unique fire hazard risks that the City faces coupled with its geographic, geological and climatically conditions, the City has determined that the public health, safety, and welfare will be served by (1) increasing the fines associated with illegal fireworks for the first and subsequent violations, and

WHEREAS, recent observations by the Police Department and resident complaints reveal that the 2021 fireworks discharge season has started much earlier than past years and it is necessary to update the City's fireworks fines in time to be effective for the July 2021 fireworks discharge season, deter the discharge of illegal fireworks, reduce fire hazards in the community and save lives; and

WHEREAS, the City Council finds that this Urgency Ordinance is enacted in order to protect the public health, safety and welfare by adopting regulations that would become effective prior to July 4, 2021 to address the increase in discharge of illegal fireworks in the community.

THE CITY COUNCIL OF THE CITY OF AZUSA DOES ORDAIN AS FOLLOWS:

SECTION 1. Urgency Findings. In accordance with California Government Code, Section 36937 and in order to protect the public health, safety and welfare, the City Council finds the above recitals are true and correct and are incorporated herein by reference as urgency findings in support of the adoption of this urgency ordinance.

SECTION 2. Section 30-137(c) of Article IV, Chapter 30 of the Azusa Municipal Code is hereby amended to read as follows:

“(c) Citations issued pursuant to this article shall carry administrative fines as follows:

(1) \$1,000.00 for the first violations of section 30-102 involving the discharge of illegal fireworks to any person or property address.

(2) \$2,000 for the second violation of section 30-102 involving the discharge of illegal fireworks and issued to any person or property address within five (5) years of the first violation.

(3) \$5,000 for the third violation of section 30-102 involving the discharge of illegal fireworks and issued to any person or property address within five (5) years of the first violation.

(4) \$5,000 for any subsequent and consecutive violation of section 30-102 involving the discharge of illegal fireworks and issued to the same person or property address as the administrative citation issued the prior year beyond the fifth year.

(5) \$250.00 for the first violation and \$500.00 for all subsequent violations of any other provision of this article.”

SECTION 3. California Environmental Quality Act (“CEQA”). The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(2) of the CEQA Guidelines because the activity has no potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060(c)(3) of the CEQA Guidelines because the activity is not a project as defined in Section 15378) of the CEQA Guidelines.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. Effective Date. This Urgency Ordinance shall become effective immediately upon its adoption with four-fifths vote of the City Council and findings made pursuant to California Government Code section 36937. Within fifteen (15) days after said passage, a summary of this Ordinance with the names of the Council Members voting for or against the same, shall be published in a newspaper of general circulation in the County of Sonoma, State of California.

PASSED, APPROVED and ADOPTED this 7th day of June 2021.

/s/ Robert Gonzales, Mayor

ATTEST:

/s/ Jeffrey Lawrence Cornejo, Jr., City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF AZUSA)

I HEREBY CERTIFY that the foregoing Urgency Ordinance No. 2021-03 was duly introduced, passed, and adopted by the City Council of the City of Azusa, at a regular meeting thereof held on the 7th day of June 2021, by the following vote of the Council:

AYES: COUNCILMEMBERS: GONZALES, MACIAS, ALVAREZ, AVILA, MENDEZ
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

/s/ Jeffrey Lawrence Cornejo, Jr., City Clerk

APPROVED AS TO FORM:

/s/ Best, Best & Krieger, LLP, City Attorney

Published in the San Gabriel Valley Tribune: June 11, 2021