

ORDINANCE NO. 2522

INTRODUCED BY: ALLEN-THOMAS, CHACON, DOUGLAS, FORD, HURST, HUSEMAN, KIM, MADERA, NOBLE

AN EMERGENCY ORDINANCE TO AMEND COMMERCE CITY REVISED MUNICIPAL CODE (CCRMC) SECTION 1-3003(e) INCREASING THE PENALTIES FOR FIREWORKS VIOLATIONS AND ADDING ALTERNATIVE PENALTY OPTIONS FOR JUVENILES

WHEREAS, the unlawful possession, manufacture, storage, sale, handling, discharge, and use of fireworks within the City poses a substantial and direct risk to the public's health, safety, and welfare, including a risk of injury, death, and property damage, and threatens to diminish the quality of life of the City's residents;

WHEREAS, the unlawful possession, manufacture, storage, sale, handling, discharge, and use of fireworks within the City, especially during holidays, is a drain on the resources of law enforcement, fire protection, and emergency medical service providers;

WHEREAS, the City's Police Department received 777 calls for service relating to fireworks in 2020, 302 calls for service in 2021, and 362 in 2022;

WHEREAS, by Ordinance 2172, City Council of Commerce City ("City Council") declared an emergency relating to fireworks and established minimum penalties for the unlawful possession, manufacture, storage, sale, handling, use and discharge of fireworks in the City;

WHEREAS, by Ordinance 2488, City Council adopted the 2021 International Fire Code with amendments codified at Division 10 of Article IV of Chapter 5 of the Commerce City Revised Municipal Code that prohibits the possession, manufacture, storage, sale, handling, and use of fireworks in the City except those permitted by Colorado state law;

WHEREAS, C.R.S. § 24-33.5-2007(1) allows municipalities to further regulations and prohibitions upon the sale, use, and possession of fireworks, including permissible fireworks, within the corporate limits of any city;

WHEREAS, pursuant to Section 7-1008(a-b) of the Commerce City Revised Municipal Code, it is unlawful to possess, discharge, or use fireworks while upon public park property, including all public recreation lands, waters, and facilities owned, leased, or operated by the City, except in areas specifically authorized in writing by the City;

WHEREAS, fireworks pose a safety risk to the public and create a fire risk to residential buildings and presents a strain on public safety resources when such resources are necessary to address significant public safety issues, especially during holidays; and

WHEREAS, City Council desires to increase the penalties for fireworks violations in advance of the July 4th holiday in order to deter residents from using illegal fireworks in the City, but authorize alternative penalties in the event violators are juveniles.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

SECTION 1. Findings. The recitals to this ordinance are incorporated as findings of the City Council. This ordinance is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Amendment to Code: CCRMC § 1-3003(e) is hereby amended as set forth in Exhibit A attached hereto.

SECTION 3. This ordinance shall be effective immediately upon passage pursuant to Section 5.4 of the City Charter.

SECTION 4. This ordinance is declared to be an emergency ordinance and is enacted pursuant to Section 5.4 of the City Charter. The passage of this ordinance and its passage as an emergency ordinance is immediately necessary for the preservation of the public health, safety, welfare, and economic well-being of Commerce City for the reasons set forth in this ordinance.

SECTION 5. Repealer. All ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof, are hereby repealed to the extent of such inconsistency.

SECTION 6. Effective Date. This ordinance shall be effective immediately upon passage.

INTRODUCED, PASSED AS AN EMERGENCY ORDINANCE AND PUBLIC NOTICE ORDERED THIS 15TH DAY OF MAY 2023.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk

EXHIBIT A to Ordinance 2522

*****BEGIN*****

Sec. 1-3003. Penalties in general.

...

- (e) *Penalties for fireworks violations.* Any person convicted, including without limitation a plea of guilty or no contest, of a violation of any provision of this Code, including without limitation any edition of the International Fire Code adopted by reference, relating to the unlawful possession, manufacture, storage, sale, handling, discharge or use of fireworks shall be subject to a fine of one thousand dollars (\$1,000.00) for a first offense and two thousand dollars (\$2,000.00) for each subsequent offense in addition to any other applicable penalty, fee, or cost imposed pursuant to this Code, provided however, that if the offender is a juvenile, alternative penalties, such as diversion or community service may be offered in lieu of the above-referenced fines. The minimum monetary fine under this subsection shall not be suspended.

*****END*****

EXHIBIT B TO ORDINANCE 2522

(Blue underlined text are additions; red strikethrough reflect deletions)

BEGIN

Sec. 1-3003. Penalties in general.

...

(e) Penalties for fireworks violations. Any person convicted, including without limitation a plea of guilty or no contest, of a violation of any provision of this Code, including without limitation any edition of the International Fire Code adopted by reference, relating to the unlawful possession, manufacture, storage, sale, handling, discharge or use of fireworks shall be subject to a fine of ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) for a first offense and ~~one thousand dollars (\$1,000.00)~~ two thousand dollars (\$2,000.00) for each subsequent offense in addition to any other applicable penalty, fee, or cost imposed pursuant to this Code, provided however, that if the offender is a juvenile, alternative penalties, such as diversion or community service may be offered in lieu of the above-referenced fines. ~~provided that~~ The minimum monetary fine under this subsection shall not be suspended.

END