

ORDINANCE NO. 2172

INTRODUCED BY: \_\_\_\_\_

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AN ORDINANCE DECLARING AN EMERGENCY AND AMENDING THE COMMERCE CITY REVISED MUNICIPAL CODE TO ESTABLISH MINIMUM PENALTIES FOR THE UNLAWFUL POSSESSION, MANUFACTURE, SALE, HANDLING, USE, AND DISCHARGE OF FIREWORKS

WHEREAS, the City of Commerce City ("City") is dedicated to ensuring a quality community for a lifetime and protecting the health, safety, and welfare of its residents and businesses;

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 369 calls for service relating to fireworks in July 2017 (compared to 57 in June and 22 in August) and 259 calls for service relating to fireworks in July 2016 (compared to 54 in June and 18 in August);

WHEREAS, at least two structures in the City were damaged or destroyed by fire as a result of the unlawful use of fireworks in 2017;

WHEREAS, the possession, manufacture, storage, sale, handling, and use of fireworks is prohibited within the City pursuant to the 2012 Edition of the International Fire Code, as amended and adopted pursuant to Ordinance 2091 and codified at Division 10 of Article IV of Chapter 5 of the Commerce City Revised Municipal Code;

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, Section 1-3003 of the Commerce City Revised Municipal Code currently establishes only a maximum penalty for the unlawful possession, manufacture, storage, sale, handling, discharge, and use of fireworks within the City subject to the limitations C.R.S. § 13-10-113, as amended;

WHEREAS, the City Council finds and determines that establishing minimum penalties

for violations of the Commerce City Revised Municipal Code relating to fireworks is necessary and appropriate to protect the health, safety, and welfare of the citizens of the City pursuant to its authority under Article XX, Section 6 of the Constitution of the State of Colorado and the City's police powers;

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

**SECTION 1.** The recitals to this ordinance are hereby adopted by and incorporated as findings of fact of the City Council.

**SECTION 2.** Section 1-3003 of the Commerce City Revised Municipal Code is amended by the addition of a new subsection (e) entitled "Penalties for fireworks violations" to read as follows:

**Sec. 1-3003. – Penalties in general.**

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(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 \$500.00 for a first offense and \$1,000.00 for each subsequent offense in addition to any other applicable penalty, fee, or cost imposed pursuant to this Code, provided the minimum monetary fine under this subsection shall not be suspended.

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**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.** If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect, impair, or invalidate the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**SECTION 6.** All other ordinances or portions thereof of Commerce City and all provisions of the Commerce City Revised Municipal Code that are inconsistent or in conflict with this ordinance or any portion thereof are, to the extent of such inconsistency or conflict, hereby repealed by this ordinance.

INTRODUCED, PASSED AS AN EMERGENCY ORDINANCE AND PUBLIC NOTICE ORDERED THIS 18TH DAY OF JUNE 2018.

CITY OF COMMERCE CITY, COLORADO

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Sean Ford, Mayor

ATTEST:

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Dylan A. Gibson, Deputy City Clerk