



CITY OF FILLMORE
CENTRAL PARK PLAZA
250 Central Avenue
Fillmore, California 93015-1907
(805) 524-3701 • FAX (805) 524-5707

TO: Mayor and City Council

FROM: David Rowlands, City Manager
Tiffany J. Israel, City Attorney

DATE: October 8, 2024

RE: **ADOPTION OF AN ORDINANCE AMENDING FILLMORE
MUNICIPAL CODE CHAPTER 15.39 TO INCREASE PENALTIES
FOR VIOLATIONS OF THE PROHIBITIONS ON DANGEROUS
FIREWORKS**

RECOMMENDATION

That the City Council:

Approve the second reading to adopt Ordinance No. 24-975 to amend Fillmore Municipal Code (“FMC”) Chapter 15.39 to increase the penalties for violations of the dangerous fireworks prohibition in the FMC and adopt and implement provisions articulated in the State Fireworks Law, codified under Health and Safety Code section 12500 *et seq.*, concerning increased administrative fines and misdemeanor penalties for violation of the City’s dangerous fireworks prohibition located in FMC Chapter 15.39.

DISCUSSION

At the August 14, 2024 City Council meeting, the City Council requested an assessment of the City’s options to increase firework fines in the City’s administrative fine schedule. Staff has conducted an assessment of the City’s options. This item is presented to provide the City Council with an opportunity to discuss its options and consider increasing the penalties imposed on illegal fireworks.

The State of California limits consumer fireworks to those defined in the California Health & Safety Code (“HSC”) as “Safe and Sane” which are fireworks that are non-aerial and do not explode. In addition, fireworks that may be sold in California must appear on the approved list of fireworks which is issued annually by the State Fire Marshall’s office. “Safe and sane” fireworks may be discharged within the City of Fillmore beginning at noon on June 28th through noon on July 5th day only on your personal private property and at least ten feet away from any dwelling or structure.

Dangerous fireworks, as defined in HSC section 12505 (and adopted by FMC section 15.39.010), pose a threat to public safety as they have the potential to cause fires and bodily injury, in addition

to causing public nuisance conditions such as loud noises, explosions, and smoke. However, the FMC does not currently adopt the State Fireworks Law, codified under HSC section 12500 *et seq*, which permits increased administrative fines and significant criminal fines for possession, use, and sale of dangerous fireworks. If the City were to adopt the State Fireworks Law the City could recover up to \$100,000 for a violation depending on the weight of the dangerous fireworks seized by the City. This would serve as a significant deterrent to potential violators.

The State Fireworks Law provides two avenues for local agencies to impose fines and penalties. The first is through administrative fines (via HSC Sections 12557 and 12700(a)) and the second is through criminal misdemeanor penalties (via HSC section 12700(b)). The administrative fine framework is applicable to those violations where the violator is in possession of less than 25 pounds of dangerous fireworks, and may be issued by the City. The criminal misdemeanor penalties apply following a misdemeanor conviction and are imposed by the court.

Administrative Fines

HSC Section 12557 authorizes development of local ordinances regarding possession of dangerous fireworks and sets out the requirements for a local ordinance. Section 12557 permits imposing administrative fines as a remedy for violations of a local ordinance related to the possession of 25 pounds or less of dangerous fireworks. In most circumstances, a fine of \$1,000 is the maximum fine authorized as punishment for a misdemeanor. The maximum monetary fine or penalty specifically for a violation of a city ordinance is also \$1,000. However, HSC section 12700(a) permits the imposition of fines not less than \$1,000 and not more than \$2,000 for possession of less than 25 pounds of dangerous fireworks. As such, the City may impose an administrative fine up to a maximum of \$2,000 for each violation of its dangerous fireworks ordinance.

Criminal Penalties

In addition to administrative fines, the State Fireworks Law provides greater fines that may be imposed by a court following a misdemeanor conviction. The proposed amendment to FMC Chapter 15.39 adopts those criminal penalties described in HSC sections 12700-12702 by reference.

HSC section 12700(b) prescribes the criminal fines and penalties depending on the gross weight of dangerous fireworks in their possession.

Quantity of Dangerous Fireworks Possessed	Fine After Misdemeanor Conviction
Less than 25 lbs. <i>HSC § 12700(b)(1)</i>	\$1,000 - \$2,000
25 – 100 lbs. <i>HSC § 12700(b)(2)</i>	\$2,000 - \$10,000
100 – 5,000 lbs. <i>HSC § 12700(b)(3)</i>	\$10,000 - \$20,000
Over 5,000 lbs. <i>HSC § 12700(b)(4)</i>	\$20,000 - \$100,000

The likelihood of the City recovering more than 25 pounds of dangerous fireworks is unlikely unless a major distributor possesses dangerous fireworks within City limits. The caveat to this framework is that, pursuant to HSC section 12706, the City must relinquish 65% of the fines imposed on violators to the State Controller for deposit in the State Fire Marshal Fireworks Enforcement and Disposal Fund.”¹ The funds transferred to the State Fire Marshal are used to pay for the destruction of seized dangerous fireworks, which is done by the State Fire Marshal.

HSC section 12701 clarifies that a person is guilty of a separate offense for each day during which he or she violates the dangerous fireworks prohibition. HSC section 12702 imposes additional criminal penalties for selling, giving, or delivering any dangerous fireworks to any person under the age of 18. If the ordinance is adopted, upon the first conviction the penalty shall be consistent with the penalties described in HSC 12700(b), depending on the gross weight of the dangerous fireworks. For a second or subsequent conviction, there will be an additional \$10,000 fine on top of the penalties articulated in HSC section 12700(b).

On September 24, 2025 the City Council considered these proposed changes to the FMC and unanimously approved the introduction of the ordinance.

FISCAL IMPACT

If the City Council adopts Ordinance No. 24-975 to adopt the State Fireworks Law, the City would be authorized to impose administrative citations under FMC chapter 15.39 with fines of \$2,000, and may collect between \$1,000 to \$100,000 in criminal penalties following a misdemeanor conviction.²

CITY COUNCIL GOAL

This item meets the City Council’s goals for Public Safety.

ATTACHMENTS

1. Ordinance No. 24-975

¹ This requirement does not apply to administrative citations issued for possession of less than 25 pounds of dangerous fireworks. (HSC section 12557).

² Subject to the aforementioned 65% contribution to the State Fire Marshal Fireworks Enforcement and Disposal Fund.

ORDINANCE NO. 24-975

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
FILLMORE, CALIFORNIA, AMENDING CHAPTER 15.39 OF THE
FILLMORE MUNICIPAL CODE TO INCREASE PENALTIES FOR
VIOLATIONS OF THE PROHIBITION ON DANGEROUS FIREWORKS**

Summary: This ordinance amends Chapter 15.39 of the Fillmore Municipal Code to clarify and increase the fines and penalties associated with the use, possession, sale, and/or discharge of dangerous fireworks.

WHEREAS, the City of Fillmore (“City”) has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the City, Cal. Const. Art. XI, section 7; and

WHEREAS, the “State Fireworks Law” is codified in California Health & Safety Code (“HSC”) section 12500, *et seq.*; and

WHEREAS, the State Fireworks Law makes it unlawful for any person to possess dangerous fireworks without holding a valid permit; and

WHEREAS, the State Fireworks Law specifies penalties for violation of the prohibition on dangerous fireworks, making it a misdemeanor and establishing fines ranging from \$1,000 to \$100,000 depending on gross weight of the dangerous fireworks; and

WHEREAS, HSC section 12557 authorizes the City to issue administrative citations to persons in possession of 25 pounds or less of dangerous fireworks; and

WHEREAS, Fillmore Municipal Code (“FMC”) section 15.39.010 makes it unlawful for any person to possess, sell, use or discharge dangerous fireworks, as defined in HSC section 12505 (and adopted by FMC section 15.39.010); and

WHEREAS, section 15.39.020 of the FMC authorizes penalties to be imposed for the unlawful possession, sale, use or discharge of dangerous fireworks as an administrative penalty in the amount of \$1,000 for each violation of section 15.39.010; and

WHEREAS, the City is concerned about the proliferation of the use of illegal and dangerous fireworks because the use of illegal and dangerous fireworks pose a threat to public safety as they have the potential to cause fires and bodily injury, in addition to causing public nuisance conditions such as loud noises, explosions, and smoke; and

WHEREAS, the City Council desires to adopt and implement the State Fireworks Law and increase the penalties for the unlawful possession, sale, use or discharge of dangerous fireworks, as it believes this ordinance is critical to protect the City’s residents, for the preservation of the public peace, health, and safety, and the City Council believes it will help achieve the foregoing objectives.

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

SECTION 1. The foregoing recitals are true and correct and incorporated herein by this reference.

SECTION 2. Chapter 15.39 – “Dangerous Fireworks” of the Fillmore Municipal Code is repealed in its entirety and amended (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an underline and strikethrough) to read as follows:

“Chapter 15.39 - DANGEROUS FIREWORKS

15.39.010 –Possession, sale, use or discharge of dangerous fireworks ***prohibited.***

(a) For purposes of this section, dangerous fireworks are those fireworks specified as such in the State Fireworks Law, § 12505 of the California Health and Safety Code, and such other fireworks as may be determined to be dangerous by the State Fire Marshal.

(b) It shall be unlawful for any person to possess, sell, use or discharge dangerous fireworks, or a dangerous firework kit, unless a permit authorizing such possession, sale, use or discharge has been issued by the Fillmore Fire Chief to the person using, selling, discharging or found in possession of said fireworks or kits, and unless such person is in possession of a valid pyrotechnic operator's license issued by the Office of the State Fire Marshal. The fire chief may establish reasonable rules and regulations for governing issuance of a firework permit and may issue the same subject to payment of a fee as established by the city council from time to time.

(c) The fire chief, or designee, shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of dangerous fireworks offered or exposed for sale, stored or held in violation of this chapter.

15.39.020—Administrative penalties.

In addition to any other remedies set forth in the Fillmore Municipal Code, administrative penalties may be imposed against any person for violating any of the requirements set forth in this chapter.

For violations of Section 15.39.010 of this Code, possession, sale, use or discharge of dangerous fireworks, the administrative penalty shall be one thousand dollars for each specific act found to be in violation of that section.

A. California Health and Safety Code ("H&S Code") Sections 12500 through 12728 regulate dangerous fireworks. For purposes of this chapter, dangerous fireworks are those fireworks specified as such in the State Fireworks Law, section 12505 of the H&S Code, and such other fireworks as may be determined to be dangerous by the State Fire Marshal.

B. In addition to the state regulations set forth in the H&S Code, it is unlawful for any person to possess, sell, use or discharge dangerous fireworks unless a permit authorizing

possession, sale, use or discharge has been issued by the Fillmore Fire Chief to the person using, selling, discharging or found in possession of said fireworks, and unless such person is in possession of a valid pyrotechnic operator's license issued by the Office of the State Fire Marshal.

- C. The City shall impose a two thousand dollar administrative fine for each violation of this section in accordance with the procedure set forth in Chapter 1.09. The imposition of an administrative fine shall be limited to persons who possess, sell, use or discharge dangerous fireworks in the amount of twenty-five pounds or less (gross weight including packaging).*

Where applicable, cost reimbursement to the office of the State Fire Marshal and the collection of disposal costs shall be part of the administrative fine in accordance with regulations adopted by the State Fire Marshal. Administrative fines collected are not subject to the disbursement required by H&S Code Section 12706.

- D. Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction shall be subject to the imposition of penalties pursuant to H&S Code Sections 12700 – 12702 (which may be amended from time to time) and any other remedies provided by law. The City specifically adopts, by this reference, those penalties articulated in HSC Sections 12700 – 12702, as may be amended from time to time.*
- E. A person is guilty of a separate offense for each and every day or portion thereof during which he or she commits, continues, or permits a violation of this chapter.*
- F. Nothing in this chapter shall be intended to limit any of the penalties provided for under the H&S Code or Penal Code with regard to the sale, use, possession, delivery, storage, and/or transportation of dangerous fireworks. The penalties set forth herein are intended to be nonexclusive and in addition to any other remedies at law or equity.”*

SECTION 3. This ordinance is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question would have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. This Ordinance shall become effective on the thirty-first (31st) day after its passage and adoption, and within fifteen (15) days after its final passage and the City Clerk shall cause it to be posted and published in the Fillmore Gazette, a newspaper of general

circulation, printed, published and circulated in the City in the manner required by law and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

PASSED AND ADOPTED this 8th day of October, 2024.



Carrie Broggie, Mayor

ATTEST:



for Olivia C. Lopez
Olivia Carrera Lopez, City Clerk

APPROVED AS TO FORM:



Tiffany J. Israel, City Attorney

CITY OF FILLMORE)

COUNTY OF VENTURA)§

STATE OF CALIFORNIA)

I, Oliva Carrera Lopez, City Clerk of the City of Fillmore, California, do hereby certify that the foregoing Ordinance No. 24-975 was duly passed and adopted by the City Council of the City of Fillmore at the regular meeting thereof, held on the 8th day of October, 2024, and was signed by the Mayor of the said City, and that the same was passed and adopted by the following vote:

AYES: Mayor Broggie, Mayor ProTem Gurrola, Councilmember Austin, Councilmember Villaseñor, Councilmember Mendez

NOES: None.

ABSENT: None.

ABSTAIN: None.




Arely Venegas

for Olivia C. Lopez

Olivia Carrera Lopez, City Clerk

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 E-SIGN DISCLOSURE ACCEPTED	01 / 20 / 2024	Electronic record and signature disclosure accepted by Arely
	02:00:30 UTC	Venegas (avenegas@fillmoreca.gov)
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