

## ORDINANCE NO. 1430 C.S.

### **AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARTINEZ, ADDING CHAPTER 8.52 TO TITLE 8 (HEALTH AND SAFETY) OF THE MARTINEZ MUNICIPAL CODE REGULATING USE, DISCHARGE, POSSESSION, MANUFACTURING, AND SALES OF FIREWORKS**

The City Council of the City of Martinez, does ordain as follows:

**WHEREAS**, this Ordinance is adopted as an Urgency Ordinance pursuant to Government Code Section 36937(b). The facts constituting the urgency are as follows:

- 1) The purpose of this Ordinance is to amend the City's Municipal Code to adopt regulations regulating use, possession, discharge, manufacture, and selling of fireworks within the City of Martinez.
- 2) Fireworks are defined under the California Health and Safety Code as containing chemical elements and compounds capable of burning independently of oxygen within the atmosphere, and include devices such as firecrackers, skyrockets, roman candles, rockets, torpedoes, and aerial bombs. Fireworks can cause fires and have disastrous results. Fireworks-related calls to fire departments and law enforcement agencies within the County continue to increase every year. Such calls range from vegetation, structure, and exterior fires, personal injury or death, and noise or public nuisance. As an example, during Memorial Day weekend earlier this year, a fire was caused by fireworks which destroyed eight apartment units and displaced 40 people within another city of the County. Such fireworks-related incidents threaten widespread and devastating loss of life and property within any area that permits fireworks, particularly during hot, dry, and windy summer conditions that are currently being experienced. Even a small fire caused by discharge or usage of fireworks can spread in hot, dry and windy conditions to envelope a block, neighborhood or area of the City.
- 3) Devastating hot, dry and windy conditions are currently being experienced by the Bay Area and the State of California as a record long drought has prompted a need for serious conservation measures and threatens the state with another severe fire season over the coming months. Under these conditions the discharge and use of fireworks during the 4th of July holiday presents an immediate and severe threat to the health, safety and welfare of the persons, residences, and businesses located within the City. There is, therefore, an immediate and urgent need for regulations to be established that will take effect prior to the 4th of July holiday to protect against the risk of fireworks-related incidents occurring within the City during the coming 4th of July holiday.

Based on the foregoing, the City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency Ordinance pursuant to Government Code Section 36937(b), and take effect immediately upon adoption. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

Section 1. Chapter 8.52 shall be added to Title 8 of the Martinez Municipal Code to read as follows:

## **CHAPTER 8.52 - FIREWORKS**

### **8.52.010 - Definitions**

For the purposes of this chapter the following definitions shall apply:

- A. "Fireworks" shall be defined as set forth in Health and Safety Code Section 12511.
  - 1) The term "fireworks" includes the following:
    - a) "Dangerous fireworks" as defined in Health and Safety Code Section 12505.
    - b) "Safe and sane fireworks" as defined in Health and Safety Code Section 12529.
  - 2) The term "fireworks" excludes the following:
    - a) "Exempt fireworks" as defined in Health and Safety Code Section 12508.
    - b) "Party poppers" and "snap caps" as each is defined in California Code of Regulations, Title 19, section 980.
- B. "Responsible party" includes but is not limited to:
  - 1) A person that owns, rents, leases, or otherwise has possession of, or is in immediate control of, a residence or other private property or a vessel.
  - 2) A person that organizes, supervises, sponsors, conducts, allows, controls, or controls access to, the possession, manufacture, sale, offer for sale, use, or discharge of fireworks at a residence or other private property or on a vessel.

Notwithstanding this definition, if a residence or other private property is rented or leased for a period of more than 30 consecutive days, the landlord or lessor is not a responsible party unless the landlord or lessor: has possession of, or is in immediate control of, the residence or other private property; or has knowledge of the possession,

manufacture, sale, offer for sale, use, or discharge of fireworks at the residence or other private property.

C. "Vessel" shall be defined as set forth in Harbors and Navigation Code Section 651.

#### **8.52.020 – Prohibition**

No person shall possess, manufacture, sell, offer to sell, use, or discharge any fireworks.

#### **8.52.030 – Exceptions**

This chapter does not prohibit the proper use of flares by railroad personnel, peace officers, fire officials, or motorists, or the public display of fireworks at a City-sponsored or City-organized event or other event that is permitted by written consent of the City Council.

#### **8.52.040 – Responsible party liability**

A responsible party shall maintain, manage, and supervise the residence or other private property, or vessel, for which they are responsible to prevent violations of this chapter. A responsible party violates this chapter if any person possesses, manufactures, sells, offers to sell, uses, or discharges any fireworks at the residence or other private property, or on the vessel, for which the responsible party is responsible, regardless of whether the responsible party is present when the violation occurs.

#### **8.52.050 – Enforcement**


Any violation of this chapter shall be punishable as an infraction in accordance with Section 1.12.010 and enforceable as may be otherwise allowed by law.

#### **Section 2. Severability.**

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Martinez hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or words might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 3. Effective Date.

This Ordinance is adopted as an urgency Ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b) and therefore shall be passed immediately upon its introduction and shall become effective immediately, and shall be posted in three public places in the City.

  
APPROVED:  
\_\_\_\_\_  
Rob Schroder, Mayor

  
ATTEST: \_\_\_\_\_  
Edgar Villanueva Jr., Deputy City Clerk

\* \* \* \* \*

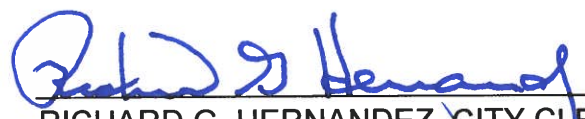
**I HEREBY CERTIFY** that the foregoing is a true and correct copy of an Urgency Ordinance was duly introduced and adopted at a Regular Meeting of the City Council of the City of Martinez, held on the 16th day of June, 2021, by the following vote:

AYES: Councilmembers Lara DeLaney, Mark Ross, Brianne Zorn;  
Vice Mayor Debbie McKillop, Mayor Rob Schroder

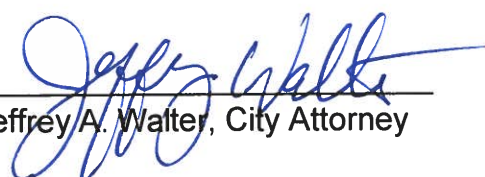
NOES: None

ABSTAIN: None

ABSENT: None

  
\_\_\_\_\_  
RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ

Approved as to form:

  
\_\_\_\_\_  
Jeffrey A. Walter, City Attorney

## Affidavit of Publication

STATE OF CALIFORNIA,                     )  
County of Contra Costa                     ) ss.

### Ordinance No. 1430 C.S.

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the legal advertising clerk of MARTINEZ NEWS-GAZETTE, a newspaper of general circulation, published in the city of Martinez, County of Contra Costa, and which newspaper has been adjudged to be a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of August 10, 1977, Decree No. 130417. I declare that the notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:


Date(s):

**July 2, 2021**

I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed at Martinez, Contra Costa County,  
California, on

Date: July 12, 2021

A handwritten signature in blue ink, appearing to read "Rick Jones", is written over a horizontal line.

Rick Jones, Legals Editor

Martinez News-Gazette  
802 Alhambra Ave  
Martinez, CA 94553

**See attached**

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"Responsible party" includes but is not limited to:

A person that owns, rents, leases, or otherwise has possession of, or is in immediate control of, a residence or other private property or a vessel.

A person that organizes, supervises, sponsors, conducts, allows, controls, or controls access to, the possession, manufacture, sale, offer for sale, use, or discharge of fireworks at a residence or other private property or on a vessel.

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APPROVED:

\_\_\_\_\_  
Rob Schroder, Mayor

ATTEST:

\_\_\_\_\_  
Edgar Villanueva Jr., Deputy City Clerk

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I HEREBY CERTIFY that the foregoing is a true and correct copy of an Urgency Ordinance was duly introduced and adopted at a Regular Meeting of the City Council of the City of Martinez, held on the 16th day of June, 2021, by the following vote:

AYES: Councilmembers Lara DeLaney, Mark Ross, Brianne Zorn; Vice Mayor Debbie McKillop, Mayor Rob Schroder

NOES: None

ABSTAIN: None

ABSENT: None

\_\_\_\_\_  
RICHARD G. HERNANDEZ, CITY CLERK

CITY OF MARTINEZ

Approved as to form:

\_\_\_\_\_  
Jeffrey A. Walter, City Attorney