

DATE SUBMITTED 4/13/2022
 SUBMITTED BY ACM
 DATE ACTION REQUIRED 4/20/2022

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING AB
 CITY CLERK'S INITIALS AB

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: AN ORDINANCE OF THE CITY OF IMPERIAL AMENDING THE CODIFIED ORDINANCES RELATED TO THE USE AND POSSESSION OF FIREWORKS 1. 2 ND READING BY TITLE ONLY AND ADOPTION OF ORDINANCE 817 AMENDING THE CODIFIED ORDINANCE RELATED TO THE USE AND POSSESSION OF FIREWORKS.	
DEPARTMENT INVOLVED: City Attorney/City Manager's Office	
BACKGROUND/SUMMARY: On April 6, 2022 the City of Imperial City Council during a Regular Meeting voted unanimously to adopt Ordinance 817 to amend the codified ordinance of the City of Imperial Municipal code related to the use and possession of (illegal) fireworks. A summary of the ordinance was published in a newspaper of general circulation following Council action giving notice that the City Council will consider the adoption of ordinance 817 on April 20, 2022. Attached you will find proof of publication and copy of the ordinance for your consideration.	
FISCAL IMPACT: To Be Determined	ADMIN SERV INITIALS <u>AB</u>
STAFF RECOMMENDATION: Staff recommends to proceed with the 2 nd reading and adoption of the Fireworks Ordinance as presented	DEPT. INITIALS <u>AB</u>
MANAGER'S RECOMMENDATION: Agrees with staff's recommendation.	CITY MANAGER'S INITIALS <u>DHM</u>
MOTION: SECONDED: APPROVED () REJECTED () AYES: DISAPPROVED () DEFERRED () NAYES: ABSENT: REFERRED TO:	

PUBLIC NOTICE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL, CALIFORNIA, AMENDING CHAPTER 8 OF THE IMPERIAL MUNICIPAL CODE REGARDING THE USE AND POSSESSION OF FIREWORKS

Notice is hereby given that on April 20, 2022, the City Council of the City of Imperial will consider the adoption of Ordinance No. 817 making certain additions to the Imperial Municipal Code regarding the use and possession of fireworks.

The following is a summary of the proposed Ordinance: The Ordinance imposes liability on hosts for violations of the Imperial Municipal Code related to the illegal use of fireworks. Hosts are defined to include individuals who own or control private property, and individuals who organize, supervise, or control activities on private property. This Ordinance imposes penalties on such hosts, including criminal, civil and administrative penalties.

A copy of the full text of the proposed Ordinance is posted and is available at the City Clerk's office located at Imperial City Hall, 420 South Imperial Avenue, Imperial, California 92251.

Dated this 12th day of April, 2022
Dennis Morita, City Clerk
City of Imperial

Legal 6813

Publish: April 14, 2022

ORDINANCE NO 817

**AN ORDINANCE OF THE CITY OF IMPERIAL AMENDING
THE CODIFIED ORDINANCES RELATED TO THE USE
AND POSSESSION OF FIREWORKS**

The City Council of the City of Imperial does ordain as follows:

Section 1: Sections 8-53 through 8-57 of Article VI of Chapter 8 of the Imperial City Code are hereby enacted to read as follows:

ARTICLE VI

FIREWORKS – HOST LIABILITY

Section 8-53. Host Defined.

Section 8-54. Host Liability.

Section 8-55. Violation-Penalty.

Section 8-56 Conflict With Imperial City Code.

Section 8-57 Severability.

Section 8-53. Host Defined.

For purpose of Chapter 8 of this Code, “Host” means a person who either:

- a. Owns or controls private property, including, but not limited to, an owner, tenant, landlord, or property manager of the property; or
- b. Organizes, supervises, officiates, conducts, controls, or is otherwise in charge of the activity on the property.

Section 8-54. Host Liability.

- a. No host shall allow any person to violate a provision of Article V of Chapter 8 of the Imperial City Code relating to fireworks on the host’s private property, except as provided below in subsection (a)(2).
 1. Whenever a host is present at the private property while another person violates a provision of this chapter, there shall be a rebuttable presumption that the host knew or should have known of the violation.
 2. The provisions of this section shall not apply to:

- A. The possession, manufacture, storage, display, sale, use, or discharge of fireworks as permitted under federal, state, or local law;
 - B. A host who initiates contact with law enforcement or fire officials to assist in removing any person from the property or terminating the activity in order to comply with this chapter, if the request for assistance is made before any other person contacts law enforcement or fire officials to complain about the violation of this chapter.
- b. No host shall aid or abet another person's violation of a provision of this chapter in a public right of way adjacent to the host's private property. A host aids and abets another person's violation of a provision of this chapter if he or she knows of the other person's unlawful purpose and the host specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the other person's commission of that violation.

Section 8-55. Violation-Penalty.

- a. In addition to any other remedy allowed by law, any person who violates a provision of Articles V and VI of Chapter 8 of the Imperial City Code is subject to criminal sanctions, civil actions, and administrative penalties.
- b. Notwithstanding any provisions of the Imperial City Code to the contrary, the amount of an administrative penalty for a violation of any provision of Articles V and VI of Chapter 8 of the Imperial City Code is:
 - 1. \$1,000.00 for the first violation;
 - 2. \$2,500.00 for the second violation within one year of the first violation; and
 - 3. \$5,000.00 for each additional violation within one year of the first violation.
- c. Any host who violates Articles V and VI of Chapter 8 of the Imperial City Code is liable for the response costs relating to the violation. All hosts who violate Articles V and VI of Chapter 8 in the same incident are jointly and severally liable for the response costs relating to the violation. The amount of the response costs constitutes a legal debt owed to the City.
 - 1. Notice of the response costs shall be served by first-class mail on the hosts liable for such costs. The notice shall contain the following information:
 - A. The name of the host who is liable for the response costs;
 - B. The address of the private property where the incident occurred;
 - C. The date and time of the response;

- D. The law enforcement, fire, or other emergency response personnel who responded; and
 - E. An itemized list of the response costs.
2. Payment for response costs shall be remitted to the City of Imperial within thirty (30) calendar days of the date of the notice. The payment of any such costs shall be stayed upon the filing of a timely appeal.
 3. A host charged with response costs may, within ten (10) calendar days of the date of the notice of response costs, appeal the response costs in accordance with section 15.82 of the Imperial City Code. The appeal hearing shall be scheduled and conducted in the manner prescribed therein. Failure to timely file an appeal constitutes a failure to exhaust available administrative remedies and bars any further review or administrative appeal of the response costs.
- d. Violation of Articles V and VI of Chapter 8 of the Imperial City Code are hereby declared to be a public nuisance.
 - e. It is unlawful, and a misdemeanor, to violate any provision of this chapter, provided, however, that a violation of this chapter may, at the discretion of the Police Chief, Fire Chief, or prosecuting attorney, be charged and prosecuted as an infraction.
 - f. All remedies prescribed under Articles V and VI of Chapter 8 of the Imperial City Code are cumulative and the election of one or more remedies does not bar the City of Imperial from the pursuit any other remedy available to the City.

Section 8-56 Conflict With Imperial City Code.

In the event that any provision of this article conflicts with any provision of the Imperial City Code, the provisions of this article shall prevail.

Section 8-57 Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this article for any reason shall be held to be invalid or unconstitutional, the decision shall not affect the remaining portions of the article. The Council of the City of Imperial hereby declares that it would have passed this article and each section, subsection, paragraph, sentence, clause, or phrase which is a part thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases are declared to be invalid or unconstitutional.

Section 2: Effective Date. This ordinance shall take effect and shall be in force thirty (30) days after the date of adoption, and prior to the expiration of fifteen (15) days from the passage thereof, shall be published at least once in a newspaper of general circulation printed and published in the County of Imperial, together with the names of the

members of the City Council voting for and against the same.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Imperial, this ___ day of _____, 2022.

Geoff Dale, Mayor

ATTEST:

Dennis Morita, City Clerk