



## **CITY OF MENIFEE**

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SUBJECT: City Fine Structure for Illegal Fireworks

MEETING DATE: May 3, 2023

TO: Mayor and City Council

PREPARED BY: Heriberto Gutierrez, Lieutenant

REVIEWED BY: Chris Karrer, Police Chief

APPROVED BY: Armando G. Villa, City Manager

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### **RECOMMENDED ACTION**

1. Staff is soliciting direction from the City Council regarding the illegal firework fine structure, based on discussion and current laws provided in the presentation.

### **DISCUSSION**

Current laws in Meniffee allow for the prohibition, enforcement actions, and penalties related to the use of any fireworks, dangerous fireworks, or safe and sane fireworks within City limits. Illegal fireworks include skyrockets, bottle rockets, roman candles, aerial shells, firecrackers and other types of fireworks that explode, go into the air, or move on the ground in an uncontrollable manner. Illegal fireworks do not carry the "Safe and Sane" seal of the California State Fire Marshal.

The fine structure for current enforceable fireworks laws varies slightly between Meniffee Municipal Code, the County of Riverside Municipal Code, and the California Health & Safety Code. Fines and penalties can vary between infractions and misdemeanors, between a \$500 fine to a \$1,000 fine, and finally between County jail imprisonment terms of six months to one year.

**Meniffee Municipal Code 11.19.020**, prohibiting the possession of fireworks, currently establishes that a violation of said section is a misdemeanor. The Municipal Code calls for a fine of not less than \$500 nor more than \$1,000, or by imprisonment in the County jail not exceeding one year, or by both such fine and imprisonment. Upon a second or subsequent conviction of the offense, the person shall be punished by a fine of \$1,000 and by imprisonment in the County jail for one year. The fees and penalties outlined in our Municipal Code are reflective of state laws.

Government code 36901 allows a city legislative body to impose fines, penalties, and forfeitures for violations of Municipal Code ordinances. The government code allows for penalties by fine or imprisonment, or both. It also specifies that a fine shall not exceed \$1,000 and imprisonment shall not exceed six (6) months. The City of Menifee Municipal Code currently calls for County jail imprisonment not exceeding one-year, for a violation of the fireworks code.

**The Riverside County Municipal Code 9.22.070**, calls for a misdemeanor violation, and upon conviction a fine not exceeding \$1,000.00, or by imprisonment in the County jail for not exceeding one year, or by both. Upon any second or subsequent conviction of the offense, the person shall be punished by the penalties of a fine of \$1,000.00 and by imprisonment in the County jail for one year.

The **California Health & Safety code 12700**, calls for a misdemeanor violation, and upon conviction, a fine of not less than five hundred dollars (\$500) or no more than one thousand dollars (\$1,000), or by imprisonment in the County jail not exceeding one year, or by both that fine and imprisonment.

The fines and penalties for the current fireworks laws that the city of Menifee has at its disposal are imposed by state law and reviewed by the Riverside County Superior Court.

The Menifee Municipal Code governing fireworks, found in Chapter 11.19 was codified through the adoption of Ordinance 2009-26 and adopted on March 17, 2009.

The administrative citation process for the City of Menifee is outlined in Chapter 1.03 of the Menifee Municipal Code. It was codified through the adoption of Ordinance 2008-17 and adopted on January 6, 2009. The fee schedule for administrative fines applicable to violations of the Menifee Municipal Code was adopted on July 7, 2009, and codified by Resolution 09-100. Administrative citations for violations of a Municipal Code which are deemed an infraction by local ordinance, are punishable per criminal penalties set forth in Government Code Section 36900(b). Because of this, violations for fireworks possession, which are deemed misdemeanors per our Municipal Code, may not be charged as administrative citations. The fine schedule for every administrative citation violation determined to be an infraction is punishable by the following:

- (1) A fine not exceeding \$100 for a first violation.
- (2) A fine not exceeding \$200 for a second violation of the same ordinance within one year.
- (3) A fine not exceeding \$500 for each additional violation of the same ordinance within one year.

The following are current laws that the City of Menifee has at its disposal to impose fines related to illegal fireworks violations.

### **Menifee Municipal Code**

#### **1. 11.19.020-PROHIBITION**

a. No person shall have in his or her possession, or keep, store, use, shoot, discharge, set off, ignite, explode, manufacture, sell, offer to sell, give or transport any fireworks, dangerous fireworks, or safe and sane fireworks, except for use as agricultural and wildlife fireworks or for use in a public display of fireworks pursuant to a permit obtained under the provisions of the California Health and Safety Code §§ 12640 through 12654 and this chapter.

b. Manufacturing prohibited. The manufacturing of fireworks, dangerous fireworks, or safe and sane fireworks is prohibited except under special permits as required by local and state regulations by the Fire Chief and the Sheriff.

c. Pyrotechnic special effects material. A permit is required to manufacture, compound, store or use pyrotechnic special effects material. Permit application shall be made to the Fire Chief and the Sheriff. A permit shall be granted only to a State Fire Marshal licensed pyrotechnic operator.

#### **2. 11.19.060-PENALTIES**

a. Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than \$500 nor more than \$1,000, or by imprisonment in the County jail for not exceeding one year, or by both such fine and imprisonment.

b. Upon any second or subsequent conviction of the offense, the person shall be punished by the penalties of a fine of \$1,000 and by imprisonment in the County jail for one year.

c. 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.

d. Nothing in this chapter shall be intended to limit any of the penalties provided for under the California Health and Safety Code or Penal Code with regard to the sale, use, possession, delivery, and/or transportation of dangerous fireworks.

### **County of Riverside Municipal Code**

#### **1. 9.22.030-PROHIBITION**

a. No person shall have in their possession or keep, store, use, shoot, discharge, set off, ignite, explode, manufacture, sell, offer to sell, give, or transport, any fireworks, dangerous fireworks or Safe and Sane fireworks.

#### **2. 9.22.070-PENALTIES**

a. Misdemeanor penalty. Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$1,000.00, or by imprisonment in the County jail for not exceeding one year, or by both. Upon any second or subsequent conviction of the offense, the person shall be punished by the penalties of a fine of \$1,000.00 and by imprisonment in the County jail for one year.

## **California Health & Safety Code**

### **1. 12677-PROHIBITION**

It is unlawful for any person to possess dangerous firework without holding a valid permit.

### **2. 12700-PENALTIES**

a. A person who violates any provision of this part, or any regulations issued pursuant to this part, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$500 or more than \$1,000, or by imprisonment in the County jail for not exceeding one year, or by both that fine and imprisonment.

Based on the information presented, staff is soliciting direction from the City Council regarding the illegal firework fine structure.

### **STRATEGIC PLAN OBJECTIVE**

Safe and Vibrant Community

### **FISCAL IMPACT**

There is no fiscal impact associated with the recommended action.

### **ATTACHMENTS**

None.