

ORDINANCE NO. 2315

ORDINANCE NO. 2315 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, AMENDING SECTIONS 15-68 (ADMINISTRATIVE FINES), 15-69 (RIGHT TO AN ADMINISTRATIVE HEARING), 15-70 (ADMINISTRATIVE HEARING-PROCEDURES), AND 15-71 (HEARING DECISION – RIGHT TO APPEAL)

WHEREAS, Article XI, Section 7 of the California Constitution grants the City of West Covina authority to enact and enforce ordinances for the public welfare; and

WHEREAS, Government Code section 53069.4 authorizes the City of West Covina to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty; and

WHEREAS, Health and Safety Code section 12557 authorizes the City of West Covina to impose administrative penalties for the use of dangerous fireworks; and

WHEREAS, West Covina Municipal Code section 15-62 prohibits the sales, possession or use of safe and sane fireworks in the City of West Covina; and

WHEREAS, Health and Safety Code section 12557 provides that a local ordinance relating to dangerous fireworks must either be the model ordinance developed by the State Fire Marshal or must contain certain provisions and be limited to persons who possess or seizures of 25 pounds or less of dangerous fireworks; and

WHEREAS, the City Council finds that both dangerous fireworks and "safe and sane fireworks" can cause injury, fires and damage to both public and private property;

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

SECTION NO. 1: Section 15-68 C. (Administrative Fines) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby amended to read as follows, with regard to the fines for safe and sane fireworks:

C. Each person who sells, possesses or uses "safe and sane fireworks" in the City shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of offense in 1 year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
First	\$ 350	\$ 75	\$ 425
Second	\$ 700	\$ 150	\$ 850
Third	\$ 1,000	\$ 300	\$ 1,300

SECTION NO. 2: Section 15-69 (Administrative Hearing) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby amended to read as follows:

15-69 RIGHT TO AN ADMINISTRATIVE HEARING

- A. Any citee may contest the violation(s), or that he or she is a responsible person, by requesting an administrative hearing within 30 calendar days from the issuance date of a citation. This administrative hearing request shall be done online on the City of West Covina's website by entering the citation number and following the prompts. For those individuals who do not have access to a computer, they can utilize, free of charge, the kiosks located in the Police Department Lobby and/ or The Plaza (second floor-Police Department Office, adjacent to the Security Office) to complete this function. If the request is not received within the required time period (30 calendar days), the citee shall have waived a right to a hearing and the citation shall be deemed confirmed and final.
- B. No additional fees shall be charged for the filing of a request for a hearing.
- C. Citees must deposit the full amount of the penalty listed on the citation on or before the request for a hearing is filed. Failure to deposit the full amount of all penalties within the required time period, or the tender of a non-negotiable check, shall render a request for an administrative hearing incomplete and untimely. Penalties that are deposited with the city shall not accrue interest. Penalties deposited shall be returned to the person who deposited them if the citation is overturned.
- D. A request for an administrative hearing shall be done online by logging onto the City of West Covina website and providing complete information required by the prompts to request a hearing.
- E. The citees will be notified via U.S. Mail of a hearing date within 30 days of filing the request. Service of this notice is deemed complete at time of mailing. The failure of a citee to receive a properly addressed notice shall not invalidate the citation or any hearing, city action or proceeding conducted pursuant to this Article.
- F. The hearing will be conducted within 90 days of the date a timely and complete request is received by City.

SECTION NO. 3: Section 15-70 A. (Administrative Hearing Procedures) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code:

15-70 ADMINISTRATIVE HEARING – PROCEDURES

- A. The designated hearing officer shall hear all requests for administrative hearings of administrative fines in accordance with the procedures established herein. The employment, performance evaluation, compensation, and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

SECTION NO. 4: Section 15-71 B. (Right of Appeal) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby amended to read as follows:

15-71 HEARING DECISION - RIGHT OF APPEAL

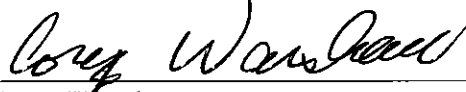
- B. The citee will be notified of the written decision via U.S. Mail. The date the decision is deposited with U.S. Postal Service shall constitute the date of its service. The failure of a citee to receive a properly addressed decision shall not invalidate any hearing, city action or proceeding conducted pursuant to this Article.

SECTION NO. 5: The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this ordinance may have a significant effect on the environment. The ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.

SECTION NO. 6: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that anyone or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

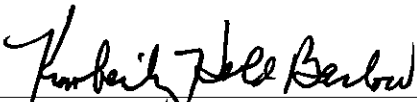
SECTION NO. 7: This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of West Covina shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED AND ADOPTED on this 2nd day of May, 2017.




Corey Warsaw
Mayor

APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

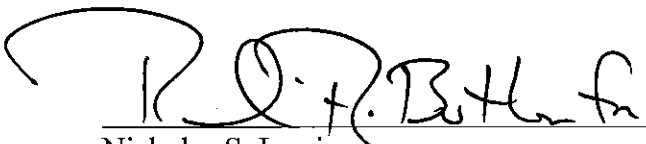
ATTEST:



Nickolas S. Lewis
City Clerk

I, NICKOLAS S. LEWIS, CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 18th day of April, 2017. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 2nd day of May, 2017, by the following vote:

AYES: Spence, Toma, Warshaw
NOES: Johnson, Wu
ABSENT: None
ABSTAIN: None



Nickolas S. Lewis
City Clerk