

ORDINANCE NO. 26-1545

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY AMENDING CHAPTER 5 ("FIREWORKS") OF ARTICLE III ("PUBLIC SAFETY") OF THE DOWNEY MUNICIPAL CODE TO HOLD PROPERTY OWNERS AND RESPONSIBLE PERSONS ACCOUNTABLE FOR UNLAWFUL FIREWORKS USED OR FOUND ON THEIR PROPERTY AND TO PROVIDE FOR THE RECOVERY OF EMERGENCY RESPONSE COSTS

WHEREAS, Section 7 of Article XI of the California Constitution provides that a City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and,

WHEREAS, California Government Code Section 38771 provides that legislative bodies of cities may declare what constitutes a nuisance; and,

WHEREAS, the State of California has enacted the "State Fireworks Law" (California Health & Safety Code, Division 11, Part 2), which, in part, regulates the manufacturing, storage, transportation, sale, possession, and discharge of both "Dangerous Fireworks" and "Safe and Sane Fireworks" – while explicitly allowing cities and/or counties the ability to regulate or prohibit the sale, use, and/or discharge of all fireworks within the city and/or county; and,

WHEREAS, the State Fireworks Law further authorizes local jurisdictions to prohibit the possession of dangerous fireworks in the amount of 25 pounds or less (subject to a civil/administrative fine); and,

WHEREAS, the City of Downey recognizes that all fireworks, including those designated as "Safe and Sane", create potential hazards to the public's health, safety and general welfare; and,

WHEREAS, Chapter 5 ("Fireworks") of Article III ("Public Safety") of the Downey Municipal Code regulates the possession, sale, use, and discharge of fireworks (both dangerous and safe-and-sane); and,

WHEREAS, the City of Downey has a substantial interest in promoting compliance with the local, State, and Federal laws intended to safeguard the members of the community – especially protecting children from being influenced by the misconduct of adults; and,

WHEREAS, the possession, sale, use, and/or discharge of fireworks in violation of local, State, and Federal laws is a threat to the public health, safety, and quiet enjoyment of residential properties and the general welfare; and,

WHEREAS, the City of Downey has made substantial efforts to enforce the law regulating and/or prohibiting the possession, sale, use, and/or discharge of fireworks; yet, despite these efforts, the illegal use of fireworks in the City during celebratory events such as New Year's Eve, Independence Day (4th of July), or championships obtained by local professional sporting teams remains a serious problem in the City, contributing significantly to the incidents of fires and personal injuries – which could include burns, loss of limbs, and/or death; and,

WHEREAS, the unlawful possession, sale, use, and/or discharge of fireworks often occurs on private real properties where the owner, tenant, or other persons in possession or control of the real property know or should reasonably know of the unlawful conduct, or where they are otherwise causing, allowing, permitting, suffering, promoting, or instigating the unlawful possession, sale, use, and/or discharge of fireworks; and,

WHEREAS, the unlawful discharge of fireworks – especially those fireworks classified as Dangerous Fireworks by the State Fire Marshal, tend to attract large groups of Spectators who, in turn, instigate, promote, and/or encourages an environment that fuels the unlawful discharge of additional fireworks; and,

WHEREAS, the presence and/or gathering of Spectators at public and private properties where unlawful discharges of fireworks occur threatens the peace, health, and safety of the public, often interferes with pedestrian and/or vehicular traffic, and could interfere with or impede investigations by the Downey Police Department and/or Fire Department into the unlawful possession, storage, or discharge of fireworks; and,

WHEREAS, property owners, tenants, and other responsible persons have failed to take sufficient action to prevent the occurrence or reoccurrence of gatherings, where others were invited and allowed to possess, use, and/or discharge fireworks on private property or immediately adjacent public property in violation of applicable laws; and,

WHEREAS, the lack of control by owners, tenants, or other responsible persons of gatherings on private property where the unlawful possession, sale, use, and/or discharge is occurring is determined to be a public nuisance and a threat to the peace, health, safety, and/or general welfare of the public; and,

WHEREAS, responses to unlawful fireworks activity by the Downey Police Department, Downey Fire Department, and other emergency response personnel have resulted in a disproportionate expenditure of public safety resources and tax dollars; and,

WHEREAS owners, tenants, and other persons who allow gatherings on real property where the unlawful possession, sale, use, and/or discharge of fireworks is occurring are more likely to supervise or to stop such gatherings if held strictly responsible for the illegal actions of the gatherings that occur on the real property or the immediately adjacent public right-of-way; and,

WHEREAS, in accordance with Downey City Charter Sections 511 and 514, the City Council of the City of Downey finds that this Urgency Ordinance is enacted for, and reasonable and necessary for, the immediate preservation and protection of the public peace, health, safety, and welfare by imposing a prohibition upon persons being knowing Spectators at unlawful fireworks discharges, as well as imposing strict liability on Social Hosts where unlawful fireworks activities occur, before the upcoming Independence Day – when most unlawful fireworks activities within the City of Downey occur; and,

WHEREAS, pursuant to Downey City Charter Sections 511 and 514, if passed by the affirmative votes of at least four (4) members of the City Council, this Urgency Ordinance will become effective immediately.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. Section 3501 ("Definitions") of Chapter 5 ("Fireworks") of Article III ("Public Safety") of the Downey Municipal Code is hereby amended to read in its entirety as follows:

§ 3501 DEFINITIONS.

For the purpose of this chapter, the most current adopted California Health and Safety Code (Sections **12500** through **12534**) will define the terms used unless the context clearly requires

otherwise or unless otherwise defined herein.

A. "Social Host" shall mean:

1. Any owner of private property;
2. Any person who has the right to use, possess, or occupy public or private property under a lease, permit, license, rental agreement, or contract; and/or,
3. Any person who hosts, organizes, supervises, officiates, conducts, or accepts responsibility for a gathering of two or more people on public or private property.

A "Social Host" does not include any government entity, including, but not limited to, a City, school district, and/or political subdivision.

B. "Spectator" shall mean any person who is within two hundred feet (200') of a fireworks discharge for the purpose of viewing, observing, watching, or witnessing the fireworks discharge.

SECTION 2. Section 3507 ("Social Host and Spectator Liability") of Chapter 5 ("Fireworks") of Article III ("Public Safety") of the Downey Municipal Code is hereby amended to read in its entirety as follows:

§ 3507 SOCIAL HOST AND SPECTATOR LIABILITY.

A. **Prohibition.**

1. **Social Host.** It is unlawful and a public nuisance for any Social Host to cause, allow, permit, suffer, or otherwise fail to prevent the unlawful possession, storage, sale, use, ignition, display, or discharge of fireworks on the Social Host's property, an immediately adjacent public or private street or sidewalk, or any other immediately adjacent public right-of-way.

2. **Spectator.** It is unlawful and a public nuisance for any person to be knowingly present as a Spectator during an unlawful discharge of fireworks.

B. **Strict Liability.** Social Hosts shall be strictly liable for any offense under this Section and, as such, the Social Host need not be present at the time of, nor have prior knowledge of, the unlawful possession, storage, sale, use, ignition, display, or discharge of fireworks.

C. **Exemptions.** The prohibitions under this Section shall not apply to:

1. A Social Host who initiates contact with the Police Department or Fire Department to report the unlawful conduct and, thereafter, assists in terminating the gathering and/or the unlawful conduct in order to comply with this Chapter, if the request for assistance is made before any other person contacts the Police Department or Fire Department about the violation of this Section.

2. Any owner of private real property who affirmatively demonstrates that, at the time of the violation:

a) The real property was subject to a lease or rental agreement to another person, and the property owner has provided sufficient information to law enforcement to identity and to contact the renter/lessee or other responsible party;

b) The owner was not present at the real property; and,
c) The owner had no prior knowledge (actual or constructive) of the violation.

i) The owner shall be deemed to have had prior constructive knowledge of the violation unless the owner demonstrates that the owner took all reasonable steps to prevent the unlawful conduct – including, but not limited to, explicitly prohibiting the unlawful possession, use, and/or discharge of fireworks in any lease or rental agreement; ensuring active supervision of any gatherings at the real property and intervening if any unlawful fireworks activities occur; and contacting the Downey Police Department and/or Fire Department prior to any response by law enforcement, fire officials, or other emergency response service regarding unlawful fireworks activities at the real property.

3. Any person who has the right to use, possess, or occupy a unit in a multifamily residential property under a lease, rental agreement, or contract when the possession, storage, sale, use, ignition, or discharge of fireworks occurs in a common area of the property, and:

a) The person did not organize, supervise, or accept responsibility for the gathering at which the unlawful conduct occurs;

b) The person did not cause, permit, allow, facilitate, promote, or instigate the unlawful conduct; or,

c) The person was not a Spectator at the unlawful discharge of the fireworks.

4. Instances where the possession, storage, sale, use, ignition, or discharge of fireworks adheres to applicable local, State, and Federal laws.

D. **Administrative Fine.** In any instance where the City elects to issue an administrative citation (pursuant to Article I, Chapter 4 of this Code) to a Social Host or Spectator, the amount of the fine shall be the same as that set by City Council Resolution for the unlawful conduct for which the person was a Social Host or Spectator, unless set otherwise by City Council Resolution.

SECTION 3. Section 3515 ("Recovery of Emergency Response Costs") of Chapter 5 ("Fireworks") of Article III ("Public Safety") of the Downey Municipal Code is hereby added to read as follows:

§ 3515 RECOVERY OF EMERGENCY RESPONSE COSTS.

A. In addition to any fines or penalties which may otherwise be applicable for violations of this Chapter, the City shall be entitled to recover from any person found to be in violation of any provision of this Chapter, the City's full Emergency Response Costs.

B. For purposes of this Section, Emergency Response Costs shall mean those reasonable and necessary costs directly incurred by the City for responding to incidents involving the unlawful possession, storage, and/or discharge of fireworks and shall include the cost of providing police, fire, and/or other emergency response services at the scene, including, but not limited to:

1. Salaries and benefits of law enforcement and/or emergency service personnel for the full amount of time responding to, remaining at, or otherwise addressing such unlawful conduct, and the administrative costs attributable to such responses;

2. The cost of any medical treatment to or for any law enforcement or emergency service personnel while responding to, remaining at, or leaving the scene;

3. The cost of the use of any City equipment used in responding to, remaining at, or leaving the scene of any unlawful possession, storage, sale, use, ignition, or discharge of fireworks; and,

4. The cost of repaying any City equipment or property damaged while responding to, remaining at, or leaving the scene of any unlawful possession, storage, sale, use, ignition, or discharge of fireworks.

C. A criminal conviction is not required for establishing a person's responsibility for Emergency Response Costs.

D. The City Manager is authorized to promulgate Rules and Regulations for the administrative assessment and collection of Emergency Response Costs. Such Rules and Regulations shall, at a minimum, require that the responsible party be provided with an accounting of the Emergency Response Costs the City is seeking, and an opportunity to challenge the assessment.

E. Nothing in this Section shall limit or restrict the City from obtaining restitution or reimbursement for Emergency Response Costs in any administrative, civil, or criminal proceeding as otherwise allowed by law.

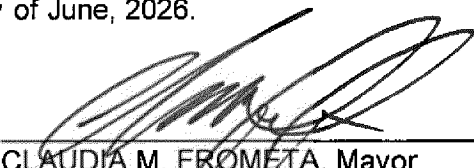
SECTION 4. SEVERABILITY. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, paragraph, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. URGENCY. The City Council finds and declares that this Urgency Ordinance is required for the immediate preservation and protection of the public peace, health, safety, and welfare for the reasons set forth above.

SECTION 6. This Urgency Ordinance is adopted pursuant to Downey City Charter Sections 511 and 514 and shall become effective immediately upon its adoption by at least four (4) affirmative votes of the members of the City Council.

SECTION 7. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in the manner prescribed by law.

APPROVED AND ADOPTED this 23rd day of June, 2026.



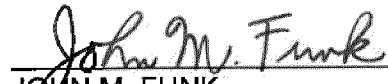
CLAUDIA M. FROMETA, Mayor

ATTEST:



MARIA ALICIA DUARTE, CMC
City Clerk

APPROVED AS TO FORM:



JOHN M. FUNK
City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF DOWNEY)

I **HEREBY CERTIFY** that the foregoing Urgency Ordinance No. 26-1545, was adopted at a Regular meeting of the City Council of the City of Downey held on the 23rd day of June, 2026, by the following vote, to wit:

AYES:	Council Members:	Pemberton, Sosa, Trujillo, Ortiz, Mayor Frometa
NOES:	Council Members:	None.
ABSENT:	Council Members:	None.
ABSTAIN:	Council Members:	None.

I **FURTHER CERTIFY** that a Summary of the foregoing Urgency Ordinance No. 26-1545, was published in the Downey Patriot, a newspaper of general circulation in the City of Downey, on June 11, 2026 (after adoption, including the vote thereon). It was also posted in the regular posting places in the City of Downey on the same dates.



MARIA ALICIA DUARTE, CMC
City Clerk