

**CITY OF RANCHO CORDOVA**

**ORDINANCE NO. 13-2021**

**AN URGENCY ORDINANCE OF THE CITY OF RANCHO CORDOVA ADDING SECTION 4.54.305 TO THE RANCHO CORDOVA MUNICIPAL CODE PERTAINING TO HOST LIABILITY FOR FIREWORKS ORDINANCE VIOLATION**

**THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Findings.** This urgency ordinance is adopted pursuant to the following findings:

**WHEREAS**, the State of California has received historically low amounts of rain and snow over the past year; and

**WHEREAS**, Governor Newsom has issued a drought emergency proclamation declaring a state of emergency, in among others, Sacramento County, to address historically low and unanticipated shortages in the amount of water available; and

**WHEREAS**, according to the National Integrated Drought Information System (“NIDIS”), 2021 has been the 10<sup>th</sup> driest year in the 127 years of historical data. Additionally, NDIS has deemed the Sacramento County region to be in a state of “Extreme Drought,” the second highest category of drought designation by NDIS, meaning that water supply is inadequate for agriculture, wildlife, and urban needs, reservoirs are extremely low, and that fire season will last year-round and fires have a higher propensity to occur in normally saturated parts of the County; and

**WHEREAS**, the last measurable precipitation in the Sacramento area, according to the National Oceanic and Atmospheric Administration, California Nevada River Forecast Center, was in the month of March, and the area received no precipitation for the months of April and May; and

**WHEREAS**, given the historically dry conditions in the City of Rancho Cordova and the extreme water shortage due to the ongoing drought conditions in the region and statewide, there is an exceptionally high risk of fires occurring in the City; and

**WHEREAS**, the use of illegal fireworks, generally, pose significant public health, safety, and welfare risks to those that discharge the illegal fireworks as well as members of the public in the surrounding areas; and

**WHEREAS**, those risks are now particularly high because of the current drought; and

**WHEREAS**, illegal fireworks have a high propensity to cause significant damage to properties and serious injuries, including death, to members of the public, including innocent bystanders; and

**WHEREAS**, this inherent danger that illegal fireworks pose, coupled with the current extreme drought, and fire conditions in the City, necessitate immediate action by the City; and

**WHEREAS**, the City finds and determines that holding property owners, property managers, residents, and social hosts individually liable for the use of illegal fireworks is necessary to protect the safety, health, and welfare of the public.

**SECTION 2. Urgency Findings.** The City Council of the City of Rancho Cordova hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, safety, and welfare that warrants this urgency measure, which finding is based upon the facts stated herein, and in the staff report dated June 21, 2021, as well any oral and written testimony at the June 21, 2021 City Council meeting.

This Urgency Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health, safety, and welfare. The facts constituting such urgency are all of those certain facts set forth and referenced in this Urgency Ordinance and the entirety of the record before the City Council.

**SECTION 3. Purpose.** The purpose of this Ordinance is to add Section 4.54.305t o Chapter 4.54 "REGULATIONS AND PROHIBITIONS" of the Rancho Cordova Municipal Code to impose liability upon property owners, property managers, residents, and social hosts for violating the Rancho Cordova Fireworks Ordinance in order to protect the public's health, life, and safety from the danger of fireworks.

**SECTION 4. Addition to the Code** Section 4.54.305 "Host Liability" is hereby added to the Rancho Cordova Municipal Code to read as follows:

4.54.305 Host Liability.

A. The term "host" in this Section shall mean the person who:

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

B. The term "strictly liable" in this Section shall mean liability for a wrongful act regardless of a person's intent, knowledge, negligence, or lack thereof in committing the wrongful act.

C. Any host shall be strictly liable for any unlawful ignition, explosion, discharge, use, or display of any fireworks in violation of this Section on their property or at their gathering, except that no person who has the right to use, possess, or

occupy a unit in a multifamily residential property under a lease, rental agreement, or contract shall be liable for a violation of this Section occurring in the common area of the property unless the person hosts, organizes, supervises, officiates, conducts, or accepts responsibility for a gathering at which the violation occurs.

- D. Any person having the care, custody, or control of a minor shall be strictly liable for any unlawful ignition, explosion, discharge, use, or display of fireworks by the minor in violation of this Section.
- E. Except as provided below in subsection F, no host shall permit or allow another person on private property or at a gathering on public property, where the host knows or reasonably should know that the person is engaged in a violation of this Section.
- F. The provisions of this Section shall not apply to:
  - 1. Conduct involving display, use, or discharge of fireworks as permitted under federal or state law;
  - 2. 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 Section, if the request for assistance is made before any other person contacts law enforcement or fire officials to complain about the violation of this Section;
  - 3. No host shall aid or abet another person's violation of a provision of this Section 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 Section 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.
- G. A violation of this Section shall be charged as a misdemeanor punishable by a fine not exceeding \$1,000 or imprisonment in the county jail for not more than six months, or both. In addition to any other remedy allowed by law, any host who violates this section is subject to all remedies available remedies pursuant to RCMC Section 1.01.190. Violations of this section are declared to be a public nuisance. Any host who violates this Section is liable for all the response costs relating to the violation. Any fines pursuant to this Section, if delinquent, may be recoverable by property lien or special assessment pursuant RCMC Section 1.01.200.

H. Unless otherwise noted, the provisions of RCMC Chapter 16.18, Article XIV shall also apply to this Section.

**SECTION 5. Scope.** Except as set forth in this Ordinance, all other provisions of the Rancho Cordova Municipal Code shall remain in full force and effect.

**SECTION 6. No Mandatory Duty of Care.** This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards person and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 7. Severability.** If any section, subsection, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council declares that it would have passed this section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

**SECTION 8. Effective Date.** This Ordinance is an urgency measure and shall become effective immediately.

**PASSED AND ADOPTED** by the City Council of the City of Rancho Cordova this 21<sup>st</sup> day of June, 2021, by the following vote:

**AYES:** Budge, Pulipati, Sander, and Gatewood

**NOES:** None

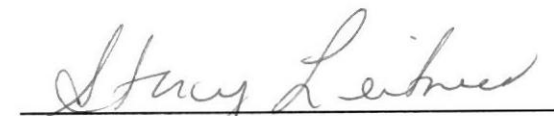
**ABSENT:** None

**ABSTAIN:** None



Garrett Gatewood, Mayor

**ATTEST:**



Stacy Leitner, CMC,  
City Clerk