

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



1.1

On motion of Supervisor Spiegel, seconded by Supervisor Washington and duly carried by unanimous vote, IT WAS ORDERED, FOUND AND DETERMINED that the following ordinances were duly published:

<u>ORDINANCE</u>	<u>DATE</u>	<u>NEWSPAPER</u>
No. 858.2	May 22, 2021	The Press-Enterprise

Roll Call:

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None

I hereby certify that the foregoing is a full, true and correct copy of an order made and entered on October 5, 2021, of Supervisors Minutes.

(seal)

WITNESS my hand and the seal of the Board of Supervisors
Dated: October 5, 2021
Kecia R. Harper, Clerk of the Board of Supervisors, in and for
the County of Riverside, State of California.

By: *[Signature]*, Deputy

AGENDA NO.

1-1

ATTACHMENTS FILED WITH
THE CLERK OF THE BOARD

THE PRESS-ENTERPRISE

1825 Chicago Ave, Suite 100
Riverside, CA 92507
951-684-1200
951-368-9018 FAX

PROOF OF PUBLICATION (2010, 2015.5 C.C.P)

Publication(s): The Press-Enterprise

PROOF OF PUBLICATION OF

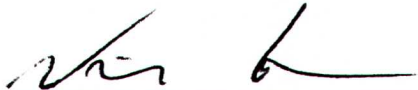
Ad Desc.: Notice of Adoption - Ordinance No. 858.2 /

I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper in general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673, under date of August 25, 1995, Case Number 267864, and under date of September 16, 2013, Case Number RIC 1309013; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

05/22/2021

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date: May 22, 2021
At: Riverside, California



Legal Advertising Representative, The Press-Enterprise

BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE
PO BOX 1147
RIVERSIDE, CA 92502

Ad Number: 0011463230-01

P.O. Number:

Ad Copy:

*Executive Office
May 11, 2021
Item 3.39*

ORDINANCE NO. 858.2
AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 858 PROHIBITING FIREWORKS

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. A new subsection c. is added to Section 2. of Ordinance No. 858 to read as follows:
 "c. ENFORCEMENT OFFICER shall mean the SHERIFF, the Transportation and Land Management Agency Director, Building Official, Code Enforcement Official, County Counsel, District Attorney, or FIRE CHIEF and their designees.

Section 2. Existing subsections c., d., e., f., g., h., i., j., k., and l. of Section 2 of Ordinance No. 858 are relettered d., e., f., g., h., i., j., k., and l., respectively.

Section 3. Section 3. of Ordinance No. 858 is amended to read as follows:
"SECTION 3. PROHIBITION.
 a. GENERAL. No person shall have in his 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 as set forth below in Section 5 entitled "EXCEPTIONS".
 b. No property owner or person in control of property shall allow a person to possess, keep, store, use, shoot, discharge, set off, ignite, explode, manufacture, sell, offer to sell, give or transport FIREWORKS, DANGEROUS FIREWORKS, or SAFE AND SANE FIREWORKS on the property owned by such property owner, or on property under the person's control.
 c. 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.
 d. 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."

Section 4. Section 5 of Ordinance No. 858 is amended to read as follows:
"SECTION 5. EXCEPTION.
 a. Nothing in this Ordinance shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes or illumination of the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports or for use by military organizations.
 b. Nothing in this Ordinance shall be construed to prohibit the sale and use of SAFE AND SANE FIREWORKS on the Fourth of July at an authorized County site designated by the FIRE CHIEF for such SAFE AND SANE FIREWORKS sale and use. Permit for the sale of SAFE AND SANE FIREWORKS is required and shall be issued only to a licensed organization as recognized by the State of California. The number of permits available and the hours of sale shall be as designated by the FIRE CHIEF or designee. Applications for permits will be subject to review and approval by the FIRE CHIEF or designee, including, but not limited to, the applicant's strict compliance to applicable law, policies, posted regulations and requirements and additional permits for such use of an authorized site. Approval or denial of any permits shall be within the sole discretion of the FIRE CHIEF or designee. A denial of any permit required herein may be appealed to the Riverside County Board of Supervisors. Any use of SAFE AND SANE FIREWORKS at any County authorized site that do not comply with all posted regulations, policies, and requirements and permits for such use of such site shall be violations of this Ordinance and subject to the penalties set forth in Section 7.
 c. Nothing in this Ordinance shall be construed to prohibit the use of AGRICULTURAL and WILDLIFE FIREWORKS or for use in a PUBLIC DISPLAY of FIREWORKS pursuant to a permit obtained under provision of Section 1246-1264 of the Health and Safety Code, Riverside County Fire Code (Riverside County Ordinance No. 787) and this Ordinance.

Section 5. Section 6 of Ordinance No. 858 is amended to read as follows:
"SECTION 6. SEIZURE AND DISPOSAL.
 a. It shall be the duty of the ENFORCEMENT OFFICER and his authorized representatives to enforce the provisions of this Ordinance.
 b. The ENFORCEMENT OFFICER and his authorized representatives shall have the authority to seize, take, and remove any FIREWORKS, DANGEROUS FIREWORKS, and SAFE AND SANE FIREWORKS. The ENFORCEMENT OFFICER and his authorized representative may charge any person whose fireworks are seized pursuant to this section a reasonable amount which is sufficient to cover the cost of transporting, storing, handling, and disposing of the seized fireworks.
 c. The additional remedies and procedures for recovery of costs related to enforcement of violations provided for in Ordinance No. 725 are incorporated herein by reference."

Section 6. Section 7 of Ordinance No. 858 is amended to read as follows:
"SECTION 7. PENALTIES.
 a. Misdemeanor Penalty. Any person who violates any provision of this Ordinance is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000) 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 one thousand dollars (\$1,000) and by imprisonment in the county jail for one year.
 b. Property Owner Liability. Any property owner or person in control of property who allows a person, including a minor, to possess, keep, store, use, shoot, discharge, set off, ignite, explode, manufacture, sell, offer to sell, give or transport FIREWORKS, DANGEROUS FIREWORKS, or SAFE AND SANE FIREWORKS on the property owned by such property owner, or on property under the person's control shall be in violation of this Ordinance, regardless of the property owner's intent, knowledge or negligence, such violation being a strict liability offense.
 c. Nothing in this Ordinance 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.
 d. Administrative Civil Penalty. In addition to any other penalties provided by law, whenever the ENFORCEMENT OFFICER determines that a violation of this Ordinance has occurred, the ENFORCEMENT OFFICER shall have the authority to issue an administrative citation with an administrative civil penalty to any person responsible for the violation, including to any property owner or set forth in subsection b, above. Any administrative civil penalty shall be one thousand dollars (\$1000) for the first offense, two thousand dollars (\$2000) for the second offense within thirty-six (36) months, and five thousand dollars (\$5000) for each subsequent offense within thirty-six (36) months. The administrative citation shall contain the following information: (1) date, location and approximate time violation was observed; (2) the amount of the administrative civil penalty imposed for the violation; (3) instructions for the payment of the administrative civil penalty, and the time period by which it shall be paid and the consequences of failure to pay the administrative civil penalty within this time; (4) instructions on how to appeal the administrative citation; and (5) the signature of the ENFORCEMENT OFFICER. The failure of the administrative citation to set forth all required contents shall not affect the validity of the administrative citation or any proceedings to enforce said citation. The administrative civil penalty may be imposed via the administrative process set forth in Section 8 of this Ordinance, as provided in Government Code section 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process.
 e. Acts, omissions, or conditions in violation of this Ordinance that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations. A person is guilty of separate offense for each and every day or portion thereof during which he or it commits, continues, or permits a violation of this Ordinance.

Section 7. A new Section 8 is added to Ordinance No. 858 to read as follows:
"SECTION 8. APPEAL OF ADMINISTRATIVE CIVIL PENALTIES.
 a. Notice of Appeal. The recipient of an administrative citation may appeal its validity by filing a written notice of appeal with the County Department that issued the administrative citation. The written notice of appeal must be filed within twenty (20) calendar days of service of the administrative citation. The notice of appeal shall be accompanied by either an advance deposit of the administrative civil penalty imposed in the administrative citation or a request for advance deposit hardship waiver as set forth below. Failure to properly file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation. The notice of appeal shall be submitted on a form provided by the County Department that issued the administrative citation and shall contain the following information: (1) a brief statement setting forth the appellant's interest in the proceedings; (2) a brief statement of the material facts which the appellant claims support a contention that no violation exists and that no administrative civil penalty should be imposed or that an administrative civil penalty of a different amount is warranted; (3) an address at which the appellant agrees that notice of any additional proceeding or an order relating to the imposition of the administrative civil penalty may be received by mail; and (4) the notice of appeal must be signed by the appellant under penalty of perjury.
 b. Advance Deposit Hardship Waiver. Any person filing a notice of appeal to contest an administrative citation and who is financially unable to make the advance deposit of the administrative civil penalty as required, may submit a request for advance deposit hardship waiver with the notice of appeal. The request for advance deposit hardship waiver shall be filed with the County Department that issued the administrative citation on a form provided by the same County Department. The request shall be documented by a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the ENFORCEMENT OFFICER that the person's actual financial inability to deposit the full amount of the administrative civil penalty in advance of the hearing. The requirement of depositing the full amount of the administrative civil penalty shall be stayed for ten (10) calendar days pending a determination by the ENFORCEMENT OFFICER of the approval or denial of the request for advance deposit hardship waiver. The ENFORCEMENT OFFICER shall issue a written determination stating the approval or listing the reasons for the denial of the request for advance deposit hardship waiver. The written determination shall be mailed to the appellant at the address provided in the request. If the ENFORCEMENT OFFICER denies a request for advance deposit hardship waiver, the appellant shall remit the deposit to the County within fifteen (15) calendar days of the date of mailing notice of the denial. The written determination of the ENFORCEMENT OFFICER shall be final.
 c. Hearing on Appeal of Administrative Citation. Upon receipt of a timely filed notice of appeal of an administrative citation on an administrative civil penalty, an appeal hearing to consider the issuance of the administrative civil penalty shall be held before the County Hearing Officer appointed by the Board of Supervisors pursuant to Ordinance No. 643 and Government Code section 27720. At the time fixed in the notice of hearing, the County Hearing Officer shall receive evidence from the ENFORCEMENT OFFICER and the appellant regarding the violation of prohibitions contained in Section 3 of this Ordinance, as well as any facts the appellant claims support a contention that no violation exists and that no administrative civil penalty should be imposed or that an administrative civil penalty of a different amount is warranted. In conducting the hearing, the County Hearing Officer shall not be limited by the technical rules of evidence. Failure of the appellant to appear shall not affect the validity of the proceedings or order issued thereon.
 d. County Hearing Officer's Decision. The County Hearing Officer shall issue a written decision following the appeal hearing, which shall be issued to the appellant at the appellant's address set forth in the notice of appeal. If the administrative citation is determined to have been valid at the time of its issuance, the County Hearing Officer shall affirm the administrative civil penalty amount pursuant to subsection d. of Section 7 of this ordinance, and order said penalty to be paid within fifteen (15) calendar days of issuance of the County Hearing Officer's decision. The County Hearing Officer's decision shall contain instructions for obtaining judicial review of the decision as set forth below.
 e. Judicial Review of County Hearing Officer's Decision on Administrative Civil Penalty. Within twenty (20) calendar days of the date of issuance of the final decision of the County Hearing Officer, the appellant may

contest the County Hearing Officer's decision by filing an appeal in the Riverside County Superior Court pursuant to Government Code section 33069.4. The fee for filing the appeal is specified in Government Code section 7015 (currently \$25.00) and shall be paid to the Clerk of the Court. The failure to file the written appeal and to pay the filing fee within this period shall constitute a waiver of the right to an appeal and the County Hearing Officer's decision shall be deemed final and confirmed. A copy of the notice of appeal of the County Hearing Officer's Decision filed in the Riverside County Superior Court shall be served in person or by first class mail upon the County Department that issued the administrative citation by the appellant. The conduct of the appeal hearing is a subordinate judicial duty and may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the Presiding Judge of the Riverside County Superior Court. The appeal shall be heard de novo, and the contents of the file of the County Department that issued the administrative citation shall be received into evidence. A copy of the administrative citation and the Hearing Officer's Decision shall be admitted into evidence as prima facie evidence of the facts stated therein. The Court shall request that the County Department's file be forwarded to the Court, to be received within fifteen (15) calendar days of the request. The Court shall retain the fee for filing the appeal regardless of the outcome of the appeal. If the Court finds in favor of the appellant, the amount of the fee shall be reimbursed to the appellant by the County in accordance with the judgment of the Court. If the penalty has not been deposited and the decision of the Court is against the appellant, the County Department that issued the administrative civil penalty may proceed to collect the penalty using all means available under the law."

Section 8. A new Section 9 is added Ordinance No. 858 to read as follows:
"SECTION 9. NON-EXCLUSIVE REMEDIES AND PENALTIES. All remedies and penalties for violations of the prohibitions in this Ordinance shall be cumulative and not exclusive. Enforcement by use of any administrative, criminal or civil action, citation or administrative proceeding or abatement remedy does not preclude the use of additional citations or other remedies as authorized by other ordinance or law. Enforcement remedies may be employed concurrently or consecutively. Conviction and punishment of or enforcement against any person hereunder shall not relieve such person from the responsibility of correcting, removing or abating a violation, nor prevent the enforced correction, removal or abatement thereof. Each and every day, or any portion thereof, during which any violation of this ordinance is committed, continued, or permitted by such person, shall be deemed a separate and distinct offense."

Section 9. Existing Section 8 of Ordinance No. 858 is renumbered Section 10.

Section 10. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its adoption.

K. Spiegel, Chair of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on May 11, 2021 the foregoing Ordinance consisting of ten (10) sections was adopted by said Board by the following vote:

AYES: Jeffries, Spiegel, Washington, Perez and Hewitt
NAYS: None
ABSENT: None

Kecia R. Harper, Clerk of the Board
By: Hannah Lumanow, Board Assistant

Press-Enterprise: 5/22