

ORDINANCE NO. 2294

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADDING SECTIONS 15-63 THROUGH 15-72 TO ARTICLE III (FIREWORKS) OF CHAPTER 15 (MISCELLANEOUS PROVISIONS RELATING TO PUBLIC HEALTH AND SAFETY) OF THE WEST COVINA MUNICIPAL CODE IMPOSING PENALTIES FOR THE IMPROPER USE OF FIREWORKS.

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 Marshall 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 15-63 (Dangerous Fireworks) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby added as follows:

15.63 DANGEROUS FIREWORKS

Except as provided in Chapter 10 of the West Covina Municipal Code, adopting an amended version of Section 5608.2 of the California Fire Code, the sale, use and discharge of dangerous fireworks is prohibited within the city.

SECTION NO. 2: Section 15-64 (Prohibited Conduct) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby added as follows:

15.64 PROHIBITED CONDUCT

- A. Any person who causes, allows, permits, aids, or abets any discharge of fireworks (including a public display) without having first obtained a permit therefor from the Fire Marshal, including a property owner who knows or should know of the discharge, shall be in violation of this Article, unless otherwise permitted by ordinance.
- B. Any person who stores fireworks, including those classified as Safe and Sane by the California State Fire Marshal, except as expressly allowed by a permit issued by the Fire Marshall or his designee under Chapter 10 of this Code, shall be in violation of this Article.
- C. Administrative citation. Upon identification of an unpermitted discharge or illegal storage of fireworks, law enforcement may issue an administrative citation or a notice of violation to all responsible person(s) present at the unpermitted discharge of fireworks. Law enforcement shall notify those responsible persons present at the unpermitted discharge or illegal storage that further violation of the ordinance may result in the issuance of increased fines and assessment of response costs.

SECTION NO. 3: Section 15-65 (Purpose) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby added as follows:

15.65 PURPOSE

- A. This Article authorizes the imposition of administrative fines on any person who violates any provision of this Article or Chapter 10 of this Code in order to encourage and obtain compliance with the provisions of this Article and the City of West Covina's adopted Fire Code (Chapter 10) for the benefit and protection of the entire community. This Article governs the imposition, enforcement, collection and administrative review of all administrative fines, related to: (i) the possession, use, storage, sale and/or display of those fireworks classified as "dangerous fireworks" in California Health and Safety Code Section 12500, et seq., with the exception of a pyrotechnic licensee when operating pursuant to that license; and (ii) the use of "safe and sane fireworks" as defined in California Health and Safety Code Section 12500, et seq. Said administrative fines are imposed under authority of Government Code Section 53069.4, Health and Safety Code Section 12557, and the police power of the city.
- B. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized hereunder; and the issuance of a citation to any person constitutes but one remedy of the city to redress violations of this code by any person. By adopting this Article, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this code by any person, which this city may otherwise pursue.
- C. The imposition of fines related to "dangerous fireworks" under this Article shall be limited to persons who possess, sell, use and/or display, or the seizure of, 25 pounds or less (gross weight) of such dangerous fireworks.
- D. Fines collected pursuant to this Article related to "dangerous fireworks" shall not be subject to Health and Safety Code Section 12706, which section provides that certain fines collected by a court of the state be deposited with, and disbursed by, the County Treasurer.
- E. Because of the serious threat of fire or injury posed by the use of "dangerous fireworks" that can result from persistent or repeated failures to comply with the provisions of this code and the effect of such conditions or activities on the safety and the use and enjoyment of

surrounding properties and to the public health, safety and welfare, this Article imposes strict civil liability upon the owners of residential real property for all violations of this code existing on their residential real property. Each contiguous use, display and/or possession shall constitute a separate violation and shall be subject to a separate administrative fine.

SECTION NO. 4: Section 15-66 (Definitions) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby added as follows:

15-66 DEFINITIONS

For purposes of this Article, all words not herein defined shall have the same meanings ascribed to them as under the State Fireworks Law (Health and Safety Code Section 12500, et seq.) and regulations promulgated thereunder.

The following definitions apply to the use of these terms for the purposes of this Article:

- A. "Code" means the West Covina Municipal Code.
- B. "Code Enforcement Officer" (CEO) means any employee or agent of the City of West Covina designated by the City Manager or City Council to enforce any provision of this code.
- C. Fireworks shall mean any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. The term "fireworks" includes, but is not limited to, devices designated by the manufacturer as fireworks, torpedoes, skyrocketes, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits. For the purposes of this Article, "fireworks" includes both "dangerous fireworks" and "safe and sane fireworks" as defined by the California Health and Safety Code.
- D. "Issuance" or "Issued" means any of the following:
 - 1. The preparation and service of an administrative fine citation to a citee in the same manner as a summons in a civil action in accordance with Article III (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedures; or
 - 2. Mailing of administrative fine citation to the citee by certified mail with return receipt, to the address shown on the official records of the County Assessor; or
 - 3. By personally serving the responsible party by personal delivery of the administrative fine citation or by substituted service. Substituted service may be accomplished as follows:
 - a. By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household, and thereafter mailing by First Class Mail, postage pre-paid, a copy to the recipient at the address where the copy was left; or
 - b. In the event the responsible party cannot be served by First Class Mail, postage pre-paid, or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made upon the property manager or rental agency or may be affected by posting the property with the administrative fine citation and mailing a copy by First Class Mail, postage pre-paid, to the responsible party in violation at the address of the property where the violation exists.
- E. "Property" shall mean private property, rented residential premises, or rented commercial residences; including, but not limited to, a home, yard, or field, whether occupied on a

temporary or permanent basis, whether or not occupied as a dwelling and whether owned, leased, rented, or used with or without compensation.

- F. "Response costs" means those reasonable and necessary costs directly incurred by public safety personnel for a response to an unpermitted discharge or illegal storage of fireworks, and include the cost of providing law enforcement, firefighting, and/or other emergency services at the scene of the unpermitted discharge or illegal storage of fireworks including, but not limited to:
1. Salaries and benefits of public safety personnel for the amount of time spent responding to, remaining at, or otherwise dealing with the unpermitted discharge or illegal storage of fireworks, and the administrative costs attributable to the response(s); and
 2. The cost of any medical treatment to or for any public safety personnel injured responding to, remaining at or leaving the scene of the unpermitted discharge or illegal storage of fireworks; and
 3. The cost of repairing any public safety equipment or property damage, and the cost of the use of any such equipment, in responding to, remaining at, or leaving the scene of an unpermitted discharge or illegal storage of fireworks.
- G. "Responsible party" includes, but is not limited to:
1. The person(s) who owns, rents, leases, or otherwise has possession of the residence or other private property;
 2. The person(s) in immediate control of the residence or other private property; and
 3. The person(s) who organizes, supervises, sponsors, conducts, allows, controls, or controls access to the illegal discharge or illegal storage of fireworks.

If the residence or other private property is rented or leased, the landlord or lessor is not covered by this Article unless they fall within the category of persons described under subsection G.2. or 3., herein above. A landlord or lessor can only be held responsible under subsection G.3. if they have knowledge that fireworks (including a public display) are being discharged or illegally stored on the property without obtaining a permit therefor from the Fire Marshal.

- H. "Residence" or "other private property" means a home, yard, apartment, condominium, hotel or motel room, other dwelling unit, a hall or meeting room, or commercial property, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.
- I. "Violation" or "Violates" refers to any violation of any provision of this code as well as means the failure to comply with any additional requirement imposed on any license and/or approval issued to a person under or pursuant to a city ordinance.

SECTION NO. 5: Section 15-67 (Issuance of Administrative Citation - Contents) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby added as follows:

15.67 ISSUANCE OF ADMINISTRATIVE CITATION-CONTENTS

- A. Whenever a Police Officer or Code Enforcement Officer (CEO) determines that a violation of the code has occurred, the Police Officer or CEO may issue an administrative citation on a city-approved form listing the code violation(s) and the amount of the administrative fine required to be paid by the responsible person(s) in accordance with the provisions of this Article.

- B. Furthermore, an administrative fine or fines may be imposed on any person for failure to comply with any condition or requirement imposed on any license and/or approval issued under or pursuant to this code.
- C. Each administrative citation shall contain the following information:
1. The name, mailing address, date of birth, CDL number, and home or business telephone number of the responsible person charged with any violation of this code;
 2. The address or description of the location of the violation;
 3. The date or dates on which the person violated this code;
 4. The section or sections of this code that were violated;
 5. A description of the violation(s);
 6. The amount of the administrative fine for each violation, the procedure in place to pay the fines, and any late fee and interest charge(s), if not timely paid, and notice that if the city is required to take action to collect such fines, the responsible person may be charged costs and attorney's fees;
 7. Notice of the procedure to request an administrative hearing to contest the citation (including the form to be used, how to obtain the form, and the period within which the request must be made in order for it to be considered timely);
 8. The names, addresses and telephone numbers of any witnesses to the violation(s);
 9. The name and signature of the Officer or CEO who issued the citation and the name and signature of the citee, if he or she is physically present and will sign the citation at the time of its issuance. The refusal of a citee to sign a citation shall not affect its validity or any related subsequent proceedings, nor shall signing a citation constitute an admission that a person is responsible for a violation of the code;
 10. Any other information deemed necessary by the City Manager or his designee for enforcement or collection purposes.

SECTION NO. 6: Section 15-68 (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 added as follows:

15.68 ADMINISTRATIVE FINES

- A. Each person who violates any provision of this code as it relates to the possession, use, storage, sale and/or display of "dangerous fireworks" 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	\$ 1,000	\$ 250	\$ 1,250
Second	\$ 2,000	\$ 500	\$ 2,500
Third	\$ 3,000	\$ 1,000	\$ 4,000

- B. A person who fails to obtain a license or approval from the city when such a person is required by the code shall be subject to administrative fine or fines under this Article.

Number of offense in 1 year period	Amount of Administrative Penalty	Late Charge	Total Amount of Penalty plus Late Charge
First	\$ 500	\$ 125	\$ 625
Second	\$ 1,000	\$ 250	\$ 1,250
Third	\$ 1,500	\$ 500	\$ 2,000

- 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	\$ 345
Second	\$ 700	\$ 150	\$ 850
Third	\$ 1000	\$ 300	\$ 1,300

- D. In the case of a violation of any of the provisions listed above, the administrative fine(s) shall be due and payable within 30 calendar days from the issuance of the administrative fine citation, and the citee shall be required to abate the violation, and surrender all dangerous fireworks or the safe and sane fireworks to the CEO, immediately. For penalties not paid in full within that time, a late charge in the amount set forth above is hereby imposed and must be paid to the city by the citee. Fines not paid within the time established by this Article shall accrue interest at the legal rate. On the second and each subsequent time that a person is issued a citation for the same violation in any 12-month period, the fine is increased as indicated above and the citee shall be liable for the amount of the new fine until it is paid, in addition to being responsible for payment of previous fines.
- E. All administrative fines and any late charges and interest due shall be paid to the city at such a location or address as stated on the citation, or as may otherwise be designated by the City Manager. Payment of any fine or fines shall not excuse the citee from complying with the provision of the code so violated. The issuance of the citation and/or payment of any fine shall not bar the city from employing any other enforcement action or remedy to obtain compliance with the provisions of the code so violated including the issuance of additional citations and/or criminal prosecution.
- F. Upon confirmation of the citation or when the citation is deemed confirmed, all unpaid administrative fines, late fees and/or interest shall constitute a judgment which may be collected in any manner allowed by law for collection of judgments including but not limited to recordation to create a lien on any real property owned by the responsible person. The city shall be entitled to recover its attorney’s fees and costs incurred in collecting any administrative fines, late charges and/or interest.

- G. Payment of the administrative fine shall not excuse or discharge a citee from the duty to immediately abate and correct a violation of the code, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of the code.

SECTION NO. 7: 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 added 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 filing a request for an administrative hearing on a city-approved form with the City Clerk's office within 30 calendar days from the issuance date of a citation. If the City Clerk's office does not receive the request in the required time period, the citee shall have waived a right to a hearing and the citation shall be deemed confirmed and final.
- B. No 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 a hearing shall contain the following:
 - 1. The citation number;
 - 2. The name, address; telephone number and any facsimile numbers and e-mail addresses of each person contesting the citation;
 - 3. A statement of the reason(s) why a citation is being contested;
 - 4. The date and signature of the citee(s).
- E. The city will notify all persons who filed a request for a hearing in writing by First Class Mail of the date, time and place set for the hearing at least 10 calendar days prior to the date of the hearing. 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 60 days of the date a timely and complete request is received by City Clerk's Office.
- G. If the CEO or Police Officer submits an additional written report concerning the citation to the city for consideration at the hearing, the CEO or Police Officer shall also serve a copy of such report by First Class Mail on the person requesting an administrative hearing no less than 7 calendar days prior to the date of the hearing. Failure to receive said report shall not invalidate the citation or any hearing, city action or proceeding pursuant to this Article.

SECTION NO. 8: Section 15-70 (Administrative Hearing Procedures) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby added as follows:

15-70 ADMINISTRATIVE HEARING - PROCEDURES

- A. The hearing officer designated or appointed by the City Manager 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.
- B. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. The city bears the burden of proof to establish a violation and responsibility therefore by a preponderance of evidence. The citation is prima facie evidence of the violation, however, and the CEO who issued the citation is not required to attend or participate at the hearing. The citee(s) and CEO, if present, shall have an opportunity to present evidence and witnesses and to cross-examine witnesses. A citee may bring an interpreter to the hearing provided there is no expense to the city therefore. The hearing officer may question any person who presents evidence or who testifies at any hearing.
- C. A citee may appear at the hearing in person or by written declaration executed under penalty of perjury. Said declaration and any documents in support thereof shall be tendered to and received by the city at least 7 business days prior to the hearing. If the citee fails to attend or does not submit a written declaration in a timely manner, he or she shall be deemed to have waived the right to a hearing. In such an instance, the hearing officer shall cancel the hearing and not render a decision. In such instances, the citation shall be deemed confirmed.
- D. Hearings may be continued once at the request of a citee or the officer who issued the citation. The hearing officer may also continue the hearing for cause.

SECTION NO. 9: Section 15-71 (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 added as follows:

15-71 HEARING DECISION – RIGHT OF APPEAL

- A. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or overturn the citation and shall state the reasons therefor.
- B. The hearing officer shall serve citee(s) by First Class Mail with a copy of the written decision. 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.
- C. Decisions of the hearing officer are final.
- D. Right to judicial review. Any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Superior Court in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

SECTION NO. 10: Section 15-72 (Additional Penalties/Response Costs) of Article III (Fireworks) of Chapter 15 (Miscellaneous Provisions Relating to Public Health and Safety) of the West Covina Municipal Code is hereby added as follows:

15.72 ADDITIONAL PENALTIES AND RESPONSE COSTS

- A. Nothing in this Article 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, storage, and/or transportation of dangerous fireworks.
- B. In addition to the penalties described above, any person described in Section 15-64.A. shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00, imprisonment in the county jail for a period not exceeding six months, or both, if the discharge of fireworks:
 - 1. Is a substantial factor in causing harm to persons or property; and
 - 2. Causes serious bodily injury to persons, defined as the serious impairment of physical condition, and may include but is not limited to loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and/or serious disfigurement; and/or
 - 3. Causes damage to real or physical property in excess of \$1,000.00.

The penalties set forth herein are intended to be nonexclusive and are intended to be in addition to any other remedies provided in this Article or any other law, statute, ordinance or regulation.

- C. City's response costs. A responsible person(s) who has been issued a second administrative citation and/or written notice of violation of this ordinance may be liable for response costs incurred in responding to the unpermitted discharge or illegal storage of fireworks. All responsible persons shall be jointly and severally liable for the response costs incurred in the response and all subsequent responses.

If a responsible person is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this Article. To incur liability for response costs imposed by this Article, the responsible person for the unpermitted discharge or illegal storage of fireworks need not be present at the event that causes the response giving rise to the imposition of response costs. This Article therefore imposes vicarious as well as direct liability upon a responsible person.

- D. Recovery of administrative fines and costs.
 - 1. The City may collect any past due administrative citation fine or late payment charge by use of all available legal means, including filing a civil lawsuit.
 - 2. Any person who fails to pay any obligation shall be liable in any action brought by the City for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs, and attorneys' fees.
 - 3. Collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the delinquent obligation.
 - 4. Collection costs imposed under this provision shall be added to and become a part of the underlying obligation.
- E. State Marshal Cost Recovery. In addition to all other amounts which are authorized to be collected by the City for fines, late charges, penalties, interest or costs, a Responsible

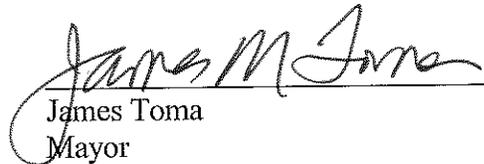
Party shall pay to the City, which shall in turn remit the amount to the State Fire Marshal, the actual cost for transportation and disposal by the Office of the State Marshal, to be determined and remitted as set forth in adopted regulations, rules, policies or procedures of the State of California or State Fire Marshal. Unless and until said regulations have been adopted by the State of California, the city shall hold in trust \$250 or 25% of any fine collected, whichever is greater, to cover the cost reimbursement to the State Fire Marshal for said cost of transportation and disposal of the "dangerous fireworks."

SECTION NO. 11: 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. 12: 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 any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION NO. 13: 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 5th day of April, 2016.


James Toma
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 1st day of March, 2016. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 5th day of April, 2016, by the following vote:

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



Nickolas S. Lewis
City Clerk