

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Robert Sapient, Jr.

SUBJECT: See Below

DATE: November 10, 2025

Approved



Date:

11/18/25

COUNCIL DISTRICT: Citywide

SUBJECT: Amendment to Spectator Fines for Illegal Fireworks Exhibitions

RECOMMENDATION

Adopt a resolution amending the Administrative Citation Schedule of Fines for violations of San José Municipal Code Chapter 10.17, Part 2, Section 10.17.105, to amend the fine amount to \$500 for spectators of illegal fireworks exhibitions.

SUMMARY AND OUTCOME

Approval of staff recommendation will authorize amendments to the Administrative Citation Schedule of Fines to increase the fine amount from the default \$25 to \$500 for spectators of illegal fireworks exhibitions. This adjustment would align San José with peer jurisdictions that levy fines for illegal fireworks exhibitions and strengthen enforcement by holding spectators accountable for contributing to unsafe gatherings.

BACKGROUND

On May 11, 2021, the City Council approved the Social Host Ordinance¹, which included provisions regulating the sale, use, possession, and storage of fireworks, as well as prohibiting spectators at fireworks exhibitions. Fine amounts were subsequently increased for the sale, use, possession, and storage of fireworks, but no fine was established for spectators of fireworks exhibitions. Based on the direction of the Public Safety, Finance, and Strategic Support Committee, the Fire Department (Department) conducted an Illegal Fireworks Fine Adjustment Study to determine the appropriate spectator fine amount.

¹ <https://records.sanjoseca.gov/Ordinances/ORD30569.pdf>

Effective January 2025, California State Assembly Bill 1403 increased misdemeanor penalties and potential jail time for fireworks violations. The state's fining method differs from that of the City in that fines are based on the weight of unaltered dangerous fireworks and do not include "safe and sane" fireworks. The state's fines start at \$1,000 for possession of 25 pounds and increase to a maximum of \$100,000 for possession of more than 5,000 pounds. The City Attorney's Office (CAO), Planning, Building and Code Enforcement Department (PBCE), Police Department, and the Department have evaluated the feasibility of amending the schedule of fines to align with the state for the sale of illegal fireworks of up to \$100,000 and increasing the fine amount for spectators of illegal fireworks displays to \$500.

On August 21, 2025, the Department and partnering City department staff presented the *2025 Fireworks Ordinance Work Plan Status Report*² to the Public Safety, Finance, and Strategic Support Committee regarding progress towards the fireworks ordinance work plan action items, as well as updates to illegal fireworks mitigation activities. Pursuant to the Public Safety, Finance, and Strategic Support Committee's feedback, the Department conducted the 2025 Illegal Fireworks Fine Adjustment Study, finding that San José's current \$25 fine for spectating illegal fireworks exhibitions is the lowest among surveyed jurisdictions that impose a spectator fine for persons at illegal fireworks exhibitions for the purpose of watching the event. This default minimal penalty offers little deterrence, especially when compared to nearby cities such as Redwood City and San Mateo, which impose fines of \$500 on spectators.

Based on this comparison and in coordination with the CAO, PBCE, and Police Department, Department staff recommend raising San José's spectator fine to \$500. The increase is intended to deter illegal fireworks activity, reduce associated risks of fire and injury, and enhance community safety during high-risk periods, such as the Fourth of July and Lunar New Year (Tết) holidays.

ANALYSIS

San José Municipal Code Section 10.17.100 specifies City fines for the sale, use, possession, and storage of fireworks: \$1,000 for the first offense, \$2,000 for the second offense, and \$3,000 for third and subsequent offenses. However, the fine amount for individuals spectating illegal fireworks exhibitions remains at the default amount of \$25.

In coordination with the CAO, PBCE – Code Enforcement Division, and the Police Department, the Department conducted a comprehensive review of penalty structures in 22 California jurisdictions, including 12 Bay Area cities. The analysis found that Redwood City and San Mateo impose a spectator fine of \$500 for an initial offense that has resulted in a stronger deterrence and greater protection against the loss of life,

² <https://sanjose.legistar.com/View.ashx?M=F&ID=14594072&GUID=EAA51F99-FC63-46B1-B02F-EDF26BFBE5>

property damage, and environmental harm caused by illegal fireworks use. See Attachment - 2025 Illegal Fireworks Fine Adjustment Study.

The Department recommends increasing the spectator fine to \$500, aligning San José with jurisdictions leading in strategies to eliminate illegal fireworks by prioritizing public safety and accountability.

While San José's current default fine of \$25 is higher than those of jurisdictions that impose no spectator fine, it does not provide a sufficient deterrent. Increasing the spectator fine amount would create a more effective deterrent against participation in illegal fireworks activity.

Enforcement

To ensure effective enforcement of the proposed spectator fine, it is important to understand the potential challenges in gathering the evidence needed to issue citations. As defined under San José Municipal Code Section 10.17.200, a "spectator" is any individual who is present for the purpose of viewing, observing, or watching the event; a person is considered "present" if they are within 200 feet of the fireworks; and a "fireworks exhibition" is any unpermitted discharge or use of fireworks. To establish a violation, the City must demonstrate that all elements are satisfied: that an unpermitted fireworks activity took place, that the individual was within 200 feet, that they knowingly observed the activity, and that they can be clearly identified. Supporting evidence may include direct staff observation, valid identification, and photographic or video documentation clearly showing the individual, as well as contextual details such as the time, location, size of the event, and the person's proximity to the fireworks.

While these requirements provide a clear framework for issuing citations, practical challenges can arise in collecting and documenting the necessary evidence. Large crowds, low lighting, and the transient nature of firework activity can make it difficult to identify individuals or capture reliable evidence. It can also be challenging to distinguish between spectators who are knowingly observing the event and those who are merely nearby. For these reasons, staff must take care to ensure that any citation is supported by clear, credible, and well-documented evidence showing that all elements of the violation have been met.

EVALUATION AND FOLLOW-UP

The number of Illegal Fireworks Spectator administrative citations issued in conjunction with the Social Host Ordinance by Code Enforcement in collaboration with the Police Department is reported annually to the Public Safety, Finance, and Strategic Support Committee as part of the Fireworks Ordinance Work Plan Status Report.

HONORABLE MAYOR AND CITY COUNCIL

November 10, 2025

Subject: Amendment to Spectator Fines for Illegal Fireworks Exhibitions

Page 4

COORDINATION

This memorandum was coordinated with the CAO, City Manager's Budget Office, PBCE, and Police Department.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 2, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making, resulting in no changes to the physical environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.



Robert Sapien, Jr.
Fire Chief, Fire Department

For questions, please contact James Dobson, Deputy Fire Chief/Fire Marshal, Fire Department, at james.dobson@sanjoseca.gov or (408) 535-7792.

ATTACHMENT

2025 Illegal Fireworks Fine Adjustment Study

Attachment: 2025 Illegal Fireworks Fine Adjustment Study

Jurisdiction	Use, Possession 1st Violation	Use, Possession 2nd Violation	Use, Possession 3rd Violation	Possession of Dangerous Fireworks	Spectator Violation
San José	\$1,000	\$2,000	\$3,000	\$1,000-\$100,000	No Specific Amount (minimum \$25)
Anaheim	\$1,000-\$3,000	\$1,000-\$3,000	\$1,000-\$3,000	\$1,000-\$50,000	N/A
Berkeley	\$1,000-\$5,000	\$1,000-\$5,000	\$1,000-\$5,000	\$1,000-\$50,000	N/A
Fremont	\$1,000-\$50,000*	\$1,000-\$50,000*	\$1,000-\$50,000*	\$1,000-\$50,000	N/A
Hayward	\$1,500	\$3,000	\$5,000	\$1,000-\$50,000	N/A
Long Beach	\$1,000	\$1,000	\$1,000	\$1,000-\$50,000	N/A
LA County	\$500-\$50,000	\$500-\$50,000	\$500-\$50,000	\$1,000-\$50,000	N/A
Mountain View	\$500	\$500	\$500	\$1,000-\$50,000	N/A
Oakland	\$1,000	\$1,000	\$1,000	\$1,000-\$50,000	N/A
Orange County FA	N/A	N/A	N/A	\$1,000-\$50,000	N/A
OSFM (Cal Fire)	\$1,000-\$100,000	\$1,000-\$100,000	\$1,000-\$100,000	\$1,000-\$100,000	N/A
Redwood City	\$100	\$200	\$500	\$1,000-\$50,000	\$500
Riverside	\$1,500	\$1,500	\$1,500	\$1,000-\$50,000	N/A
Sacramento	\$1,000	\$2,500	\$5,000	\$1,000-\$50,000	N/A
Sacramento Metro	\$1,000	\$2,500	\$5,000	N/A	N/A
San Diego	\$1,000	\$1,000	\$1,000	\$1,000-\$50,000	N/A
San Francisco	N/A	N/A	N/A	\$1,000-\$50,000	N/A
San Mateo	\$100	\$200	\$500	\$1,000-\$50,000	\$500/\$1,000 (1st/2nd offenses)
Santa Clara Co.	\$250-\$1,000*	\$250-\$1,000*	\$250-\$1,000*	\$1,000-\$50,000	N/A
Stockton	\$1,000	\$2,000	\$3,000	\$1,000-\$50,000	N/A
Sunnyvale	\$1,000	\$2,000	\$3,000	\$1,000-\$50,000	N/A
Vallejo	\$250	\$500	\$750	\$1,000-\$50,000	N/A