

ORDINANCE 1020 C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA REPEALING CHAPTERS 13 AND CHAPTER 13B OF TITLE III, AND ADOPTING A NEW CHAPTER 13 OF TITLE III ENTITLED "REGULATION OF FIREWORKS"

WHEREAS, the City of Madera (the "City") has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the City, pursuant to Cal. Const. Art. XI, section 7; and

WHEREAS, the City has adopted Chapter 11 of Title 8 of the Madera Municipal Code establishing weapons and fireworks rules and regulations; and

WHEREAS, the City desires to protect the health and safety of its community by reducing the risk of fires and related hazards through the designation of areas where the use of fireworks is prohibited due to high fire risk; and

WHEREAS, California Health and Safety Code section 12541 authorizes counties, cities, and special districts to adopt ordinances or regulations prohibiting or regulating the sale, use, or discharge of fireworks; and

WHEREAS, the City Council (the "City Council") of the City wishes to redefine the locations where fireworks may be discharged in order to help protect the health, safety, and general welfare of the residents of the City; and

WHEREAS, the current discharge of fireworks in "Very High Fire Hazard Severity Zones" and "High Fire Hazard Severity Zones" presents an immediate threat to public safety due to extreme fire risk, and this ordinance is necessary for the immediate preservation of the public peace, health and safety; and

WHEREAS, the illegal possession, discharge, and use of fireworks are an immediate public peace, health, and safety concern because of the fire hazard and fire nuisance pose to surrounding persons, properties, and neighborhoods; and

WHEREAS, according to the U.S. Consumer Product Safety Commission, children under the age of 15 suffered from 31% of the estimated fireworks-related injuries in 2023, and the U.S. Fire Administration reports that fireworks are often stored without safety precautions in residential neighborhoods, making them accessible to children; and

WHEREAS, the proximity of the upcoming Fourth of July holiday, during which firework use traditionally increases, significantly heightens the potential for risk of wildfires and danger to public safety; and

WHEREAS, the City Council of the City recognizes the need to implement reasonable regulations for the sale, use, and/or discharge of safe and sane fireworks in order to protect the safety of property owners, residents, and visitors of the City; and

WHEREAS, the City Council desires to amend regulations regarding fireworks to enhance the City's capacity to take enforcement action against fireworks violations; and

NOW THEREFORE, the City Council of the City of Madera does ordain as follows:

SECTION 1. The above recitals are hereby incorporated by reference.

SECTION 2. This Ordinance is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question would have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 3. Chapters 13 and 13B of Title III of the Madera Municipal Code are hereby repealed in their entirety.

SECTION 4. Chapter 13 "Regulation of Fireworks" of Title III of the Madera Municipal Code is hereby added to read in its entirety as follows:

CHAPTER 13: REGULATION OF FIREWORKS

3-13.01 – DEFINITIONS.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

(A) "Dangerous fireworks" shall mean any fireworks specified as such in the State Fireworks Law, Sections 12500 et seq. of the Health and Safety Code of the State, and such other fireworks as may be determined to be dangerous by the State Fire Marshal.

(B) "Safe and sane fireworks" shall mean any fireworks defined as "safe and sane fireworks" under Health and Safety Code section 12529.

(C) "Eligible organization" shall mean an organization which has met all of the following criteria for a continuous period of not less than one full year preceding submittal of an application for the permit required by this chapter (and which continues to do so thereafter):

(1) The organization must be a duly organized not-for-profit charitable, religious, civic, patriotic, or community service organization or an organization officially affiliated with and officially recognized by an elementary school, middle school, high school and/or school district or public and/or private community college, college and/or university that

serves, in whole or in part the residents of the City and which is located within the boundaries of the City;

(2) The organization must be one which provides direct and regular community services and benefits to the citizens of the City of Madera.

“Eligible organization” shall also mean an organization which has met criteria set out in subdivisions (1) and (2) of this subsection, for a continuous period of not less than one-year preceding submittal of an application for the permit required by this chapter and continues to do so thereafter.

(D) “Stand” shall mean any building, counter, or other structure of a temporary nature used in the sale or offering for sale of fireworks pursuant to a permit duly issued.

(E) “Responsible person” shall mean a person who causes a violation of this chapter to occur or allows a violation to exist or continue, by his or her action or failure to act, or whose agent, employee, or independent contractor causes a violation to occur, or allows a violation to exist or continue. There is a rebuttable presumption that the record owner of a residential parcel, as shown on the County’s latest equalized property taxes assessment rolls, and a lessee of a residential parcel, has notice of any violation existing on said property. For purposes of this chapter, there may be more than one responsible person for a violation. Any person, irrespective of age, found in violation of any provision of this chapter may be issued a citation in accordance with the provisions of this chapter. Every parent, guardian, or other person having the legal care, custody, or control of any person under the age of eighteen (18) years, who knows or reasonably should know that a minor is in violation of this chapter, may be issued a citation in accordance with the provisions of this chapter, in addition to any citation that may be issued to the offending minor.

3-13.02 – SALES OF FIREWORKS: PERMITS REQUIRED.

(A) It shall be unlawful for any person to sell or offer for sale any dangerous fireworks in the City.

(B) It shall be unlawful for any person to sell or offer for sale any safe and sane fireworks in the City without first obtaining a permit therefor.

3-13.03 – PERMITS: APPLICATIONS AND FEES.

(A) An application for a permit to sell safe and sane fireworks may be obtained from the city's Finance Department beginning May 1 of the same calendar year in which the permit will be issued and must be completed and returned to the Finance Department on or before 5:00 p.m., on the second Friday in June, of the same calendar year. Each application must be accompanied by a non-refundable filing fee in the amount established in the Master Fee Schedule Resolution. The application must include the following information:

(1) Name and address of the applicant organization.

(2) Evidence from the State of California of the applicant's status as a nonprofit organization.

(3) The purpose for which the applicant organization was created.

(4) The names and addresses of the officers, if any, of the applicant.

(5) The date the applicant organization was founded/recognized.

(6) A description of the location of the intended fireworks sales.

(7) A complete site plan of the proposed location of the temporary fireworks booth and storage. A separate site plan must be provided for storage if it is not located on the same property. Each site plan must include:

(a) A scaled drawing of the site.

(b) Locations of the temporary sales building or container and all adjacent property lines, buildings, structures, streets, sidewalks or other public right of way.

(c) Address of the site.

(d) Quantity (in pounds) of fireworks to be stored.

(e) Distance (in feet) to any adjacent streets or property lines, the nearest buildings, and the nearest location where flammable liquids are stored or used.

(8) A written statement signed by the property owner authorizing the applicant to use the property to erect a fireworks stand and to conduct sales activities therefrom. Such statement must also contain the Assessor's Parcel Number of the property.

(9) Evidence of possession of a valid State Fire Marshal's license to sell safe and sane fireworks.

(10) A copy of a temporary seller's permit issued to applicant by the State Board of Equalization.

(11) A copy of a temporary business license permit issued by the Finance Department of the City of Madera.

(12) An assurance by the applicant that if a permit is issued to the applicant, the applicant shall, at the time of receipt of such permit, deliver to the city a certificate of insurance as may be required by the Director of Finance. Said requirements shall not be less

than a one million dollar public liability and property damage insurance policy, products liability insurance of one million dollars, and shall designate the city and its officers, agents and employees as additional insureds. The certificate shall specify the time, location, and dates to be covered by the policy.

(13) In addition, a declaration shall be submitted by the applicant stating, under penalty of perjury, that the applicant provides direct and regular community services and benefits within the City of Madera to the citizens of the city. Such services and benefits shall be specifically enumerated in this declaration.

(14) A statement as to whether the applicant has had a permit revoked in the previous five years.

(15) Such other information as the Director of Finance deems appropriate.

(B) All applications must be signed by a duly appointed bona fide officer, or other authorized individual of the organization seeking the permit.

(C) An eligible organization may submit applications for more than one location or stand per year, which shall be processed pursuant to the provisions of Section 3-13.04. In the instance an eligible organization files multiple applications, the eligible organization shall identify the priority of preference for each individual application, in addition to the other application requirements in this section.

3-13.04 – SAFE AND SANE FIREWORKS – ISSUANCE OR DENIAL OF PERMITS

The final decision to issue or deny permits shall rest with the Community Development Director.

(A) *Number of Permits Issued to Eligible Organizations.* Nothing herein shall be construed to require the issuance of a permit for more than one stand per eligible organization.

(1) An eligible organization may submit applications for more than one location or stand per year in accordance with Section 3-13.03 of the Municipal Code. In any calendar year in which there are fewer applicants than available permits, the Community Development Director may, at their sole discretion, issue a permit for more than one stand per eligible organization.

(B) In the event the number of accepted applications that have complied with all of the application requirements of Section 3-13.03 exceeds the number of permits available for that calendar year, all of such applications shall be randomly assigned a number and the Community Development Director will, on or before third Friday in June, select such numbers randomly by lottery to establish a priority list. An attempt to notify all applicants of their assigned number and the number of available permits will be made as soon as practicable after the establishment of the priority list. Permits will then be issued in the order established by the priority list. In the

event a permit is denied to or revoked from an applicant on the priority list, the opportunity to secure such permit shall be provided to the next applicant on the priority list without a permit, provided such applicant is ready, willing and able to successfully fulfill all of the conditions of the permit.

(C) Denial may be based on the failure to meet any of the requirements for the issuance of a permit under this chapter, prior violations of this chapter, or for purposes of public health, welfare, or safety. In cases such as civil unrest, severe drought conditions, or any other such situation deemed to be harmful to or having the possibility of creating an extreme hazard to persons and/or property, the Community Development Director may also deny issuance of all or a portion of any permits. The Community Development Director's decision is final, and is not subject to administrative appeal.

3-13.05 – REGULATIONS.

It shall be unlawful for any eligible organization to which a permit has been issued:

(A) To operate in violation of State of California Title 19, Chapter 6, regulating the storage, transportation, sale and use of fireworks;

(B) To use the permit for a stand for other than which the permit is required (a separate permit is required for each stand);

(C) To fail to clear all flammable or burnable materials within thirty feet (30') from any fireworks stand and to maintain such condition during the period prescribed for the sale of fireworks;

(D) To allow smoking within twenty-five feet (25') of any such business location or stand or to fail to post "No Smoking" signs with such wording in red letters not less than two inches (2") in height on a white background on all sides of any such stand;

(E) To sell or store fireworks less than thirty (30) feet from inhabited buildings;

(F) To sell or store fireworks less than one hundred (100) feet from locations where flammable liquids are used, stored or dispensed;

(G) To sell or store fireworks less than twenty-five (25) feet from property lines;

(H) To store fireworks in dwellings, attached garages, educational facilities, assembly occupancies institutional or social care facilities. Sale of fireworks is permitted in buildings classified as an approved temporary sales building. Storages of fireworks is permitted in buildings classified as explosives warehouses, approved temporary storage buildings, or approved containers.

(I) To fail to have immediately available within the stand a certified fire extinguisher or other fire extinguishing device of a type approved by the Fire Department;

(J) To sell fireworks to any person under sixteen (16) years of age;

(K) To sleep inside or within fifty (50) feet of any fireworks stand or fireworks storage container, building or site, including trailers, campers or other vehicles.

(L) To allow another organization, or any person who is not affiliated with or volunteering for the permitted organization, to sell fireworks or otherwise participate in the operation of a fireworks stand;

(M) To allow any person under 18 years of age in a fireworks stand;

(N) Each organization which receives a permit to sell fireworks shall have at least two of its members attend an operator safety seminar conducted by the fireworks manufacturer or distributor through whom the organization purchases fireworks;

(O) To sell fireworks on dates and hours other than those specified below.

(1) June 28: 12:00 Noon – 11:00 pm

(2) June 29 – July 3: 7:00 am – 11:00 pm

(3) July 4: 7:00 am – 9:00 pm

(P) To fail to dismantle and remove any stand or structure of any nature where fireworks are sold or offered for sale within three (3) days after the close of sales.

3-13.06 – NUMBER OF FIREWORKS STANDS ALLOWED.

Only one fireworks stand may be operated per permit at the location identified on the permit. There shall be allowed one fireworks stand for every two thousand (2,000) population in the City of Madera. Starting January 1, 2027, there shall be allowed one fireworks stand for every four thousand (4,000) population in the City of Madera. The City population shall be based on annual population figures provided by the State Department of Finance.

3-13.07 – FIREWORKS STANDS: ZONING RESTRICTIONS.

Fireworks stands will be allowed only on property which is not currently zoned for any residential use. Public safety, ingress, egress, and adequate parking will be additional factors considered by the Fire Department before approving any site for fireworks sales.

3-13.08 – CERTIFICATES OF INSURANCE.

Prior to the issuance of a permit, the eligible organization shall procure a certificate of insurance acceptable consistent with the requirements of section 3-13.03(A)(12) and provide it to the Director of Finance.

3-13.09 – STATE FIREWORKS LAW.

The provisions of this chapter shall be construed so as not to conflict with the State Fireworks Law.

3-13.10 – REVOCATION OF PERMITS.

Any violation of this chapter or other city laws, or the terms and conditions of the permit, or State laws or administrative regulations, or safety rules of the Fire Department, shall be grounds for the revocation of the permit by the Community Development Director. All officers, agents, and employees of the eligible organization shall be responsible for compliance with all the provisions of this chapter.

3-13.11 – POSSESSION OR USE OF ILLEGAL FIREWORKS.

It is unlawful for any person to possess or use illegal or dangerous fireworks in the city, as defined in this chapter and by the State Fireworks Law, Sections 12500 et seq. of the Health and Safety Code of the State, and such other fireworks as may be determined to be dangerous by the State Fire Marshal.

3-13.12 – SAFE AND SANE FIREWORKS – LIMITATION ON PLACES AND HOURS OF DISCHARGE.

(A) It is unlawful to discharge any safe and sane fireworks except during the following hours:

- (1) June 28th – July 3rd: 5:00 p.m. to 10:00 p.m.; and
- (2) July 4: 5:00 p.m. to 12:00 p.m.

(B) It is unlawful for any person to ignite, discharge, project, or otherwise fire or use, any safe and sane fireworks, or permit the ignition, discharge or projection thereof, upon or over or onto the property of another, without his or her consent, or to ignite, discharge, project, or otherwise fire or make use of any safe and sane fireworks within ten (10) feet of any residence, dwelling, or other structure used as a place of habitation by human beings;

(C) Responsible persons shall be liable for any violations of this chapter occurring on: (i) the person's property; (ii) any sidewalk, street, or other public right of way immediately adjacent to the person's property; or (iii) any other public or private property to which the responsible person has demonstrated apparent ownership, control, or right of use.

(D) City Parks.

(1) No person shall have in their possession, or ignite, discharge, explode or otherwise set off, any fireworks, regardless whether safe and sane fireworks or not, or other flammable or explosive material, at any of the following locations:

(a) Any city park, including Lions' Town and Country Park, except as may be authorized by a permit issued by the city;

(b) The Fresno River. This includes any unimproved area within the traditional flow area of the river, including 100 feet on each side and the river bottom, except for those portions (if any) which are private property or part of a public street or thoroughfare. This prohibition applies year round, but shall not be applicable to a regulatory agency and any associated controlled burns or fire suppression efforts.

(c) Fire Hazard Severity Zones. Any location classified as a "High" or "Very High" Fire Hazard Severity Zone by the California Department of Forestry and Fire Protection or as designated by the city by resolution or ordinance.

3-13.13 – SAFE AND SANE FIREWORKS – SUPERVISION OF MINORS.

It is unlawful for any person having the care, custody, or control of a minor (under eighteen (18) years old) to permit such minor to discharge, explode, fire, or set off any dangerous fireworks, at any time; or to permit such minor to discharge or set off any safe and sane fireworks unless such minor does so under the direct supervision of a person over eighteen (18) years of age who is aware of and requiring safe and responsible procedures and only during the hours and on the days permitted by this chapter.

3-13.14 – VIOLATION – PENALTY.

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

(B) Misdemeanor. Any responsible person (as defined in section 3-13.01(E)) violating any of the provisions of this chapter is guilty of a misdemeanor, and may be subject to punishment in accordance with section 1-2.01 and any other applicable laws.

(C) Administrative citations. In addition to, or in lieu of, any other available remedies, violations of this chapter shall be subject to administrative citations in accordance with 1-9.08 of this Code. All responsible persons shall be personally liable for an administrative fine of one thousand dollars (\$1,000.00) per occurrence. Each separate day or any portion thereof during which a violation occurs or continues constitutes a separate occurrence, and each such occurrence shall be separately punishable as provided in this section. Additionally, each separate use or discharge of a firework in violation of this chapter, whether occurring on a single day or over multiple days, shall constitute a separate occurrence, separately punishable as provided in this section.

(D) Response costs. In addition to, or in lieu of, any other available remedies, responsible person(s) who have violated this chapter shall be liable for response costs incurred by law enforcement, fire, or emergency services related to the illegal discharge of fireworks on their property. These costs may include but are not limited to salaries, benefits, administrative costs, and the repair of any damaged public property. All responsible persons shall be jointly and severally liable for the response costs incurred in the response and all subsequent responses. The amount of response costs constitutes a debt owed to the city.

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 chapter. To incur liability for response costs imposed by this chapter, the parent(s) or guardian(s) for the juvenile committing a violation of this chapter need not be present at the event or occurrence that causes the response giving rise to the imposition of response costs. This chapter therefore imposes vicarious as well as direct strict liability upon such parent(s) or guardian(s).

(1) Notice of the response costs shall be served by first-class mail on the responsible person liable for such costs. The notice shall contain the following information:

(a) The name of the responsible person who is liable for the response costs;

(b) The address of the private property where the incident occurred;

(c) The date and time of the response;

(d) The law enforcement, fire, or other emergency response personnel who responded; and

(e) An itemized list of the response costs.

(2) Payment for response costs shall be remitted to the city within thirty calendar days of the date of the notice. The payment of any such costs shall be stayed upon the filing of a timely appeal.

(3) A responsible person charged with response costs may, within 15 calendar days of the date of the notice of response costs, appeal the response costs pursuant to the process in sections 1-9.09 and 1-9.10 of this code, and the appeal hearing shall be scheduled and conducted in the manner prescribed therein.

(4) Failure to timely and properly file an appeal constitutes a failure to exhaust available administrative remedies and bars any further review or administrative appeal of the response costs, which shall be deemed final.

(5) The amount of penalties and response costs shall constitute a debt owed to the city and may be collected using any legally available means, including but not limited to a

lien on the property pursuant to section 1-9.11 of this Code, and/or a civil action.

(E) Seizure: Any fireworks used in violation of this provision may be seized as evidence of the violation and considered contraband.

SECTION 5: If any article, section, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Chapter. The Council hereby declares that it would have adopted this chapter and adopted each article, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more articles, sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 6: This ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation.

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The foregoing Ordinance No. 1020 C.S. was introduced and given its first reading at a regular meeting of the City Council of the City of Madera held on the 15th day of April 2026 and adopted after a second reading at a regular meeting of the City Council held on the 6th day of May 2026 by the following vote:

AYES: Mayor Gallegos and Councilmembers Zacharia, Rodriguez, Montes, Evans, and Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmember Mejia.

APPROVED:



CECELIA K. GALLEGOS, Mayor

ATTEST:



ALICIA GONZALES, City Clerk

