

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, AMENDING SECTION 55602.4 OF THE
FRESNO MUNICIPAL CODE, RELATING TO FIREWORKS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 55602.4 of the Fresno Municipal Code is amended to read:

SEC. 55602.4. - GENERAL PROHIBITION AGAINST POSSESSION,
SALE, USE AND/OR DISPLAY OF FIREWORKS.

*5602.4. General Prohibition Against Possession, Sale, Use and/or
Display of Fireworks.* Except as otherwise provided in this Section, no
person shall possess, sell, use, display, explode or discharge any
fireworks within the City of Fresno.

5602.5. Safe and Sane Fireworks: Exceptions.

(a) The sale and/or display of Safe and Sane Fireworks shall be
permitted only during that period beginning at noon on June 28 and
ending at noon on July 6 of the same year.

(b) Safe and Sane fireworks shall not be sold to any person
under the age of sixteen (16).

(c) The use and discharge of Safe and Sane fireworks within the
City of Fresno is permitted 365 days a year, between the hours of 7:00
a.m. and 10:00 p.m., except for the period of June 28 to July 6 when use
and discharge will be allowed between the hours of 7:00 a.m. and 12:00
a.m.

5602.6. Safe and Sane Fireworks Permits: Permits Required.

(a) It is unlawful for any person to sell Safe and Sane fireworks within the City of Fresno without a permit issued by the fire code official or designee.

(b) The fire code official is authorized to promulgate administrative rules and procedures necessary for the successful and effective implementation of this Section including rules and procedures governing the submission of applications for permits to sell Safe and Sane fireworks, inspections of fireworks stands, operation of fireworks stands, and such regulations relating to the sale of Safe and Sane fireworks as may be necessary for the protection of life and property.

(c) The fire code official or designee shall be responsible for reviewing applications for permits to sell Safe and Sane fireworks.

5602.7. Safe and Sane Fireworks: Applications.

(a) All organizations or corporations interested in obtaining a permit to sell Safe and Sane fireworks shall submit an application to the fire department on forms provided by the fire department. There is a non-refundable application fee established by resolution of the City Council and set forth in the Master Fee Schedule. This application fee shall be in addition to any fee or tax imposed by any other chapter or article of the Fresno Municipal Code.

(b) The fire code official or designee shall designate the time period when applications will be accepted.

(c) No organization shall submit more than one application. Submittal of more than one application shall be grounds for denial of all applications submitted by that organization.

(d) There shall be allowed a maximum of one fireworks stand for every five thousand (5,000) population in the City. A maximum of fifty new stands will be issued permits on an alternating two-year cycle.

(e) Participants are selected by lottery, which shall take place at a time and location determined by the fire code official or designee.

(f) The newly selected participants, as well as the previous year's participants, shall submit additional information as required by the fire department which shall be reviewed prior to issuance of any permits to sell Safe and Sane fireworks for the upcoming fireworks season.

5602.8. Safe and Sane Fireworks: Issuance of Permits.

(a) No permit to sell Safe and Sane fireworks shall be issued to any organization except non-profit and tax-exempt organizations or corporations organized primarily for charitable, religious, civic, patriotic, or community service as defined in Section 10-55602.3(b).

(b) Upon notification that the organization has been selected by lottery to participate in the upcoming fireworks season, each organization shall provide additional information as required by the fire department including, but not limited to:

(i) A non-refundable fee established by resolution of the City Council and set forth in the Master Fee Schedule. This fee

shall be in addition to any fee or tax imposed by any other chapter or article of the Fresno Municipal Code.

(ii) An executed Indemnification and Hold Harmless Agreement as required by the City's Risk Manager or the Risk Manager's designee.

(iii) Throughout the life of the permit, the applicant shall pay for and maintain in full force and effect policies of insurance as required by the City's Risk Manager or Risk Manager's designee. The policies of insurance shall name the City, its officers, officials, agents, employees and authorized volunteers as additional insured. The applicant shall submit proof of insurance in a manner authorized by the City's Risk Manager or Risk Manager's designee.

(iv) Other information as may be required by the fire department pursuant to administrative rules and procedures promulgated by the fire code official pursuant to Section 10-5502.6(b).

(c) Permits shall be issued upon review of all information submitted by the organization and inspection and approval of the organization's temporary fireworks stand.

(d) No permit shall be issued to an ineligible organization. In the event that a permit is issued to an ineligible organization, the permit shall be revoked immediately and shall be considered invalid. The ineligible

organization shall cease the display and sales of Safe and Sane fireworks immediately.

5602.9. Safe and Sane Fireworks: Operator Safety Seminar. Each year, one or more representatives from each organization that is granted a permit to sell or display fireworks shall attend a stand operator safety seminar conducted by the City of Fresno Fire Department or the fireworks industry. Failure of an organization to have a responsible individual attend the seminar shall result in the revocation of the permit.

5602.10. Revocation of Permits. The fire code official or designee may revoke the permit of any organization that violates the provisions of this Section or any rules or regulations promulgated pursuant to Section 10-53302.6(b). Notice of revocation shall be made in writing by the fire department to the organization. The fire code official or designee may reinstate a permit upon proof that the permit holder is in compliance with all provisions and rules pertaining to this Section.

5602.11. ~~Administrative Fines.~~ [Penalty for Violation.]

[(a) Without limiting the City's authority to employ any other remedy, civil or criminal, to address a violation of this Section, at the election of the City Attorney, any violation of this Section may be prosecuted as a misdemeanor with a fine up to one thousand dollars (\$1,000) and/or imprisonment of up to one year, or by administrative fine not less than one thousand dollars (\$1,000), or referred to the District

Attorney for prosecution under California Health and Safety Code section 12700.]

[(b)] In addition to any other remedy available at law, any person or entity who possesses, uses, [or] ~~stores, sells and/or displays~~ dangerous fireworks ~~or any person or entity who possesses, uses, sells and/or displays~~ Safe and Sane fireworks on or at dates, times, or locations other than those permitted by this Section are [is] subject to an administrative fine of not less than ~~one thousand dollars (\$1,000.00).~~[the amounts set forth below:

(i) Five thousand dollars (\$5,000) for the first offense.

(ii) Twenty-five thousand dollars (\$25,000) for a second offense.

(iii) Fifty thousand dollars (\$50,000) for a third and each subsequent offense.

(c) In addition to any other remedy available at law, any person or entity who sells or displays for sale dangerous fireworks is subject to an administrative fine as set forth below:

(i) Twenty-five thousand dollars (\$25,000) for the first offense.

(ii) Fifty thousand dollars (\$50,000) for each subsequent offense.

(d) In addition to any other remedy available at law, a person or entity found in violation of this Section may be charged for any actual

abatement or response cost incurred by the City as a result of the violation, as well as restitution for all personal injury or property damage caused by the violation.]

5602.12. Seizure of Fireworks. The fire code official or designee shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this Section. Such seizure shall be subject to cost recovery in accordance with Section 109.5.

5602.13. Appeals.

(a) A citation issued for failure to comply with the provisions of this Section shall be appealed pursuant to Fresno Municipal Code, Chapter 1, Article 4.

(b) The denial of an application for a fireworks permit shall be appealed pursuant to Fresno Municipal Code, Chapter 1, Article 4. If no appeal is filed within the time prescribed, the action of the fire code official or designee shall be final.

(c) A minor and the parent(s) or guardian(s) having custody and control of said minor, are jointly and severally liable to the City for any administrative citation and/or penalty issued for failure to comply with the provisions of this Section.

(d) The administrative citation penalty may become a special assessment or a lien against the property of any person who is issued a citation for violation of the provisions of this Section. This shall include the

property of a minor who is issued a citation and/or the property of the parent(s) or guardian(s) having custody and control of the minor or private property owner that allows the illegal use or storage on their property. The procedures set forth in Section 1-506 shall be followed for the imposition of a special assessment or lien.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2017.

AYES :
NOES :
ABSENT :
ABSTAIN :

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Katie B. Doerr Date
Assistant

KBD:prn [75858prn/ord] 07-12-17