

ORDINANCE NO. 3029

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 21 OF TITLE 4 OF THE ONTARIO MUNICIPAL CODE RELATING TO FIREWORKS, PYROTECHNIC DEVICES, EXPLOSIVES, DESTRUCTIVE DEVICES OR THEIR COMPONENTS.

WHEREAS, in 2007, the City Council adopted Ordinance No. 2859, which comprehensively regulated fireworks, pyrotechnic devices, explosives, dangerous devices or their components; and

WHEREAS, the use of fireworks within the City is ongoing, and enforcement of these regulations has proven difficult; and

WHEREAS, the number of complaints about fireworks usage in the community has risen in recent years; and

WHEREAS, there is a need to amend the City's Ordinance to further deter the use of fireworks within the City; and

WHEREAS, there is a need to make enforcement of the Ordinance safe and effective.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario, as follows:

SECTION 1. Findings. The above recitals are true and correct and are incorporated herein by this reference. The findings associated with the adoption of Ordinance 2859 are also incorporated by reference.

SECTION 2. Chapter 21, of Title 4 of the Ontario Municipal Code is amended, in its entirety, to read as follows:

“ CHAPTER 21: FIREWORKS, PYROTECHNIC DEVICES, EXPLOSIVES, DESTRUCTIVE DEVICES OR THEIR COMPONENTS

4-21.01 Definitions

4-21.02 Prohibitions

4-21.03 Responsible Persons – Violations Occurring on Real Property

4-21.04 Responsible Persons – Parental Responsibilities.

4-21.05 Administrative Fines

4-21.06 Dangerous Fireworks

Sec. 4-21.01. Definitions.

(a) "Explosives" and "Destructive Devices" shall include any items listed as such in: Articles 2 and 77 of the California Fire Code; Section 12000 of the California Health & Safety Code; and Section 12301 of the California Penal Code. These items include, but are not limited to, the following:

- (1) Bombs, grenades, explosive missiles, firecracker-type devices containing fifty (50) mg or more of pyrotechnic/explosive composition.
- (2) Detonators and blasting caps.
- (3) Firebombs consisting of an ignitable liquid, breakable container and a wick or similar device capable of being ignited.
- (4) Homemade destructive devices including pipe bombs, chemical bombs, acid bombs, dry ice bombs, etc.
- (5) Military explosives and explosive devices such as grenades, mines, rockets, missiles, detonation cord.
- (6) Components to construct or manufacture explosives or destructive devices, including explosives, gunpowder/propellant, pyrotechnic compositions and fuses.

(b) "Fireworks" and "Pyrotechnic Devices" shall mean any items or materials listed as such in: Articles 2 and 78 of the California Fire Code; Sections 12500 through 12726 of the California Health & Safety Code; and Chapter 6 of the California Code of Regulations. These items include, but are not limited to, the following:

- (1) 'Dangerous fireworks' as that term is defined by Section 12505 of the California Health & Safety Code, which includes, but is not limited to, the following: firecrackers, rockets, skyrockets, Roman candles, and torpedoes among others.
- (2) 'Safe and sane fireworks' as that term is defined by Section 12529 of the California Health & Safety Code, which includes, but is not limited to, the following: cones; fountains; smoke bombs; and "Piccolo-Pete" type fountains/cones among others.
- (3) Homemade fireworks or pyrotechnic devices that are constructed using pyrotechnic compositions/filler with the intent to explode or burn, including fireworks kits and components to construct fireworks or pyrotechnic devices.
- (4) Military pyrotechnic devices, such as smoke signals and signal flares.
- (5) Components to construct or manufacture fireworks or pyrotechnic devices including explosives, gunpowder/propellant, pyrotechnic compositions and fuses.

(c) "Person" means a natural person, legal entity (such as a partnership, corporation, or joint venture), or any other entity of any nature.

(d) "Responsible Person" means 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.

(e) "Use" shall include the acts of lighting, discharging, displaying, or attempting to do any of these.

Sec. 4-21.02. Prohibitions.

(a) Any violation of this Chapter is punishable as a misdemeanor. All provisions of Chapter 2 of Title 1 of this Code shall apply to this Chapter unless contradicted by the specific provisions of this Chapter. Responsible Persons are considered in violation of this Chapter to the same extent as if they committed the violation themselves.

(b) No Person may Use Fireworks, Pyrotechnic Devices, Explosives, Destructive Devices, or the components of Fireworks, Pyrotechnic Devices, Explosives, or Dangerous Devices, without a permit issued by the Fire Department, in any location in the City.

(c) No Person may possess, store, manufacture, or grant permission to store Fireworks, Pyrotechnic devices, Explosives, Destructive Devices, or the components of Fireworks, Pyrotechnic Devices, Explosives, or Destructive Devices, without a permit issued by the Fire Department, in any location in the City.

(d) The failure of any Person to comply with any permit conditions or requirements imposed by the Fire Department for the possession, Use, storage or manufacture of Fireworks, Pyrotechnic Devices, Explosives, Destructive Devices, or the components of Fireworks, Pyrotechnic Devices, Explosives, or Destructive Devices is prohibited.

Sec. 4-21.03. Responsible Persons – Violations Occurring on Real Property.

(a) 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 lessee of a residential parcel has a notice of any violation existing on said property. As such, these individuals shall be treated as Responsible Persons for all violations of this Chapter occurring on their real property.

(b) For purposes of this Chapter, there may be more than one Responsible Person for a violation.

Sec. 4-21.04. Responsible Persons – Parental Responsibilities.

(a) Every parent, guardian or other person, having the legal care, custody or control of any Person under the age of 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.

Sec. 4-21.05. Administrative Fines.

(a) In addition to any other remedy available at law, any Person in violation of this Chapter is subject to an administrative fine of one thousand dollars (\$1,000).

(b) The provisions and procedures concerning administrative citations set forth in Chapter 5 of Title 1 of the Ontario Municipal Code shall apply to administrative citations issued for violations of this Chapter. A violation of this Chapter shall constitute a “transient” violation within the meaning of that Chapter. To the extent there are any conflicts between the provisions of the two Chapters, the provisions of this Chapter shall supersede and control administrative citations issued for violations of this Chapter.

Sec. 4-21.06. Dangerous Fireworks – Additional Costs.

(a) Where dangerous fireworks are involved, to the extent this Ordinance is subject to Section 12557 of the California Health & Safety Code, the Ordinance shall apply only to the seizure of 25 pounds or less of such fireworks. In such cases, in addition to the administrative fines set forth above, violators will be subject to an additional fine to reimburse the Office of the State Fire Marshal for the cost of transportation and disposal of the seized fireworks. In such cases, the citation for the violation of this Chapter will indicate that the violator may be responsible for such additional costs. Fines collected in connection with this procedure shall not be subject to Section 12706 of the California Health & Safety Code.”

SECTION 3. CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Bernardino in accordance with CEQA Guidelines.

SECTION 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings and this Ordinance are based are located at the City Clerk’s office located at 303 East “B” Street, Ontario, CA 91764. The custodian of these records is the City Clerk.

SECTION 5. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they

would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

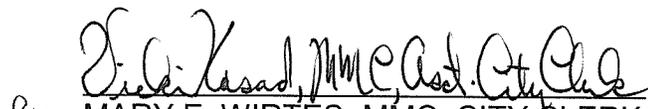
SECTION 7. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 20th day of October 2015.



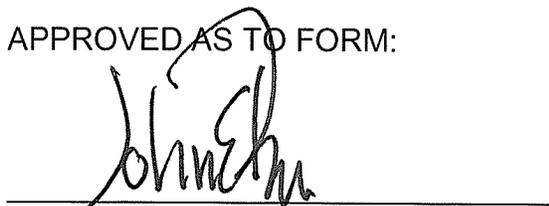
PAUL S. LEON, MAYOR

ATTEST:



MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:



BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3029 was duly introduced at a regular meeting of the City Council of the City of Ontario held October 8, 2015 and adopted at the regular meeting held October 20, 2015 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS: LEON, DORST-PORADA, WAPNER,
BOWMAN AND AVILA
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE

Mary E. Wirtes, MMC, Asst. City Clerk
for MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3029 duly passed and adopted by the Ontario City Council at their regular meeting held October 20, 2015 and that Summaries of the Ordinance were published on October 13, 2015 and October 27, 2015, in the Inland Valley Daily Bulletin newspaper.

Mary E. Wirtes, MMC, Asst. City Clerk
for MARY E. WIRTES, MMC, CITY CLERK

(SEAL)