

ORDINANCE NO. 3048

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 17 TO TITLE 6 OF THE ONTARIO MUNICIPAL CODE, REGULATING THE SALE OF BUTANE.

WHEREAS, across the state of California there has been an increase in the illicit manufacturing of "butane honey oil" (also known as "butane hash oil") a concentrate derived from marijuana; and

WHEREAS, high grade butane such as n-butane and butane refined five times or higher is most prevalently used in the manufacture of honey oil; and

WHEREAS, honey oil is widely manufactured in an underground, non-commercial industry, which can include manufacturing sites in hotel rooms, garages, homes, and backyards; and

WHEREAS, the manufacturing process for honey oil is highly volatile and has led to multiple explosions across the state of California; and

WHEREAS, there is a current and immediate threat to the public health, safety, and welfare in that the manufacture, processing, transportation, possession, and sales of illicit narcotics and drugs are inherently dangerous and that chemicals, compounds, substances, by-products and wastes which are associated with the manufacture of illicit narcotics and drugs are both dangerous and injurious to the health, welfare, and safety of citizens of the City; and

WHEREAS, regulation over the sale of butane provides one way to regulate the manufacture of honey oil.

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.

SECTION 2. A Chapter 17 is hereby added to Title 6 of the Ontario Municipal Code to read, in its entirety, as follows:

"CHAPTER 17: REGULATION OF BUTANE PURCHASES

Sec. 6-17.01. Legislative Purpose.

- (a) The City Council finds that there is a current and immediate threat to the public health, safety, and welfare in that the manufacture, processing, transportation, possession, and sales of illicit narcotics and drugs are inherently dangerous and that chemicals, compounds, substances, by-products and wastes which are associated with the manufacture of illicit narcotics and drugs are both dangerous and injurious to the health, welfare, and safety of citizens of the City.

- (b) The City Council finds that there has been a dramatic increase in reports of explosions occurring as a result of the manufacture of butane honey oil and butane hash oil, which require butane to extract tetrahydrocannabinol (THC) from parts of the marijuana plant.
- (c) The City Council finds that the general public does not normally purchase butane in large quantities and it is not the City Council's intent to restrain legitimate businesses or customers from selling or purchasing it.
- (d) No provisions of this chapter shall hinder or supersede any other applicable state or federal statute.

Sec. 6-17.02. Definitions.

For the purposes of this article:

- (a) "Butane" means five times refined ("5x") or higher of any of the following: iso-butane, n-butane, and butane.
- (b) "Retailer" means any retail business, company, corporation, person, employee, associate, or wholesaler who furnishes, distributes, sells or gives away products as described in this section.
- (c) "Customer" means any person who purchases or acquires the products described in this section, or persons who are present for the purchase or acquisition of the products described in this section.
- (d) "Sell" means to furnish, give away, exchange, transfer, deliver, surrender, or supply whether for monetary gain or not.

Sec. 6-17.03. Limitations on Sales.

- (a) No Retailer shall knowingly Sell to a single Customer and no single Customer shall acquire more than 1,200 milliliters of Butane, per transaction.
- (b) Retailers shall keep a log of all Butane sales cumulatively or individually amounting to greater than 600 milliliters in a single transaction, including the date of sale, amount purchased, and the name and address of the individual purchasing the Butane, as verified by a driver's license or other official, government-issued photo identification listing a place of residence. Retailers shall retain records for a period of at least one year and shall furnish copies of records to City officials upon request.
- (c) No Retailer shall display for sale, trade or exchange, any Butane except in an area from which the public shall be securely precluded without employee assistance. Two (2) such acceptable methods for displaying Butane for sale shall be by containment in:

- (1) A completely enclosed cabinet or other storage device which shall be permanently affixed to a building or building structure, and which shall, at all times except during access by authorized representatives, remain securely locked; or
- (2) In an enclosed area behind a sales or service counter from which the public is precluded from entry.

Sec. 6-17.04. Penalties.

Any person, Customer, or Retailer violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

SECTION 3. CEQA. The City Council hereby finds that adoption of this Ordinance is not a "project" under the California Environmental Quality Act because the Ordinance does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

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 3rd day of May 2016.



PAUL S. LEON, MAYOR

ATTEST:



SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:



BEST BEST & KRIEGER LLP
CITY ATTORNEY

