

ORDINANCE NO. 01-25

**AN ORDINANCE OF THE CITY OF ORANGE
AMENDING CHAPTER 8.13 OF THE ORANGE
MUNICIPAL CODE ADOPTING RULES AND
REGULATIONS REGARDING THE SALE,
POSSESSION, AND DISCHARGE OF SAFE AND
SANE FIREWORKS AND AMENDING SECTIONS OF
ORDINANCE 07-22 OF THE ORANGE CITY FIRE
CODE RELATING TO SAFE AND SANE FIREWORKS**

WHEREAS, the Orange City Council adopted Resolution 11583 on December 10, 2024, certifying the results of the November 5, 2024, General Municipal Election; and

WHEREAS, Measure AA was placed on the November 5, 2024, General Municipal Election ballot so Orange voters may consider amending the Orange Municipal Code so as to permit the sale, possession, and use of Safe and Sane Fireworks; and

WHEREAS, Measure AA was approved by Orange voters with a final vote of 61.18% in favor and 38.82% not in favor; and

WHEREAS, Ordinance No. 10-24 requires the City Council to adopt a resolution or ordinance prescribing reasonable rules and regulations to effectuate a Safe and Sane Fireworks program in the City of Orange.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

Chapter 8.13 and Sections of the City of Orange Fire Code of Ordinance 07-22 are repealed and replaced as follows:

Chapter 8.13 FIREWORKS

8.13.010. Fireworks prohibited except as authorized herein

It is unlawful for any person to possess, store, to offer for sale, expose to sale, sell at retail, or use or explode any fireworks, except as provided herein. The sale, possession and discharge of “safe and sane” fireworks for private display shall be permitted within the City, in accordance with rules and regulations adopted by ordinance or resolution, relating to the following: who may sell such fireworks; the limited dates and times when such fireworks may be sold and discharged; the manner, location, and any required permits for the sale, storage, possession, discharge and/or disposal of such fireworks.

For purposes of this Chapter, “safe and sane” shall include those fireworks bearing the seal of the State Fire Marshal and that are “safe and sane fireworks” with the provisions of California Health and Safety Code Section 12529, or any successor provision thereto, and/or any other relevant provisions of State Law relevant thereto (i.e. California Code of Regulations and State Fire Marshal Regulations or Guidelines.)

Notwithstanding the above, the Fire Chief shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, association, or other organizations. Every such use or display shall be handled by a competent operator approved by the Fire Chief and shall be such character and so located, discharged, or fired so as, in the opinion of the Fire Chief, after proper investigation, not to be hazardous to property or endanger any person.

8.13.020. Definitions.

The following words and phrases, as used in this Chapter, are defined as follows:

"City Manager" means the City Manager or his or her designee.

"Dangerous Fireworks" means "Dangerous Fireworks" as defined in Health and Safety Code Sections 12505 and 12561 and the relevant Sections of Title 19, Code of Regulations, Division 1, Chapter 6 as may be amended.

"Fire Chief " means the Fire Chief or his or her designee.

"Fireworks Stand" means any building, counter, or other structure of a temporary nature used in the sale, offering for sale or display for sale of Safe and Sane Fireworks.

"Fireworks Wholesaler" means any person, other than an importer, exporter or manufacturer selling directly to wholesalers, who sells fireworks to a retailer or any other person for resale.

"Permit" means a certificate issued by the Fire Chief that allows a Qualified Organization chosen by way of a lottery to sell Safe and Sane Fireworks for the dates and times listed on the Permit. Issuance of a Permit does not confer to Permittee ANY PROPERTY RIGHT and the City may at its sole discretion, without notice or opportunity for hearing, revoke the Permit.

"Permit Application" means a form provided by the City used to determine eligibility to participate in the Safe and Sane Fireworks lottery.

"Permittee" means a Qualified Organization that has received a Permit to sell Safe and Sane Fireworks.

"Public Display of Fireworks" means any event where the public is admitted or allowed to view the display or discharge of Safe and Sane Fireworks including private, theatrical or civic performances.

"Qualified Organization" means any nonprofit including but not limited to 501(c) (3) or other charity as defined by Federal or State law, or a group which is an integral part of or recognized

by a nonprofit or charity and in existence for at least one year prior to submitting a Permit Application or an elementary, junior high and/or high school and/or school district and recognized affiliates or public and/or private community college, college and/or university that serves, in whole or in part, the residents of the City and is located within the boundaries of the City. An organization either administratively or criminally guilty of violating any local, State or Federal law or that had a Permit revoked within 24 calendar months prior to the organization's submittal of a Permit Application shall not be a Qualified Organization.

"Safe and Sane Fireworks" means Safe and Sane Fireworks as defined in Health and Safety Code Sections 12529 and 12562 and Title 19, Code of Regulations, Division 1, Chapter 6 as may be amended.

8.13.030. Administrative Regulations.

Unless specifically provided for in the Orange Municipal Code, the City Manager may adopt reasonable administrative regulations to further define processes and administration of this Chapter.

8.13.040. General Prohibition of Possession, Sale or Use of Fireworks.

Except as provided in this Chapter, no person shall possess, sell, use, display, or discharge any fireworks, including, but not limited to, any Dangerous Fireworks, altered Safe and Sane Fireworks, or other combustible device or explosive substance or any kind of fireworks by another name.

8.13.050. Safe and Sane Fireworks.

It shall be unlawful to possess, sell, display or discharge within the City those fireworks that are defined and classified as Safe and Sane Fireworks except as provided in this Chapter.

8.13.060. Exception—Public Displays and Theatrical Performances.

Notwithstanding any other provisions of this Chapter, the Fire Chief or his or her designee may at his or her sole discretion grant permits for public displays or theatrical performances of fireworks in accordance with the adopted Fire Code.

8.13.070. Safe and Sane Fireworks Sales—Permits Required.

It shall be unlawful to sell Safe and Sane Fireworks within the City without having first applied for and received a Permit.

8.14.080. Sale of Safe and Sane Fireworks—Application Process, Lottery, and Number of Permits.

The number of Permits as well as the application and lottery process to receive a Permit for the sale of Safe and Sane Fireworks shall be done in accordance with the procedures, rules, and regulations adopted by resolution of the City Council.

8.13.090. Safe and Sane Fireworks—Operation of Fireworks Stand.

- A. No person shall knowingly sell fireworks to any person under the age of 18 years old.
- B. It shall be illegal to sell fireworks except between noon and 10:00 p.m. on July 1st, 2nd and 3rd and between 10:00 a.m. and 9:00 p.m. on July 4th.
- C. No person under the age of 18 years old shall sell or participate in the sale of Safe and Sane Fireworks.
- D. No person shall be paid any consideration by the Permittee or any Fireworks Wholesaler of Safe and Sane Fireworks for selling or otherwise participating in the sale of Safe and Sane Fireworks. This shall not apply to licensed security personnel during sale or non-sale hours and to the party authorizing the location of the Fireworks Stand on its property. The Fire Chief or his or her designee may revoke the fireworks storage permit and/or local business permit of any Fireworks Wholesaler violating the terms of this section.
- E. Safe and Sane Fireworks must remain at the location listed on the Permit unless written approval to relocate is obtained from the Fire Chief or designee.
- F. Unsold Safe and Sane Fireworks shall be transported back to the Fireworks Wholesaler, outside of the City, in compliance with Department of Transportation regulations for transporting fireworks by 5:00 p.m. on July 5th.

8.13.100. Safe and Sane Fireworks—Permits.

Permittees shall apply for and obtain all City permits including but not limited to temporary event, electrical, and fire permits.

8.13.110. Safe and Sane Fireworks—Temporary Fireworks Stand.

- A. Retail sales of Safe and Sane Fireworks are only permitted in Fireworks Stands; retail sales from any other building or structure are prohibited. Fireworks Stands must comply with *NFPA 1124 Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles*, current edition of the California Fire Code, the California Code of Regulations, Title 19, Division 1, Chapter 10.
- B. The Fire Chief or his or her designee may create additional rules and regulations for the operation of Fireworks Stands. A copy of any such rules and regulations shall be posted in a prominent place in each Fireworks Stand. Failure to comply with the rules and regulations shall be grounds for the immediate revocation of any Permit granted under this Chapter.

8.13.120. Safe and Sane Fireworks—Revocation of Permit.

The Fire Chief or his or her designee may revoke, immediately and without notice or hearing, the Permit of any Permittee who violates Federal, State or City laws. Any Permittee whose Permit has been revoked shall be ineligible to participate in the lottery for two years from the date of revocation.

8.13.130. Safe and Sane Fireworks—Limitation on Places and Hours of Discharge and Sale of Safe and Sane Fireworks.

- A. It shall be unlawful for any person and Permittee to sell, ignite, discharge, project or otherwise use any Safe and Sane Fireworks, or allow the ignition, discharge or projection thereof in any area located east of Hewes Street within the City's jurisdictional boundaries and any area located east of Cannon Street north of Santiago Canyon Road within the City's jurisdictional boundaries
- B. It shall be unlawful for any person to ignite, discharge, project or otherwise use any Safe and Sane Fireworks, or allow the ignition, discharge or projection thereof, except on July 4th of each year between the hours of noon and 10:00 p.m.
- C. It shall be unlawful for any person to ignite, discharge, project or otherwise use any Safe and Sane Fireworks, or allow 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 use any Safe and Sane Fireworks within 10 feet of any residence, dwelling or other structure.
- D. It is unlawful for any person, firm or corporation to ignite, discharge, permit or otherwise use any fireworks, including Safe and Sane Fireworks, within the following areas of the City:
 - 1. Any public property, including, but not limited to public streets, highways, sidewalks, alleys, parks or other publicly owned property, buildings or facilities; except for residential sidewalks, alleys and streets;
 - 2. Any property within a commercial district of the City as defined by the Orange Zoning and Subdivision Code, except for any nonconforming residential use within such district used for residential purposes as of the effective date of the ordinance codified in this Chapter.
 - 3. Any property within an industrial/manufacturing district of the City as defined by the Orange Zoning and Subdivision Code, except for any nonconforming residential use within such district used for residential purposes as of the effective date of the ordinance codified in this section.
- E. Fireworks shall not be ignited, discharged, projected or otherwise used within 300 feet of a Fireworks Stand.
- F. It is unlawful for any person to store, sell or discharge any type of fireworks in or within 100 feet of a location where gasoline or any other flammable liquid is stored or dispensed.

8.13.140. Seizure of Fireworks.

The Fire Chief or his or her designee may seize, take, remove or cause to be removed, at the expense of the Permittee, Fireworks Wholesaler, or any person, whichever is applicable, all stock of fireworks offered or exposed for sale, stored or held in violation of this Chapter.

8.13.150. Fireworks Wholesaler Public Education Plan.

Each Fireworks Wholesaler who is supplying a Permittee Safe and Sane Fireworks shall annually submit a public education plan to the Fire Department no later than 5:00 p.m. on June 1st of each year. The components of the public education plan shall be approved by the Fire Chief or his or her designee each year.

8.13.160. Fees.

By resolution, the City Council will establish fees for costs incurred by the City in implementing this Chapter.

8.13.170. Miscellaneous.

This Chapter is not the exclusive regulation for fireworks within the City of Orange and does not supersede existing Federal, State or City statutes, regulations and ordinances.

Chapter 15.32 CITY OF ORANGE FIRE CODE

15.32.020 Amendments to the City of Orange Fire Code as adopted by Ordinance 07-22

105.5.56 Safe and Sane fireworks sales. [Added] An operational permit is required to operate a temporary fireworks stand in accordance with Chapter 8.13.

5601.2.2 Sale and retail display or use. [Amended] Persons shall not construct a retail display nor offer for sale explosives, explosive materials or fireworks on highways, sidewalks, public property or in Group A or E occupancies. The storage, use, sale possession, and handling of fireworks 1.4G (commonly referred to as Safe and Sane) is permitted under Chapter 8.13 of the Orange Municipal Code.

5601.2.2.1 Permits. [Added] A permit shall be required as set forth in Sections 105.5.56.

SECTION II:

Neither the adoption of this ordinance nor the amendment hereby of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor to be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City related to the same subject matter, shall be constructed as restatements and continuations, and not as new enactments.

SECTION III:

References to Prior Code – Unless superseded and expressly repealed, references in City forms, documents and regulations to the chapters and sections of former adopted City of Orange Ordinances shall be construed to apply to the corresponding provisions. Ordinances in conflict herewith are hereby superseded and expressly repealed.

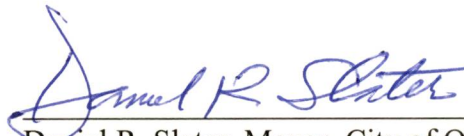
SECTION IV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V:


The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this 28th day of January, 2025.



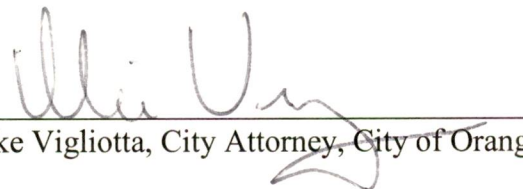
Daniel R. Slater, Mayor, City of Orange

ATTEST:



Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

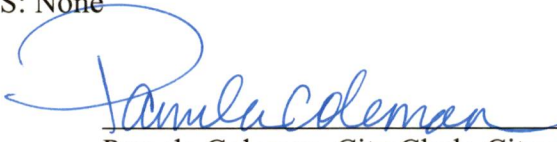


Mike Vigliotta, City Attorney, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 14th day of January, 2025, and thereafter at the regular meeting of said City Council duly held on the 28th day of January, 2025 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Bilodeau, Dumitru, Tavoularis, Gyllenhammer, Slater
NOES: COUNCILMEMBERS: Barrios, Gutierrez
ABSTAIN: COUNCILMEMBERS: None



Pamela Coleman, City Clerk, City of Orange