

Title 4 – Public Safety
Chapter 3 – Fire Prevention Code
Section 16 - Fireworks

Sec. 4-3.16 Fireworks - Purpose.

It is the intent of the City to reasonably regulate the sale, use, display, and discharge of dangerous and safe and sane fireworks within the City to protect the public health, safety, and general welfare.

Section: 4-3.16.1. Definitions.

For the purposes of this section 16, unless otherwise apparent from the context, certain words and phrases used in this section 16 are defined as follows.

A. “Dangerous fireworks” means any fireworks specified as such in the State Fireworks Law, Section 12505 and 12561 of the Health and Safety Code of the State Of California, and such other fireworks as may be determined to be dangerous by the state fire marshal.

B. “Safe and Sane Fireworks” as defined in Section 12529 of the Health and Safety Code the State of California, means any fireworks, which do not come within the definition of “dangerous fireworks” or “exempt fireworks”.

C. “Eligible Organization” means an organization which has met all of the following criteria for a continuous period of not less than two full years preceding submittal of an application for permit required by this section 16 (and which continues to do so thereafter).

1. Internal Revenue Code Sections 501 (c) 3, 4, 6, 7, 8, 10, 19, 23, or 26, Section 501 (d), Section 501 (e);
2. The organization must be headquartered within and clearly affiliated or identified with the City of Los Banos;
3. The organization must be one which provides direct and regular community services and benefits to the citizens of the City of Los Banos;
4. The organization must hold its regularly scheduled meeting within the City of Los Banos; and
5. Has a minimum membership of ten (10) members continuously.

D. “Fireworks Stand” means any building, counter, or other structure of a temporary nature used in the sale or offering for sale of Safe and Sane fireworks pursuant to a permit duly issued.

Section: 4-3.16.2. Possession, Sale, Use, Display, Discharge of Dangerous Fireworks.

A. It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Chapter.

B. It shall be unlawful for any person having lawful possession or control of private property, including but not limited to an owner, renter, lessee, to permit any person to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Chapter.

Section: 4-3.16.3. Possession, Sale, Or Use Of Safe and Sane Fireworks.

It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "safe and sane fireworks" except as permitted by the provisions of this Chapter.

Section: 4-3.16.4. Permit for Sale of Safe and Sane Fireworks.

It shall be unlawful for any person to possess, store, to offer for sale, or sell safe and sane fireworks within the city of Los Banos without a valid permit from the fire department. The fire chief shall have the authority to adopt reasonable rules and regulations for the granting of permits for the sale of safe and sane fireworks by eligible organizations. The fire chief shall also have the authority to adopt reasonable rules and regulations for the safe operation of firework stands.

Section: 4-3.16.5. Application for Permit to Sell Safe and Sane Fireworks.

Permits to sell safe and sane fireworks shall be issued by the fire department as follows:

A. All applications for permits shall be in writing and delivered to the fire chief on forms supplied by the fire department, and shall include all documentation and proof required by the rules and regulations established by the state fire marshal and the fire chief. All application materials must be complete to be accepted by the fire department.

B. Applications may be filed beginning the first business day of August of each year up to and including 5 p.m. the last working day in September of the same year or at other dates and times as determined by the fire chief.. No application shall be received after 5 p.m.

C. Applications shall be signed by a bona fide officer of the non-profit organization wherein the officer, on behalf of the organization and its agent, shall agree to abide by all state laws, all administrative regulations, all city ordinances, all rules and regulations promulgated by the fire chief and the terms and conditions of the permit.

D. Applications shall identify the name of the organization, the organization charter or mission statement, the address of the principal meeting place and mailing address, number of members, the purpose of the organization and the date it came into existence.

E. Application fees: the applicant shall pay a non-refundable twenty-five \$25.00 dollar fee. The fee is required to be paid at the time application is submitted.

F. Permit Fee: \$250.00 paid prior to permit issuance.

G. Except as provided in subsection (H), the maximum number of permits which may be issues and the maximum number of "safe and sane fireworks" stands that will be permitted pursuant to this section 16 during any one calendar year shall not exceed one permit for each five thousand (5,000) residents of the City of Los Banos, or fraction thereof, based on the State of California Census Estimate. The official Census Estimate shall be the latest estimate published before the end of the filing period.

H. The Los Banos Chamber of Commerce, Fourth of July Committee shall be exempted from the maximum number of permits set forth in subsection (G) and shall receive one permit (in addition to the maximum number of permits) for the sale of safe and sane fireworks upon meeting all other requirements set forth in this section 16, and so long as it continues to sponser the Los Banos Fourth of July Celebration.

Section: 4-3.16.6. Issuance of Permits.

Only eligible organizations that have submitted a timely and complete application accepted by the fire chief and that have been drawn from a pool of accepted applications will be permitted to sell safe and sane fireworks.

A. If the number of accepted applications exceed the maximum number of permits which may be issued in a calendar year; accepted applicants for a permit will be selected by lot on the first working day of October at 1 p.m. at Fire Station One or at another time and location as determined by the fire chief. Successful and unsuccessful applicants will be notified by mail.

B. By April 1, each successful applicant shall provide to the fire chief; a site plan with the location of the fireworks stand; a written letter from the property owner indicating permission to sell safe and sane fireworks on the site; the permit fee; proof of insurance, one million dollars public liability, property damage, and product liability insurance policies with riders attached to the policies designating the City of Los Banos as an additional insured. Applicants that do not submit the required information by the April 1 deadline shall not be issued a permit.

C. Permits will be effective only when delivered by the fire department after the final inspection of the fireworks stand shows compliance with all the requirements established by the fire chief or this chapter for the operation of a fireworks stand.

- D. A permit entitles the holder of the permit to one fireworks stand, which shall operate on the location identified on the permit.
- E. Two or more qualified applicants may be issued a permit as a joint venture.
- F. Permits issued pursuant to this Chapter are valid only during the calendar year issued.
- G. Permits issued pursuant to this Chapter are not transferable.

Section: 4-3.16.7. Fireworks Stands.

When all application requirements have been completed, fees have been paid and the stand location has been approved, the fire department shall authorize the erection of the stand. The stand shall be inspected and approved by the fire chief or his/her designee, prior to the sale of any fireworks from said stand. The sale of fireworks from any other building or structure is prohibited. Temporary fireworks stands shall be subject to the following provisions:

- A. Fireworks stands shall be located only upon property that is zoned for commercial or industrial uses.
- B. Fireworks stands shall be located on improved property, i.e. paved, cement parking lots.
- C. Fireworks stands shall be 35 feet from the public right-of-way and 35 feet away from existing structures.
- D. No smoking signs shall be posted on all four sides and inside the fireworks stand indicating "No Smoking within 35 feet".
- E. Fireworks stands shall not interfere with normal traffic patterns in private parking lots.
- F. Fireworks stands shall be constructed of substantial material to provide security and safe sales operation.
- G. Permits to sell safe and sane fireworks shall be posted in a conspicuous location within the interior portion of the fireworks stand.
- H. A sign shall be affixed to the front of the exterior portion of the fireworks stand in letters at least six inch in height, identifying the name of the nonprofit organization to which the permit to sell safe and sane fireworks was issued.
- I. No electrical service shall be allowed in or within 25 feet of the firework stand, to include fuel powered generators or similar equipment.
- J. Fireworks stands shall have two working, currently serviced, two and one-half gallon water extinguishers. Extinguishers shall be readily accessible.

K. During hours of non operation fireworks shall be stored in an enclosed locked cargo container on site, in a location approved by the fire chief. The storage container shall have placards on all four sides and have signage posted indicating “No Smoking” within 35 feet.

L. Wholesale storage of safe and sane fireworks importer/distributors is not allowed in the city.

M. The fireworks stand shall be removed from the temporary location and all unsold stock and accompanying litter shall be removed from the location by five p.m., on July 5th. Failure to dismantle and/or remove any fireworks stand may result in the removal of the fireworks stand by the fire department or designee at the sole expense of the holder of the permit.

Section: 4-3.16.8. Regulations.

A. Fireworks stands may be operated only from the hours of 8 a.m. to 8 p.m.

B. No safe and sane fireworks shall be sold before 12 noon on the twenty-eighth (28th) day of June or later than 8 p.m. on the fourth (4th) day of July.

C. It shall be unlawful to sell fireworks to persons under the age of 18 years old.

D. It shall be unlawful for the permitted organization to permit any person other than the permitted organization to operate the fireworks stand for which the permit is issued or to otherwise participate in the profits of the operation of such stand.

E. It shall be unlawful for the permitted organization to permit any person other than the individuals who are members of the permitted organization, their spouses or adult children, or volunteers whom no compensation is paid, to sell or otherwise participate in the sale of safe and sane fireworks at such stand.

F. No one under the age of 16 years old shall be allowed in the fireworks stand at any time.

G. Each organization which receives a permit must have at least two of its members attend an operator safety seminar provided by the fireworks company.

Section: 4-3.16.9. Revocation of Permits

A. Any violation of this section 16 or other city ordinances or policies, or the terms and conditions of the permit, or state laws or administrative regulation, or safety rules of the fire department, shall be grounds for the immediate revocation of the permit. All officers and members of the organization shall be responsible for compliance with all of the provisions of this section 16.

B. The fire chief or his designee shall be authorized to suspend immediately and without notice or formal hearing the permit of any holder of a permit which violates any rule,

regulation or ordinance while operating or preparing to operate a fireworks stand during or immediately preceding any period of sale. If the fire chief or his designee establishes that a violation has occurred too late to suspend the permit during the period of sale, he shall have power to suspend the holder of the permit from applying for future permits.

C. The decision of the fire chief or his designee to suspend the permit shall be subject to review by the city manager, forthwith. In view of the limited sales period each year, for suspensions affecting the sale period, such hearing shall be held at the earliest possible time that the holder of the permit, city manager or his designee, and the representative of the fire chief can schedule a meeting for such review. For suspensions after the sale period the hearing shall be within one month after the request for hearing, which request must be made within fifteen days after notice of the suspension. The city manager or his designee is authorized to set aside the suspension, or to modify the suspension by limiting its effect to only one or more days, or by setting aside the forfeiture for future years. The decision of the city manager or his designee shall be final.

Section: 4-3.16.10. Seizure of Fireworks

The fire chief or the designee thereof, 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 chapter.

Section: 4-3.16.11. Restrictions.

A. It is unlawful for individuals under eighteen years of age to sell, purchase, or possess, "safe and sane fireworks."

B. It is unlawful for individuals under eighteen years of age to discharge, explode, fire, or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this Chapter.

C. It shall be unlawful to discharge any "safe and sane fireworks" except from the first day of July to the fourth day of July during the hours of 9:00 a.m. to 10:00 p.m.

D. It shall be unlawful to ignite or otherwise use any "safe and sane fireworks," or permit the discharge thereof, upon, over, or onto the property of another without his/her consent.

E. It shall be unlawful for any person having the care, custody, or control of a minor (under 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 18 years of age and during the hours and on the days permitted by this Chapter.

F. It shall be unlawful to discharge any "safe and sane fireworks" except on private property and as otherwise provided in this chapter. No fireworks shall be discharged on public,

semipublic, or private open areas such as parking lots, vacant properties, or in a public street or right-of-way, or in public parks.

Exception: It shall be lawful to discharge Safe and Sane Fireworks in the public street only if street closure has been approved by the City Council for a block party. The applicant shall provide a site plan with the Street Closure application indicating the location in the street where Safe and Sane Fireworks are to be discharged. Said location shall be approved by the Fire Department.

G. Person or persons in violation of this section 16 will be caused for immediate seizure of fireworks and citation. Improper use of fireworks or unsafe use of fireworks or use of fireworks in an area considered hazardous by the fire chief or designee shall cause immediate seizure of fireworks and citation.

Section: 4-3.16.12. Permit for Public Displays of Fireworks

Public Display of fireworks, as defined in the State Fireworks Law, Section 12500 et seq of the Health and Safety Code, may be conducted subject to all the terms and provisions therein contained provided that a permit therefore has been granted by the fire chief. Such public displays, in addition, shall be subject to all rules and regulations contained in the Fire Code.

The fire chief shall have authority to adopt reasonable rules and regulations for the granting of permits for those activities contained in Section 12640 of the Health and Safety Code of the state of California, including supervised public displays of fireworks by a jurisdiction, fair association, amusement park, other organization, or for the use of fireworks by artisans in pursuit of their trade. Each such use or display shall be handled by a licensed pyrotechnic operator as defined by Section 12527 of the Health and Safety Code of the state of California, and shall be of such character and so located, discharged or fired as in the opinion of the fire chief or his designee, after proper investigation, will not be hazardous or endanger any person.

Section: 4-3.16.13. Penalties for Violations.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and shall be subject to criminal prosecution, civil remedies, administrative fines and penalties, and any other remedies available to the city for enforcement of this code.

Section: 4-3.16.14. Concurrent Authorities.

This section 16 is not the exclusive regulation for the fireworks within the City of Los Banos. This section 16 shall supplement and be in addition to the other regulatory codes, statutes, regulations, and ordinances heretofore and hereinafter enacted by the City of Los Banos, the State of California, or any other legal entity or agency having jurisdiction.

Any provisions of the City of Los Banos in conflict herewith are hereby repealed. This section 16 supersedes any conflicting provisions of the Uniform Fire Code and Uniform Building Code.

Sec 4-3.17 Administrative Enforcement for Fireworks - Purpose and Scope

A. This Section 17 provides for the imposition, enforcement, collection, and administrative review of all administrative fines, related to: (1) the possession, use, storage, sale and/or display of those fireworks classified as “dangerous fireworks” in California Health and Safety Code Sections 12500, *et seq.*, with the exception of a pyrotechnic licensee when operating pursuant to that license; and (2) the sale, use, and/or display of “safe and sane fireworks” as defined in California Health and Safety Code Sections 12500 *et seq.* on or at dates, times and/or locations other than those permitted by the Section 16 of this Chapter 3.

B. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized hereunder; and the issuance of a citation to any person constitutes but one remedy to redress violations of this code by any person. By adopting this Section 17, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this code or state law by any person.

C. The imposition of fines related to “dangerous fireworks” under this Section 17 shall be limited to persons who possess, sell, use and/or display, or the seizure of, 25 pounds or less (gross weight) of such dangerous fireworks.

D. Fines collected pursuant to this Section 17 related to “dangerous fireworks” shall not be subject to Health and Safety Code Section 12706. However, the city shall provide cost reimbursement to the State Fire Marshal for the transportation and disposal of “dangerous fireworks” seized by the city where applicable. These costs will be included in any administrative fines imposed under this Section 17.

Sec 15.17.1 Enforcement Procedures and Fines

A. Administrative enforcement including the amount of administrative fine for this Section 17 shall be pursuant to the procedures set forth in Chapter 11 of Title 4 of the Los Banos Municipal Code.

Sec. 4-3.18 Manufacturing of Fireworks

The manufacturing of fireworks within the City is prohibited, except under special permit as required by local and state regulations.