

ORDINANCE NO. 1066

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS ADOPTING BY REFERENCE THE 2007 EDITION OF THE CALIFORNIA FIRE CODE, AS AMENDED BY REPEALING AND REPLACING TITLE 4, CHAPTER 3, "FIRE PREVENTION CODE" OF THE LOS BANOS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF LOS BANOS MAKES THE FOLLOWING FINDINGS:

WHEREAS, California Health & Safety Code Section 18938 provides that the building standards contained in the California Fire Code, 2007 Edition, and incorporates by adoption, the 2006 Edition of the International Fire Code of the International Code Council with California amendments shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Buildings Standards Code by the California Building Standards Commission; and

WHEREAS, the City Council of the City of Los Banos has previously adopted the "Uniform Fire Code, 2000 Edition," including the appendix, which was prepared by the International Conference of Building Officials and Western Fire Chiefs Association, with certain amendments as the Fire Code of the City; and

WHEREAS, after due consideration, the City Council of the City of Los Banos hereby finds that it desires to adopt the most recent version of the California Fire Code as the City's Fire Code, with certain amendments to provide further safety protections to the citizens of the City of Los Banos; and

WHEREAS, California Health & Safety Code Section 18941.5 provides that if a city makes an express finding that building standards that are more restrictive than those standards provided in the international codes are reasonably necessary because of local climatic, geological, or topographical conditions, a city may establish more restrictive building standards; and

WHEREAS, the City Council of the City of Los Banos hereby finds the amendments to the "California Fire Code, 2007 Edition," are reasonably necessary to provide sufficient and effective protection of life, health, and property in consideration of the local climatic, geologic and topographic conditions as stated below; and

A. During winter months, the San Joaquin Valley experiences thick fog that is a danger to emergency personnel responding to fires and other emergencies and delays response time of emergency vehicles by two to three minutes the normal response time. Fire engines and trucks must greatly reduce their speed in the fog to compensate for appropriate braking distances because of the weight of the vehicles; and

B. Merced County is located within an area with potential seismic activity. After a large seismic event, the potential for multiple fires occurring simultaneously will tax available firefighting resources. Built-in fire protection will assist in extinguishing or controlling fires in larger structures, which will increase the availability of firefighting resources after seismic activity; and

C. The City of Los Banos to a great extent lies on a level plain, as a result, heavy rains have historically threatened flooding throughout the City, which can cause delays for emergency response, or in some situations, make it impossible for responders to get to certain areas of the City. Flooding is both a climatic and topographic problem; and

D. The City of Los Banos is located in an area subject to a climatic condition of high winds. This environment is conducive to rapidly spreading fires; control of such fires requires rapid response. Obstacles generated by a strong wind, such as fallen trees, streetlights and utility poles, may greatly impact the response time to reach an incident scene; and

E. Due to the topographical conditions of sprawling development separated by two congested state highways, it is prudent to rely on measures to allow for rapid access and entry to an incident scene.

THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Title 4, Chapter 3, "Fire Prevention Code" of the Los Banos Municipal Code is hereby repealed and amended in its entirety to read as follows:

"Title 4
Chapter 3
Fire Prevention Code

Sections:

- 4-3.01 Adoption of the 2007 California Fire Code.
- 4-3.01.1 Appendix Chapter 1 of the California Fire Code, 2007 Edition.
- 4-3.02 Definitions.
- 4-3.03 Bureau of Fire Prevention.
- 4-3.04 Modifications
- 4-3.05 Appeals.
- 4-3.06 Alternate materials and methods.
- 4-3.07 Amendments: Article 1: Section 105: Application for Permit
- 4-3.08 Amendments: Section 104 Permits, Fire Suppression, and Inspection Recovery of Costs.
- 4-3.09 Amendments: Chapter 9: Section 906.1: Portable Fire Extinguisher.
- 4-3.10 Amendments: Chapter 9: Section 904: Installation of Fixed Fire Protection Systems.
- 4-3.11 Amendments: Chapter 9: Section 903.2. Automatic Fire Extinguishing Systems.
- 4-3.12 Amendments: Chapter 9: Section 907.1: Sprinkler Systems Supervision.
- 4-3.13 Amendments: Chapter 19: Section 1903.1: Wood Products, Pallet Storage and Use.
- 4-3.14 Amendments: Chapter 34: Section 3403.1: Flammable and Combustible Liquids.
- 4-3.15 Amendments: Chapter 38: Section 3801.1: Liquefied Petroleum Gas.
- 4-3.16 Amendments: Chapter 33: Sections 3308.1: Fireworks and Pyrotechnic Special Effects Material (Definitions).
- 4-3.16.1 Definitions.
- 4-3.16.2 General prohibition against possession, sale, or use of fireworks.
- 4-3.16.3 Possession, sale, or use of safe and sane fireworks.
- 4-3.16.3a Permit for public displays of fireworks.
- 4-3.16.4 Permit for sale of safe and sane fireworks.
- 4-3.16.5 Application for permit to sell safe and sane fireworks.
- 4-3.16.6 Issuance of permits.
- 4-3.16.7 Fireworks stands
- 4-3.16.8 Regulations.
- 4-3.16.9 Revocation of permits.
- 4-3.16.10 Seizure of fireworks.
- 4-3.16.11 Restrictions.
- 4-3.16.12 Penalties for violations.
- 4-3.16.13 Concurrent authorities.
- 4-3.17 Amendments: Chapter 33: Section 3308.1: Manufacturing.

- 4-3.18 Amendments: Chapter 33: Section 3308.1: Fireworks.
- 4-3.19 Amendments: Chapter 5: Section 506.1: Key boxes.
- 4-3.20 Fire Zones.

Section 4-3.01 Adoption of the 2007 California Fire Code

There is hereby adopted by the City Of Los Banos, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code known as the 2007 California Fire Code, as published by the International Code Council, together with all Appendices and subsequent additions and editions thereto, three (3) copies of which are on file in the office of the City Clerk for public records and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said code shall be known as the Fire Code for the City.

Section 4-3.01.1 Appendix Chapter 1 of California Fire Code, 2007 Edition.

Appendix Chapter 1 as contained in the California Fire Code, 2007 Edition, is adopted in its entirety with the following amendments:

A. Section 102.7, Appendix Chapter 1 of the California Fire Code, 2007 Edition is amended to read as follows:

Section 102.7. Where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this Code. Nothing herein shall derogate from the power of the Fire Chief to determine compliance with codes or standards for those activities or installations within the Fire Chief's jurisdiction or responsibility.

EXCEPTION: Recognized standards shall not include any standard which attempts to regulate local authority as to minimum daily staffing levels and incident response levels. These standards include, but are not limited to NFPA 1710 & 1720.

B. Section 104.10.1, Appendix Chapter 1 of the California Fire Code, 2007 Edition, is amended to read as follows:

Section 104.10.1. The Fire Chief, Fire Chief Officers and the fire investigation team who have been designated by the Fire Chief shall have the powers of a police officer in performing their duties under this code.

Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires when requested to do so.

Section 4-3.02 Definitions.

- (a) Whenever the word "Municipality" is used in said California Fire Code, it shall be held to mean the City.
- (b) Whenever the word "Chief of the Bureau of Fire Prevention" is used in said California Fire Code it shall be held to mean the Fire Chief or Chief of Fire Services.
- (c) Whenever the word "Fire Chief" is used in said California Fire Codes and related Codes, it shall be held to mean the Fire Chief or Chief of Fire Services.

Section 4-3.03 Bureau of Fire Prevention.

- (a) Established: Supervision. The Bureau of Fire Prevention of the City is hereby established and shall be operated under the supervision of the Fire Chief or Chief of Fire Services.

- (b) Inspector: Appointment. The Fire Chief may recommend to the City Manager the employment of inspectors and technical inspectors who, when such authorization is made, shall be employed and appointed by the City Manager on the recommendation of the Fire Chief.
- (c) Enforcement duties. The members of the Bureau of Fire Prevention shall enforce the provisions of said California Fire Codes and related Codes.

Section 4-3.04 Modifications.

The Fire Chief shall have the power to modify any of the provisions of said Uniform Fire Code upon an application, in writing, by an owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the letter of the Code, public safety is secured, and substantial justice done. The particulars of such modifications, when granted or allowed, and the decision of the Fire Chief thereof shall be entered upon the records and kept by the Fire Chief and duplicate copies shall be forwarded to the City Clerk.

Section 4-3.05 Appeals.

Whenever the Fire Chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provision of the Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief to the City Council within thirty (30) days from the date of the decision of the appealed.

Section 4-3.06 Alternate Materials and Methods.

The Fire Chief is authorized to approve alternate materials or methods provided that the chief finds that the proposed design, use of operation satisfactorily complies with the intent of this Code and that the method of work performed or operation is, for the purpose intended, at least equivalent to that prescribed in this Code. Approvals under the authority herein contained shall be subject to the approval of the building official whenever the alternate material or method involves matters regulated by the Building Code

Section 4-3.07 Amendment: APPENDIX CHAPTER 1: Section 105
Permits: Application for Permit

Section 105.6 of the 2007 Edition of the California Fire Code is hereby amended to read as follows:

The requirements of this article shall be subject to the permits specified in the California Fire Code as adopted and amended. Permits, Inspections, and Plan review fees may be provided by resolution by the City Council or as provided by the California Building Code and/or California Fire Code and/or Reference to the Building Standards. All required plans and permits shall be submitted to the Fire Department for review and approval prior to issuance of any permits required by this Article and/or required by the City.

Section 4-3.08 Amendment: APPENDIX CHAPTER 1: Section 104 GENERAL
AUTHORITY AND RESPONSIBILITIES
Permits, Fire Suppression, and Inspection Recovery
of Costs.

Section 104.1 of the 2007 Edition of the California Fire Code is hereby amended to add Section 104.1 (a) as follows:

(a) The Fire Department shall recover cost that reasonably constitute the cost of fire suppression, inspections, clean-up of chemical spills, the cost of suppression chemicals, material and/or equipment used to mitigate the hazard. Cost recovery against a property owner and/or other responsible person when the act is a result of that person's willful negligence and/or negligence, violation of federal or state statute, or local ordinance.

Section 4-3.09 Amendment: CHAPTER 9: Section 906 PORTABLE FIRE
EXTINGUISHERS

Section 906.1 of the 2007 Edition of the California Fire Code is hereby amended to add Section 906.1(a) as follows:

(a) The minimum approved portable fire extinguisher size for all occupancies shall be, 2-A:10-B:C rated. Unless more restrictive by code.

Section 4-3.10 Amendment: CHAPTER 9: Section 904 ALTERNATIVE
AUTOMATIC FIRE EXTINGUISHING SYSTEMS
Installation of fixed Fire Protection Systems

Section 904 of the 2007 Edition of the California Fire Code is hereby amended to add Section 904(a) to read as follows:

(a) All fire extinguishing system required in this code and/or the California Building code shall be installed in accordance with the requirements of this Article, and the National Fire Protection Association standards and/or Factory Mutual Engineering.

Section 4-3.11 Amendment: CHAPTER 9: Section 903 AUTOMATIC SPRINKLER
SYSTEMS Automatic Fire Extinguishing Systems

Section 903.2 of the 2007 Edition of the California Fire Code is hereby amended to add Sections 903.2(a), 903.2(b) and 903.2(c) to read as follows:

(a) When required an Automatic Fire Extinguishing system or other approved combined system shall be installed in all occupancies and locations with a total floor space including mezzanine area of 5,000 square feet said fire-extinguishing system shall be installed.

(b) Remodeling of Existing Structures. Building hereafter remodeled when the accumulative cost of remodeling exceeds \$100,000.00 and the total floor area is 5,000 square feet or more, sprinkler shall be installed through-out the structure.

(c) Fire Sprinkler Riser. The fire sprinkler riser shall be installed in an interior room with an access door from the exterior of the structure. The room shall be large enough to allow for maintenance and proper support of the riser. Note: no storage will be allowed in said room.

EXCEPTIONS:

- a. Where the California Fire Code and/or California Building are more restrictive, the most restrictive occupancy requirements will be followed.
- b. Area separation walls, the extent and location of such wall shall provide a complete separation or division to limit the floor area to 5,000 square feet. Separation shall be of Four-hour fire-resistive construction. Four-hour separation walls shall be constructed in accordance with the current California Building Code.

Section 4-3.12 Amendment: CHAPTER 9: Section 907 FIRE ALARM AND
DETECTION SYSTEMS
Sprinkler System Supervision

Section 907.1 of the 2007 Edition of the California Fire Code is hereby amended to add Sections 907.1(a) through (f) to read as follows.

(a) All automatic sprinkler systems shall be supervised by an approved central station, proprietary or remote station service or a local alarm which will give an audible signal at a constantly attended location. All automatic fire sprinkler systems installed in Group R Division 1 occupancies as outlined in the 2007 California Building Code are required to be monitored by an approved central alarm monitoring station.

(b) Supervisory signal service alarms. Flow switches and/or tamper switches shall be installed on all fire sprinkler system to include gate valves, post indicator valves.

(c) Annunciator Panel. Annunciator panel means any arrangement of luminaries that indicate a fire condition by location or zone and is activated by a water flow or detection of the products of combustion.

(d) Equipment. Every building equipped with a fire alarm system activated by smoke detectors, rate of heat rise detection, water flow alarms, tamper switches, or pull station shall be equipped with an annunciator panel at a location approved by the fire department.

(e) Locking Devices Fire Department Connections. Every building equipped with a fire sprinkler system shall be required to install lockable type devices on Fire Department Connection. Said device shall be approved by the Fire Department (Knox Fire Department Connection).

(f) When required in Section 907.1 (a) the fire alarm systems will meet the following occupancy requirements:

1. Strip malls & structures with multiple occupancies – All suites located within a structure equipped with a fire sprinkler system will be required to have a minimum of one (1) audio/visual notification device and one (1) manual pull station located in the area designated by the Los Banos Fire Department.
2. Suites or areas 5000 square feet or greater – All suites or areas 5000 square feet or greater, located within a building equipped with a fire sprinkler system are required to install a full occupant notification fire alarm system. This system will include an approved manual, combination automatic and manual or automatic fire alarm system in accordance with the provisions of this code and NFPA 72.

Section 4-3.13 Amendment: CHAPTER 19: Section 1903 LUMBER YARDS
AND WOOD WORKING FACILITIES
Wood Products, Pallet Storage and Use.

Section 1903.1 of the 2007 Edition of the California Fire Code is hereby amended to add Sections 1903.1(a) through (e) to read as follows.

(a) Pallets and Palletized Packing boxes. Required permit to store pallets and or palletized items in excess of 30,000 board feet.

(b) Piles. Pallets shall be piled with due regard to the stability of piles and in no case higher than 12 feet in height. Where pallets are piled next to a property line the distance from the property line shall not be less than one half of the height of the pile and in no case less than five feet.

(c) Driveways. Driveways between and around storage piles shall be a minimum of 20 feet wide. And maintained free from accumulation of rubbish, weeds, equipment and materials. Driveways shall be so spaced that a maximum grid system unit of 50 feet by 50 feet is produced. Note exception: Modification of the driveways, clearance or widths required by this section shall be increased or decreased when, in the opinion of the Fire Chief, Clearances of widths are not adequate to provide fire apparatus access.

(d) Storage. Pallet storage, operating under permit, shall be surrounded with a suitable chain link fence of at least 6 feet in height.

(e) Fire Protection. An approved water supply and fire hydrants capable of supplying the required fire flows shall be provided to within 150 feet of all portions of the storage piles.

Section 4-3.14 Amendment: CHAPTER 34: Section 3403 FLAMMABLE AND COMBUSTIBLE LIQUIDS

Section 3403.1 of the 2007 Edition of the California Fire Code is hereby amended to add Sections 3403.1(a) through (b) to read as follows.

(a) Restricted Location and Fire Protection. The storage of flammable or combustible liquids in above ground tanks shall be restricted to those areas of the City as follows. Planned Industrial District (PM) and General Industrial (M) except as provided by use permits in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming tanks, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

(b) Location of Bulk Plants or Terminals. The construction of new bulk plants and/or terminals for the storage of flammable, combustible, or hazardous liquids shall be restricted to those areas of the City in the Planned Industrial District (PM) and General Industrial District (M). All existing nonconforming bulk plants for the storage of flammable or combustible liquids, which substantially comply with the requirements of this code may continue use.

Section 4-3.15 Amendment: CHAPTER 38:Section 3801 LIQUEFIED PETROLEUM GASES

Section 3801.1 of the 2007 Edition of the California Fire Code is hereby amended to add Section 3801.1(a) to read as follows.

(a) Restricted Location and Installation. The storage of Liquefied Petroleum gas in above ground storage tanks shall be restricted to those areas of the city as follows. Planned Industrial District (PM) and General Industrial (M) except as provided by use permit in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming facility, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

Section 4-3.16 Amendment: CHAPTER 33: Section 3308 EXPLOSIVES AND FIREWORKS Fireworks and Pyrotechnic Special Effects Material (Definitions)

Section 3308.1 of the 2007 Edition of the California Fire Code is hereby amended to add Section 3308.1(a) to read as follows.

(a) Fireworks: All types of fireworks to include Safe & Sane and or any other type brand name said to be safe and sane.

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 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. General Prohibition Against Possession, Sale, Or Use Of Fireworks.

Except as otherwise provided in this Chapter, no person shall possess, sell, use, display or explode "dangerous fireworks" or "safe and sane fireworks" within the City of Los Banos.

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

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

Section: 4-3.16.3 (a) Permit for Public Displays of Fireworks

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

It shall be unlawful for any person to possess, store, to offer for sale, or sell at retail any fireworks in the city other than safe and sane without a 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 sponsor 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. 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: 4-3.16.13. 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 California Fire Code and California Building Code.

Section 4-3.17 Amendment: Chapter 33: Section 3308.1 Manufacturing

Section 3308.1 of the 2007 Edition of the California Fire Code is hereby amended to add Section 3308.1(b) to read as follows:

(b) The manufacturer of fireworks within the City is prohibited, except under special permits as required by local and state regulations. See Section 105, Permit e.1.

Section 4-3.18 Amendment: Chapter 33: Section 3308.1 Fireworks

The fire zones established by the provisions of Section 4-3.20 (b) of this chapter shall include such territory or portions of the City as are illustrated, outlined, and designated on that certain map on file in the office of the City Clerk marked and designated as "Fire Zones of the City of Los Banos, California", which map is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full for the application of the provisions set forth in the California Building Code."

Section 2. The City Council finds that the changes made to the uniform codes are enacted to mitigate the threats posed to public peace, health and safety from earthquakes and fire. In this regard, the recitals set forth in this Ordinance are incorporated herein by reference as findings.

Section 3. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior city ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 4. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 5. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member Villalta and seconded by Council Member Faria on the 19th day of December, 2007.

Passed on the 2nd day of January 2008, by the following vote:

AYES: Council Members Brooks, Faria, Sousa, Mayor Jones
NOES: None
ABSENT: Council Member Villalta

APPROVED:

/s/ Tommy Jones
Tommy Jones, Mayor

ATTEST:

/s/ Lucille L. Mallonee
Lucille L. Mallonee, City Clerk