

ORDINANCE NO. 1300

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA PAULA, CALIFORNIA, ADDING CHAPTER 103 TO THE SANTA PAULA MUNICIPAL CODE PROHIBITING AND REGULATING FIREWORKS.

The City Council of the City of Santa Paula does ordain as follows:

SECTION 1: The City Council finds as follows:

A. Article XI, Section 7 of the California Constitution provides that the City of Santa Paula ("City") may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws;

B. California Health and Safety Code Section 11541 authorizes the City Council of the City ("City Council") to establish local fireworks prohibitions and regulations;

C. The illegal use of fireworks poses an immediate and imminent hazard and threat to the health, safety, and general welfare of the users, spectators, and general public, as well as to property;

D. There have been ongoing concerns from the community regarding the illegal use of fireworks in the City;

E. The City Council has determined to prohibit the ignition, use, discharge, or display of any fireworks, and to make those in possession of the property where the fireworks are ignited, used, discharged, or displayed responsible for fireworks-related violations that occur on said property; and

F. The City Council now desires to add Chapter 103 *Fireworks* to the Santa Paula Municipal Code to prohibit and regulate the ignition, use, discharge, or display of fireworks within the City.

SECTION 2. *Recitals Incorporated.* The City Council of the City of Santa Paula, California, hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

SECTION 3. *Addition to Santa Paula Municipal Code.* Santa Paula Municipal Code Title IX *General Regulations*, Chapter 103 *Fireworks* is hereby added to read as follows:

"Chapter 103: Fireworks

- § 103.01 Intent.
- § 103.02 Definitions.
- § 103.03 General Prohibition Against Ignition, Use, Discharge, or Display of Dangerous Fireworks.
- § 103.04 General Prohibition Against Ignition, Use, Discharge, or Display of Safe and Sane Fireworks.
- § 103.05 Strict Liability for Unlawful Ignition, Use, Discharge, or Display of Fireworks by Another Person.
- § 103.06 Violations and Penalties.
- § 103.07 Concurrent Authorities.

§ 103.01 INTENT.

The provisions of this chapter are intended to regulate the use of all fireworks to provide for the safety of the community and the prevention of fires.

§ 103.02 DEFINITIONS.

The most current adopted definitions set forth in the State Fireworks Law (California Health and Safety Code Sections 12500 *et seq.*) will define the terms used in this chapter unless otherwise modified herein.

DANGEROUS FIREWORKS means any fireworks specified as such in Section 12505 of the California Health and Safety Code, including any safe and sane fireworks altered in a manner such that they fall within the definition of dangerous fireworks.

FIRE CHIEF means the Fire Chief of the City of Santa Paula or his or her authorized representative(s).

PERSON means and includes natural person(s), trusts, estates, firms, corporations, partnerships, associations, or other forms of business organizations or groups.

POLICE CHIEF means the Police Chief of the City of Santa Paula or his or her authorized representative(s).

RESPONSIBLE PERSON means a person who owns, leases, rents, occupies, has charge of, or possesses a public or private property at which fireworks, including

both dangerous fireworks and safe and sane fireworks, are ignited, used, discharged, or displayed.

SAFE AND SANE FIREWORKS means any fireworks specified as such in Section 12529 of the California Health and Safety Code.

STRICTLY LIABLE means liability for a wrongful act irrespective of such person's intent, knowledge, negligence, or lack thereof in committing the wrongful act.

§ 103.03 GENERAL PROHIBITION AGAINST IGNITION, USE, DISCHARGE, OR DISPLAY OF DANGEROUS FIREWORKS..

No person shall ignite, use, discharge, or display any dangerous fireworks within the City without a permit issued by the Fire Chief pursuant to Section 12640 of the California Health and Safety Code.

§ 103.04 GENERAL PROHIBITION AGAINST IGNITION, USE, DISCHARGE, OR DISPLAY OF SAFE AND SANE FIREWORKS.

No person shall ignite, use, discharge, or display any safe and sane fireworks within the City.

§ 103.05 STRICT LIABILITY FOR UNLAWFUL IGNITION, USE, DISCHARGE OR DISPLAY OF FIREWORKS BY ANOTHER PERSON.

(A) Any person having the care, custody, or control of a minor shall be strictly liable for any unlawful ignition, use, discharge, or display of dangerous fireworks or safe and sane fireworks in violation of this chapter.

(B) Any responsible person shall be strictly liable for any unlawful ignition, use, discharge, or display of any dangerous fireworks or safe and sane fireworks in violation of this chapter at his or her property or gathering; except that:

(1) No owner of private property shall be liable under this Subsection B for a violation of this chapter on that property if the owner can demonstrate at the time of such violation that the owner (i) had rented or leased the property to another, (ii) was not present, and (iii) had no prior knowledge of the violation.

(2) No person who has the right to use, possess, or occupy a unit in a multifamily residential property under a lease, rental agreement, or contract shall be liable under this Subsection B for violations of this chapter occurring in the common areas of the property.

(3) Nothing in this Subsection B shall limit the liability of any responsible person for a violation of this chapter by the responsible person.

§ 103.06 VIOLATIONS AND PENALTIES.

(A) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding one (1) year, or by both such fine and imprisonment. Upon any second or subsequent conviction of the offense, the person shall be punished by the penalties of a fine of one thousand dollars (\$1,000) and by imprisonment in the county jail for one (1) year.

(B) Any violation of this chapter is hereby declared to be a public nuisance.

(C) Any violation of this chapter is punishable by administrative citation pursuant to Chapter 14 of this code entitled *Administrative Citations* with administrative citation fine amounts to be established by City Council resolution, which may be amended from time to time.

(D) Causing, permitting, aiding, abetting, or concealing a violation of this chapter shall also constitute a violation.

(E) The assigned Fire Chief and the Police Chief are authorized to enforce the provisions of this chapter. The assigned Fire Chief and the Police Chief shall have the authority to seize, take, and remove any fireworks, dangerous fireworks, and safe and sane fireworks. The assigned Fire Chief and the Police Chief may charge any person whose fireworks are seized pursuant to this section, a reasonable amount which is sufficient to cover the cost of transporting, storing, handling, and disposing of the seized fireworks.

(F) A person is guilty of a separate offense for each and every day or portion thereof during which he or she commits, continues, or permits a violation of this chapter.

(G) The remedies provided by this chapter are cumulative and in addition to any other remedy available at law or in equity.

(H) Nothing in this chapter shall be intended to limit any of the penalties provided for under the California Health and Safety Code or Penal Code with regard to fireworks.

§ 103.07 CONCURRENT AUTHORITIES.

This chapter is not the exclusive regulation for fireworks within the City. This chapter shall supplement and be in addition to the other regulatory codes, statutes, regulations and ordinances heretofore and hereinafter enacted by the City of Santa Paula, the Ventura County Fire Protection District ("District") (including the District's Ordinance No. 31 which prohibits all fireworks, including those labeled as "safe and sane" (See District Ordinance No. 31, § 5601.1.3), the State of California, or any other

legal entity or agency having jurisdiction. Where allowed by law, this chapter supersedes any conflicting provision of the California Fire Code and California Building Code."

SECTION 4. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 5. California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) and 15378 (the activity is not a project under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

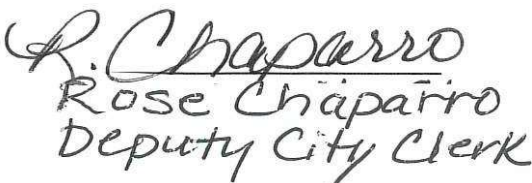
SECTION 6. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7. Certification and Publication. The City Clerk of the City of Santa Paula shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED at a regular a.g. of the City Council of the City of Santa Paula, California on the -fh day of US--f 2020.


Richard Araiza, Mayor

ATTEST:


Rose Chaparro
Deputy City Clerk



APPROVED AS TO FORM:


John C. Cotti, City Attorney