

ORDINANCE NO. 2018-015

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SAN BUENAVENTURA,
CALIFORNIA, PERTAINING TO
FIREWORKS**

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

WHEREAS, The City of San Buenaventura as a charter city has the ability to conflict with the general laws in the area of municipal affairs pursuant to Article XI, Section 5 of the California Constitution; and,

WHEREAS, Health and Safety Code Section 11541 authorizes the City Council to establish local fireworks regulations; and,

WHEREAS, The City Council pursuant to its Charter as well as the general laws has determined to prohibit the sale, use, and/or possession of any fireworks or dangerous fireworks, and to make homeowners and tenants responsible for fireworks violations that occur on their property; and,

The Council of the City of San Buenaventura does ordain as follows:

Section 1. PURPOSE, FINDINGS, AND INTENT.

- A. The purpose and intent of this Emergency Ordinance is for the protection of the public health, safety, and welfare.
- B. Pursuant to the City of San Buenaventura's police power, which is broadly granted to the City Council under Article XI, Sections 5 and 7 of the California Constitution, and pursuant to Section 706 of the City's Charter, the City Council has the authority to enact and enforce ordinances and regulations for public health, safety, and welfare.

- C. Health and Safety Code Section 12541 authorizes the City Council to establish local fireworks regulations.
- D. Fireworks pose a serious fire hazard which can result in injuries and/or property damage.
- E. Apart from fire hazards, the noise from fireworks has negative impacts upon the quality of life of infants and small children, the infirm, and persons with post-traumatic stress disorder. Animals, such as house pets and wildlife, are easily terrified by fireworks. Pets are prone to panic, and commonly escape from their owners because of this noise.
- F. Complaints about fireworks place a strain on public safety resources, especially on the Independence Day holiday. During 2017, the Police Department received 479 disturbance calls that involved fireworks (314 of these calls were received during the months of June and July). On July 4 alone, the Police Department received 113 fireworks disturbance calls.
- G. The U.S. Fire Administration recently determined that children under the age of fifteen (15) years suffered 45% of all injuries from fireworks. According to national statistics issued by the United States Consumer Product Safety Commission in their 2016 Fireworks Annual Report, which was released in June 2017, there were four (4) fireworks-related deaths and an estimated 11,100 fireworks-related injuries. These injuries frequently resulted from users playing with lit fireworks or igniting fireworks while holding them.
- H. There clearly exists a “fireworks season” in June and July which sees a higher use of fireworks based upon the statistics of Police Department disturbance calls that involve fireworks, which should be addressed immediately.
- I. The Southern California region continues in a drought condition which acerbates fire danger—especially during the

hot summer months. The use of fireworks poses a real danger of causing a major fire disaster in the City.

- J. The City of San Buenaventura is still recovering from the Thomas Fire, the worst fire related disaster in the City's history. Even after this tragic event, the risk of fire danger remains high.

Section 2. ADDITION TO CODE. Division 10, "Public Peace and Morals," of the San Buenaventura Municipal Code is hereby amended by the addition of Chapter 10.852, "Fireworks Prohibited, Property Owner/Tenant Liability," to read as follows:

"Chapter 10.852

Fireworks Prohibited, Property Owner/Tenant
Liability

Sections:

- Sec. 10.852.010 – Definitions.
- Sec. 10.852.020 – Prohibition.
- Sec. 10.852.030 – Violation.

Sec. 10.852.010 – Definitions.

For the purposes of this chapter, the following words and phrases in italics shall have the following meaning:

Dangerous Fireworks shall be defined as set forth in California Health and Safety Code Section 12505, as such definition may be amended from time to time by the California Legislature.

Fireworks shall be defined as set forth in California Health and Safety Code Section 12511, as such definition may be amended from time to time by the California Legislature.

Responsible person shall mean a person or persons

with a right of possession of the residence or other private property at which fireworks or dangerous fireworks are sold, offered for sale, used or possessed. A responsible person includes, but is not limited to:

1. Owner(s) and/or lessee(s) of the residence or other private property where fireworks or dangerous fireworks are sold, offered for sale, used or possessed;
2. Tenant of the residence or other private property where fireworks or dangerous fireworks are sold, offered for sale, used or possessed; and,
3. Person(s) in charge of the residence or other private property where fireworks or dangerous fireworks are sold, offered for sale, used or possessed.

Sec. 10.852.020 – Prohibition.

A. In addition to the provisions of Section 14.010.010 of the San Buenaventura Municipal Code adopting the California Fire Code and Section 14.010.020.B.55 of said Municipal Code prohibiting the manufacturing, possession, storage, sale, use and handling of fireworks, no person shall sell, offer to sell, use or have in his or her possession within the City any fireworks or dangerous fireworks, except as provided in San Buenaventura Municipal Code Section 14.010.020.B.55.

B. Except as provided in San Buenaventura Municipal Code Section 14.010.020.B.55, no responsible person shall allow or permit the sale, offer to sell, use or possession of fireworks or dangerous fireworks on their property when the responsible person knows or should know that the sale, offer to sell, use or possession of fireworks or dangerous fireworks at the property is prohibited.

Sec. 10.852.030 - Violation.

Any person violating a provision of Section 10.852.020 of this Code shall be subject to a fine in accordance with Division 1 Chapter 1.050 of this Code or is guilty of a misdemeanor.”

Section 3. RECITALS. The foregoing recitals are true and correct.

Section 4. ORDINANCE SUMMARY. The City Clerk shall cause a summary of this Emergency Ordinance to be published in accordance with City established policies.

Section 5. 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 competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

PASSED and ADOPTED this 16th day of July 2018.



Neal Andrews, Mayor

ATTEST:



ANTOINETTE M. MANN, MMC, CRM
CITY CLERK

APPROVED AS TO FORM
Gregory G. Diaz, City Attorney

By:  _____ Date 6-1-18
DIRK DEGENNA
Assistant City Attorney



CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF VENTURA) SS.
CITY OF SAN BUENAVENTURA)

I, ANTOINETTE M. MANN, City Clerk of the City of San Buenaventura, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of Ordinance No. 2018-015 that was introduced by said City Council at a regular meeting held June 18, 2018, and adopted by said City Council at a regular meeting held July 16, 2018, by the following vote:

AYES: Councilmembers Nasarenko, Weir, Tracy, Heitmann, Deputy Mayor LaVere and Mayor Andrews

NOES: None

ABSENT: Councilmember Monahan

I further certify that said Ordinance No. 2018-015 was published as required by law in the VENTURA COUNTY STAR, a newspaper of general circulation printed and published in said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Buenaventura, California.

Antoinette M Mann
Antoinette M. Mann, MMC, CRM
City Clerk
City of San Buenaventura, California

July 18, 2018
Date Attested

