

**ORDINANCE NO. \_\_\_\_\_ (N.C.S.)**

**ORDINANCE REGULATING THE POSSESSION, USE, STORAGE, SALE AND  
DISPLAY OF FIREWORKS, PASSED BY THE VOTERS OF THE CITY OF SALINAS  
AT THE SPECIAL MUNICIPAL ELECTION HELD ON TUESDAY, JUNE 7, 2016**

**THE PEOPLE OF THE CITY OF SALINAS DO ORDAIN AS FOLLOWS:**

**SECTION 1. FINDINGS.** The voters of the City of Salinas hereby find as follows:

- A.** Pursuant to authority provided by statute, a petition was filed with the legislative body of the City of Salinas, California, on December 14, 2015 signed by more than fifteen percent of the number of registered voters of the city to submit a proposed ordinance regulating the possession, use, storage, sale and display of fireworks (“fireworks initiative”); and
- B.** The Monterey County Registrar of Voters, on behalf of the City of Salinas, examined the records of registration pursuant to California Elections Code 9211; and
- C.** The City Clerk, based on the Monterey County Registrar of Voters’ signature verification results, ascertained that the petition was signed by the requisite number of voters and so certified; and
- D.** The Salinas City Council authorized and directed by statute to submit the ordinance to a vote of the people of the City of Salinas at a special municipal election held on Tuesday, June 7, 2016, for the purpose of submitting to the voters the “fireworks initiative”; and
- E.** The City of Salinas special municipal election was consolidated with the presidential primary election and was held on June 7, 2016, in accordance with Elections Code Section 10401 and 10403.

**SECTION 2. VOTER APPROVED AMENDMENT OF THE SALINAS CITY CODE.**

Chapter 13A of the Salinas Municipal Code is hereby amended to read as follows:

[This initiative makes additions and deletions to existing provisions of Chapter 13A of the Municipal Code of the City of Salinas. Additions are shown in underlined type. Deletions are shown in ~~strike-through type~~. Type that is without formatting is reaffirmed and readopted by this initiative.]

**CHAPTER 13A. FIREWORKS**

**Sec. 13A-1. Purpose.**

The purpose of this chapter is to regulate the possession, use, storage, sale, and display of fireworks within the city of Salinas.

Sec. 13A-2. Definitions.

When used in this chapter, the following words shall have the meanings ascribed to them in this section:

- (a) "Affiliated organization."
  - 1. An organization incorporated under the same charter or organization and their auxiliaries if the auxiliary is incorporated under the same charter;
  - 2. An organization sharing the same officers and/or place of meetings and/or national parent organization;
  - 3. A subdivision and/or fractional division however named or delineated of another organization;
  - 4. A suborganization, one of whose primary purpose is to provide financial and/or manpower support to a parent nonprofit organization.
- (b) "Agricultural and wildlife fireworks." Fireworks designed and intended by the manufacturer to be used to prevent damage to crops or unwanted occupancy of areas by animals or birds through the employment of sound or light, or both.
- (c) "Dangerous fireworks." Fireworks as listed and defined in California Health and Safety Code section 12505 and section 12561 and the relevant sections of Title 19 of the California Code of Regulations, as the same may be amended from time to time.
- (d) "Eligible nonprofit organization." A school or school organization or a duly organized nonprofit, tax exempt charitable, religious, civic, patriotic, or community service association, organization or corporation (collectively "the organization") which has met all the following criteria continuously for a minimum period of one year immediately preceding the filing of an application for a permit to display for sale or to sell safe and sane fireworks.
  - 1. The organization must be either a school or a school organization or a duly organized entity which has tax exempt status from the Internal Revenue Service or the Franchise Tax Board, and that serves, in whole or in part, residents of the city of Salinas.
  - 2. The organization must have its principal place of business and principal meeting place within the city of Salinas and must hold its regularly scheduled meetings within the city of Salinas.
  - 3. The organization must be one which provides direct and regular community services and benefits to the residents of the city of Salinas.
  - 4. The organization must not have had a permit to sell revoked within twenty-four months prior to the organization's submittal of an application for a permit to sell.
- (e) "Exempt fireworks." Any special item containing pyrotechnic compositions which the state fire marshal, with the advice of the state fire advisory board, has investigated and determined to be limited to industrial, commercial, and agricultural use, or religious ceremonies when authorized by a permit granted by the authority having jurisdiction.
- (f) "Fireworks." Any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. These items include, but are not limited to, devices designated by the manufacturer as fireworks, torpedoes, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits. This terms includes both "dangerous fireworks" and "safe and sane fireworks."

- (g) “Fireworks stand.” Any building, counter, or other structure of a temporary nature used in the sale, the offering for sale, or display for sale of “safe and sane fireworks.”
- (h) “Fireworks sales permit” or “permit.” A permit issued pursuant to this chapter authorizing the display for sale and the sale of state-approved fireworks.
- (i) “Fireworks wholesaler” and “fireworks distributor.” A person, other than an importer, exporter, or manufacturer selling only to wholesalers, who sells fireworks to a retailer or any other person for resale. It also includes any person who sells dangerous fireworks to public display permittees.
- (j) “Permittee.” An eligible nonprofit organization to which a permit has been issued pursuant to this chapter.
- (k) “Person.” Any person, partnership, organization, firm, corporation, association or any combination thereof, or any city, county, city and county, and state, and shall include any of their employees and authorized representatives. “Person” also includes:
  - 1. The person(s) who owns, rents, leases, or otherwise has possession of private property;
  - 2. The person(s) in immediate control of private property; and
  - 3. The person(s) who organizes, supervises, sponsors, conducts, allows, controls, or controls access to the illegal discharge or illegal storage of fireworks.
- (l) “Principal place of business” and “principal meeting place.” Includes, but is not limited to, a permanent structure, playing field, geographic area, or service population which resides in or is located within the city of Salinas.
- (m) “Safe and sane fireworks” or “state-approved fireworks.” Any fireworks which do not come within the definition of “dangerous fireworks” or “exempt fireworks.” All safe and sane fireworks shall be labeled with the safe and sane fireworks seal as authorized by the state fire marshal.
- (n) “School or school organization.” Includes any elementary school, junior high school, high school or community college which is a part of the Salinas Union High School District and also including Notre Dame High School and Palma High School, the Salinas City Elementary School District, the Alisal Union School District, the Santa Rita Union School District, or the Hartnell Community College District or any organization that is affiliated with or operating solely in support of any such school or community college.
- (o) “Property” shall mean private property, rented residential premises, or rented commercial residences; including, but not limited to, a home, yard, field, apartment, condominium, hotel or motel room, other dwelling unit, a hall or meeting room, commercial property, whether occupied on a temporary or permanent basis, whether or not occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.
- (p) “Response costs” means those reasonable and necessary costs directly incurred by public safety personnel for a response to an illegal discharge or illegal storage of fireworks, and include the cost of providing law enforcement, firefighting, and/or other emergency services at the scene of the illegal discharge or illegal storage of fireworks, including, but not limited to:
  - 1. Salaries and benefits of public safety personnel for the amount of time spent responding to, remaining at, or otherwise dealing with the illegal discharge or illegal storage of fireworks, and the administrative costs attributable to the response(s); and

2. The cost of any medical treatment to or for any public safety personnel injured responding to, remaining at or leaving the scene of the illegal discharge or illegal storage of fireworks; and
  3. The cost of repairing any public safety equipment or property damage, and the cost of the use of any such equipment, in responding to, remaining at, or leaving the scene of an illegal discharge or illegal storage of fireworks.
- (q) “Enforcement officer” shall mean any City employee, agent of the City, or law enforcement officer with the authority to enforce any provision of this Code. Whenever an enforcement officer charged with the enforcement of any provision of this Code determines that a violation has occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation.

Sec. 13A-3. General prohibition against possession, use, or sale of fireworks.

Except as otherwise provided in this chapter, no person shall possess, sell, use, display, explode, or discharge any fireworks within the city of Salinas.

Sec. 13A-4. Exception—Public displays and special events; agricultural and wildlife fireworks; model rockets.

- (a) The display of fireworks shall be permitted as a part of an entertainment feature for which a special event permit has been issued pursuant to Article I.C of Chapter 30 of the City Code and to which the general public or a private group is admitted or invited to attend and is admitted or permitted to enter.
- (b) It shall be unlawful for any person to possess, sell, furnish, or give away, or offer or expose for sale, or fire, discharge, or explode, any agricultural and wildlife fireworks within the city of Salinas without first obtaining a permit to do so from the fire chief. The permit shall not be transferable and shall particularly describe the place where agricultural and wildlife fireworks are to be stored, sold, or discharged. Such permit shall be for such length of time as the fire chief shall determine, but in any event, not to exceed twelve months.
- (c) The sale, purchase, storage, firing or discharge of model rockets may be allowed by written permit from the fire chief which shall include, but not be limited to, the conditions contained in Title 19 of the California State Administrative Code and any other conditions the fire chief may deem reasonably necessary for the safety and welfare of the public and the community.

Sec. 13A-5. Exception—Safe and sane fireworks.

The sale, display for sale, and use of safe and sane fireworks shall be permitted only during that period beginning at noon on June 28 and ending at 10:00 p.m. of July 5 of that same year. It shall be unlawful for any person to sell safe and sane fireworks within the city of Salinas without having first applied for and received a permit from the city as required under this chapter.

Sec. 13A-6. Permit to sell safe and sane fireworks—Application; qualified applicants.

- (a) All eligible nonprofit organizations interested in displaying for sale and in selling safe and sane fireworks must meet all requirements of this chapter and must submit an application to the city in a manner determined by the city manager or his designee. All applications for permits to display for sale and to sell safe and sane fireworks shall be in writing and shall be submitted to the city’s fire chief or his designee on forms supplied by the city. Any eligible

nonprofit organization which demonstrates compliance with all applicable requirements and conditions of this chapter shall be deemed a qualified applicant.

- (b) An interested eligible nonprofit organization may submit to the city an application for a permit to sell beginning February 1 of each year, or the first business day thereafter, and ending the last business day in February of that same year. For calendar year 2009, applications must be submitted in accordance with a schedule prepared by the city manager or his designee.
- (c) No organization shall submit more than one application. Submittal of more than one application by any organization or an affiliated organization thereof shall be grounds for denial of all applications. The city manager shall have final authority to determine the affiliation of organizations.
- (d) Any attempt to transfer an application shall void any and all applications filed by or on behalf of both the transferor and the transferee.
- (e) Each application shall be accompanied by a nonrefundable application fee at an amount established by resolution of the city council. The application fee shall be in addition to any fee or tax imposed by any other chapter or article of the Salinas City Code.

Sec. 13A-7. Limitation on permits to sell safe and sane fireworks; selection of eligible nonprofit organizations.

- (a) Each calendar year, the city shall issue, at the sole discretion of the city council, up to a maximum number of permits at a ratio equal to one for every eight thousand residents, or fraction thereof, of the city of Salinas. One permit shall be issued to each eligible nonprofit organization selected pursuant to this section.
- (b) If the number of qualified applicants exceeds the number of permits which may be issued under this section, the city shall select from among the qualified applicants and shall issue permits by granting priority to the qualified applicants in the following order:  
Schools or school organizations, with preference to high schools (educational, athletic activity).  
Youth sports and activities.  
Community organizations (arts, cultural, other).  
Religious and fraternal, service, veterans' organizations.  
Up to twelve of the permits may be issued to schools or school organizations. The balance of the permits shall then be apportioned equally among the remaining categories, at random, as set forth in this section.
- (c) Two or more eligible nonprofit organizations from the same priority category may jointly submit an application to the city pursuant to Section 13A-6 and may jointly receive a permit to sell fireworks pursuant to this chapter.
- (d) The city's fire marshal shall issue permits to those eligible nonprofit organizations that have submitted a conforming and timely application. Selection shall be made at random from among all those eligible nonprofit organizations which have submitted conforming and timely applications. The city manager or his or her designee shall notify selected organizations in writing no later than April 1 of each year.
- (e) Permits issued pursuant to this section are valid only during the calendar year issued.
- (f) Permits are not transferable to any other person or organization.

Sec. 13A-8. Prerequisites for issuance of permit to sell safe and sane fireworks.

Prior to the issuance of a permit pursuant to this chapter, and in addition to those other requirements set forth in this chapter or on the permit application, an eligible nonprofit organization shall demonstrate compliance with all of the following:

- (a) Written permission from the owner of record and/or lessor of the property upon which the fireworks stand is proposed to be located and a temporary use of land permit, if necessary, issued by the city of Salinas pursuant to Zoning Code Section 37-50.300.
- (b) A copy of the requisite sales permit issued by the Office of the California State Fire Marshal.
- (c) Eligible nonprofit organizations licensed by the state and permitted by the city to display for sale or to sell safe and sane fireworks must obtain a temporary sales tax permit from the California State Board of Equalization.
- (d) Payment of the permit fee at the amount established by resolution of the city council. The application fee shall be in addition to any fee or tax imposed under this chapter.
- (e) Concurrent with the issuance of a permit under this section, each permittee shall execute an indemnification and hold harmless agreement prepared by the city attorney.
- (f) Throughout the term of a permit issued pursuant to this chapter, each permittee shall pay for and maintain in full force and effect policies of insurance in a form and amount and with coverage types required by the city. The policies of insurance shall name the city, its officers, officials, agents, and employees as additional insureds.

#### Sec. 13A-9. Operator safety seminar.

Each year, one or more representatives from each organization that is issued a permit to display for sell or to sell safe and sane fireworks shall attend a stand operator safety seminar conducted by the city of Salinas Fire Department or the fireworks industry. The failure of an organization to have a representative of the organization attend the seminar shall result in the revocation of the permit and the disallowance to display for sell or to sell safe and sane fireworks.

#### Sec. 13A-10. Operation of fireworks stand.

- (a) No person shall sell any fireworks to any person under the age of eighteen years.
- (b) The sale of safe and sane fireworks pursuant to a permit issued under this chapter shall begin no earlier than noon on June 28 and shall not continue after 10:00 p.m. on July 5 of the same year. The sale of safe and sane fireworks shall be permitted only from 9:00 a.m. to 10:00 p.m. daily, except June 28 when the hours shall be from twelve noon to 10:00 p.m.
- (c) No person other than the permittee organization or corporation shall operate the stand for which the permit is issued or share or otherwise participate in the profits of the operation of such stand.
- (d) No person other than the individuals who are members or volunteers of the permittee organization or the spouses, parents or adult children of such members shall sell or otherwise participate in the sale or display of safe and sane fireworks at such fireworks stand.
- (e) No person under the age of eighteen shall sell or participate in the sale of safe and sane fireworks or be in the fireworks stand.
- (f) No person shall be paid any consideration by the permittee organization or any wholesale distributor of safe and sane fireworks for selling or otherwise participating in the sale of fireworks at such stand; provided, however, that compensation may be paid for security personnel during non-sale hours and to the party authorizing location of the stand on its property. The fire marshal or fire chief may revoke the fireworks storage permit of any wholesale distributor violating the terms of this section.

Sec. 13A-11. Fireworks stands.

All retail sales of safe and sane fireworks shall be permitted only from within a fireworks stand. The sale from any other building or structure is prohibited. Fireworks stands shall be subject to the following provisions:

- (a) No fireworks stand shall be located within thirty feet of any adjacent building or within one hundred feet of any gasoline pump or distribution point.
- (b) Fireworks stands may not be located on unpaved surfaces.
- (c) Fireworks stands need not comply with the provisions of the building code of the city; provided, however, that all stands shall be erected under the supervision of the city's inspectors, who shall require that stands be constructed in a manner which will reasonably insure the safety of attendants and patrons; and provided further that any electrical installations shall comply with all applicable codes. The permittee shall be responsible for the full costs associated with any inspections conducted by the city's inspectors and the permittee shall fully reimburse the city for all of its costs incurred in association with such inspections. The permittee shall make payment in full to the city within ten days of receipt of the invoice. Nonpayment shall prohibit the permittee from obtaining permits for subsequent years until the invoice is paid in full.
- (d) A ten-foot area surrounding the fireworks stand must be cleared of dried vegetation and must be maintained.
- (e) No other items, including food or drink, may be sold in conjunction with or within thirty feet of a fireworks stand.
- (f) No fireworks stand shall be located closer than ten feet from any public roadway unless the rear of the fireworks stand is positioned against a curb that faces the primary use on that parcel and the fireworks stand is positioned to allow for the safe use of the parking lot and to allow for the free flow of vehicular and pedestrian traffic throughout the parcel. Fireworks stands may only be placed on a currently developed commercial, mixed use, or industrial zoned parcel and in a location which otherwise meets the approval of the Salinas Fire Department and Community Planning and Development Department.
- (g) If a fireworks stand is operated at night, only electric lights may be used and the wiring must be installed by a licensed electrical contractor and shall meet the minimum requirements of the California Electrical Code and the Salinas City Code. Open splices are prohibited and all wiring must be protected from physical damage and weather. No "Christmas" lights shall be used in or around the fireworks stand. Exposed light bulbs shall be protected with covers, cages or screens.
- (h) No fireworks stand shall have a floor area in excess of seven hundred fifty square feet.
- (i) Each fireworks stand shall have at least two exits. Each stand in excess of forty feet in length shall have at least three exits spaces approximately equidistant apart; provided, however, that in no case shall the distance between exits exceed twenty-four feet apart. Exit doors shall not be less than twenty-four inches wide and six feet in height and shall swing in the direction of exit travel.
- (j) Each fireworks stand shall be provided with at least one approved pressurized "water type" (minimum rating 2A) fire extinguisher with an up-to-date inspection tag that shows the fire extinguisher has been serviced within the past year.
- (k) All fireworks stands shall be disassembled and removed no later than July 8 at 5:00 p.m.
- (l) All fireworks stands are subject to daily inspection by the fire chief or the fire marshal and the permittee shall be responsible for the costs incurred by the city in such inspections at the rates

and amounts established by resolution of the city council. The city will invoice the permittee for the full costs of inspection incurred by the city during the term the fireworks stand is in operation. The permittee shall make payment in full to the city within ten days of receipt of the invoice. Nonpayment shall prohibit the permittee from obtaining permits for subsequent years until the invoice is paid in full.

Sec. 13A-12. General requirements for permittees.

- (a) Fireworks stands shall not be located closer than six hundred feet apart.
- (b) All weeds and combustible material shall be cleared from the location of the fireworks stand to a distance of at least thirty feet surrounding the fireworks stand.
- (c) All trash and debris resulting from the operation of the fireworks stand must be removed on a daily basis.
- (d) "NO SMOKING" signs shall be prominently displayed on all sides of the fireworks stand, in both English and Spanish. Each sign shall have the words "NO SMOKING" in red letters not less than two inches in height with a minimum one-half-inch stroke.
- (e) No fuel-powered generator or similar equipment shall be allowed within fifty feet of a fireworks stand.
- (f) On closing of the fireworks stand each day, all fireworks must be removed from the premises and taken to a secured location which has been approved by the city fire chief or fire marshal.
- (g) Each fireworks stand must post its city of Salinas permit, its temporary sales tax permit, and its state fire marshal retail sales permit and proof of their required insurance in a prominent place inside the fireworks stand.
- (h) All unsold stock of fireworks held by the permittee after 10:00 p.m. on July 5 shall be returned to the distributor or wholesaler immediately.

Sec. 13A-13. Revocation of permit.

- (a) The city fire chief or the city fire marshal may revoke, immediately and without notice or hearing, the permit of any permittee who violates any provision of this chapter. In the event of any such revocation the permittee must immediately cease operations and shall no longer display for sale or sell any fireworks. Any permittee whose permit has been revoked shall be prohibited from applying for or from receiving a permit under this chapter for a period of two years from the date of revocation.
- (b) Any revocation made pursuant to this section may be appealed by the permittee to the city manager on the next business day following such revocation. The city's fire chief and/or fire marshal shall provide the city manager with written notice of the revocation, including the name of the permittee and a brief statement on the grounds for revocation. The city manager shall consider the appeal at his earliest convenience and may, in his sole discretion, meet with the permittee to review the revocation and may, in his discretion, support or overturn the revocation. The city manager's decision shall be final and dispositive of the matter. In the event the city manager overturns the revocation the permittee may immediately operations pursuant to the originally issued permit and shall remain eligible for participation in the next year's application selection process.

Sec. 13A-14. Seizure of fireworks.



The fire chief or the fire marshal may seize, take, remove, or cause to be removed, at the expense of the permittee or owner thereof, all stocks of fireworks displayed or available for sale, stored, or held in violation of this chapter.

Sec. 13A-15. Surcharge.

- (a) On or before November 1 of any year a permittee is permitted to sell fireworks under this chapter, the permittee shall submit to the city a financial statement prepared in a form and manner acceptable to the city setting forth the total gross receipts from the fireworks stand operated by the permittee, all expenses incurred and paid in connection with the purchase of fireworks and the sale thereof, and to whom and for what purpose the net proceeds were or will be disbursed, along with a copy of the most recent report filed by the permittee to the State Board of Equalization for such purposes. The filing of such statement shall be a condition precedent to the granting of any subsequent permit.
- (b) All permittees selling safe and sane fireworks within the city pursuant to a permit issued under this chapter shall assess a surcharge of seven percent on all retail sales of safe and sane fireworks that occur within the city. The assessment shall be paid by the permittee upon presentment of an invoice by the city. The amount of the assessment shall be determined each year as soon as reasonably possible after the permittee has submitted its financial report to the city as required under subsection (a) of this section. Each permittee shall make payment on the assessment within thirty days of receipt of an invoice from the city. This surcharge is only intended to cover a portion of the city's costs ~~in implementing and enforcing this chapter of~~ illegal fireworks enforcement patrols and response, and public education.
- (c) The failure of any permittee to pay the amount assessed to it by the city under this section shall operate as a prohibition to the issuance of a subsequent permit until the assessment is paid full.

Sec. 13A-16. Wholesale storage of safe and sane fireworks.

- (a) Wholesale storage of California State Fire Marshal listed safe and sane fireworks may be allowed under the provisions of this section and chapter. All wholesale storage facilities or buildings shall conform to the applicable building and fire codes of the city of Salinas. ~~Any storage arrangements approved prior to the adoption of this section that are not in compliance with current building and fire codes may continue for temporary storage only through July 15, 2009.~~
- (b) An annual storage permit shall be required from the Salinas Fire Department for the wholesale storage of fireworks. The annual storage permit shall be annually renewable, subject to inspection clearance by the Salinas Fire Department. The fee for such permit shall be established by resolution of the city council.
- (c) All wholesale storage facilities or buildings are subject to daily inspection by the Salinas Fire Department. The city will invoice the wholesale storage permittee for the full costs of inspection incurred by the city during the term the location is in use. The permittee shall make payment in full to the city within ten days of receipt of the invoice. Nonpayment shall prohibit the permittee from obtaining permits for subsequent years until the invoice is paid in full.

Sec. 13A-17. Fireworks wholesaler public education plan.

Each fireworks distributor and fireworks wholesaler which is supplying one or more of the permittees under this chapter shall annually submit a public education plan to the city of Salinas

by no later than 5:00 p.m. on June 1. Each public education plan shall outline the public safety and education efforts that the fireworks distributor or fireworks wholesaler has or intends to initiate, support, and/or deliver within the city of Salinas prior to and during the dates during which fireworks may be sold, displayed for sale, and used within the city of Salinas. At a minimum each public education plan shall consist of the distribution with each sale of safe-and-sane fireworks of two fireworks educational brochures prepared by the state fire marshal's office, and not less than one thousand dollars worth of public service announcements broadcast on local television, and bearing the fireworks wholesaler's name, on the safe and responsible use of safe-and-sane fireworks. Each public education plan should at least include samples of all the materials and the extent of distribution of all of the safety and education materials identified in that fireworks distributor or fireworks wholesaler's public education plan.

Sec. 13A-18. Manufacture of fireworks prohibited.

No person, firm, or corporation shall manufacture fireworks of any type within the city of Salinas.

Sec. 13A-19. Administrative fines and penalties.

- (a) Any violation of this chapter shall be a misdemeanor.
- (b) Any person or entity who possesses, uses, stores, sells, and/or displays safe and sane fireworks on or at dates, times, and/or locations other than those permitted under this chapter are subject to an administrative fine of not less than one thousand dollars for each such offense. ~~Administrative fines shall be subject to the procedures established in Article II of Chapter 1 of the Salinas City Code.~~
- (c) Any person who knows or should know, who causes, allows, permits, aids, or abets, any violation of this chapter by another other person, shall be subject to an administrative fine of not less than one thousand dollars for each such offense.
- (d) Any violation of this chapter may be summarily abated by law enforcement by all reasonable means. A person who has been issued a second administrative citation and/or written notice of violation of this chapter may be liable for response costs incurred in responding to the illegal discharge or illegal storage of fireworks. All such persons shall be jointly and severally liable for response costs incurred in the response and all subsequent responses. If a person is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this chapter. To incur liability for response costs imposed by this chapter, a person need not be present at the event that causes the response giving rise to the imposition of response costs. This chapter therefore imposes vicarious as well as direct liability upon a person.
- (e) Administrative fines shall be subject to the procedures established in Article II of Chapter 1 of the Salinas City Code.
- ~~(e)~~(f) The remedies set forth in this ~~article~~ chapter are in addition to all other legal and equitable remedies, administrative, criminal or civil, that may be pursued by the city to address violations of this chapter including, as an alternative to the issuance of an administrative fine pursuant to this section, and in his or her sole discretion, the city attorney may criminally prosecute a violation of this chapter.
- ~~(d)~~(g) The imposition of administrative fines under this section related to the use, possession, sale, or display for sale of dangerous fireworks shall be limited to persons who possess, sell, use, and/or display, or the seizure of, less than twenty-five pounds of dangerous fireworks,

measured by gross weight. Any person or entity who possesses, uses, stores, sells, and/or displays less than twenty-five pounds of dangerous fireworks are subject to an administrative fine of not less than one thousand two hundred fifty dollars for each such offense.

~~(e)~~(h) Administrative fines collected pursuant to this section and related to dangerous fireworks shall not be subject to the restrictions of California Health and Safety Code section 12706; however, the city shall provide cost reimbursement to the state fire marshal pursuant to regulations adopted by the state fire marshal addressing the state fire marshal's costs for the transportation and disposal of dangerous fireworks seized by the city, which costs will be part of any administrative fine imposed. Unless and until said regulations have been adopted, the city shall hold in trust two hundred fifty dollars or twenty-five percent of any administrative fine collected, to cover the cost reimbursement to the state fire marshal for the cost of transportation and disposal of the dangerous fireworks.

#### Sec. 13A-20. Concurrent authority.

This chapter is not the exclusive regulation of fireworks within the city. It shall supplement and be in addition to other state, local, or federal laws, regulations, or ordinances and any other legal entity or agency having jurisdiction.

#### Sec. 13A-21. Fees deemed debt to the city.

The amount of any fee, cost or charge imposed by this article shall be deemed a debt to the city that is recoverable in any court of competent jurisdiction.

#### Sec. 13A-22. Police and fire department illegal fireworks operation plan and after action report.

(a) On or before May 1 of every year, both the City's police and fire departments must present to the City Council an Operation Plan for the thirty day period surrounding the 4<sup>th</sup> of July (June 17 through July 16) for that year. Said operation plan should include, but not be limited to, the following information:

1. Identification of areas within the City where illegal fireworks were a problem in the previous year;
2. A detailed explanation of the deployment of fire and law enforcement personnel to deal with those troublesome areas as well as with the balance of the City;
3. A report on the apparatus and personnel who will be on duty for the period of June 17<sup>th</sup> through July 16<sup>th</sup> of that year, and more particularly, on the 1<sup>st</sup> through the 5<sup>th</sup> of July, inclusive;
4. Recommendations on and discussion of what, if any, dedicated illegal fireworks enforcement patrols there should be for that year and all other relevant information and statistics deemed necessary by the City Council.

(b) By no later than September 1 of that same year, both police and fire departments must report back to the City Council with an After Action Report. That report should include, but is not limited to:

1. An evaluation of the success or failure of that department's Operation Plan for that year including a listing of any significant fireworks-related incidents, both "Dangerous Fireworks" and "Safe and Sane Fireworks";
2. Relevant incident statistics for the period of June 17<sup>th</sup> through July 16<sup>th</sup>, arrest and citation statistics for all crimes, but more particularly for the possession, sale and/or use

of “Dangerous Fireworks”, altered “Safe and Sane Fireworks” and misuse of “Safe and Sane Fireworks” outside the strict limitations of this Article;

3. A report on how many calls there were regarding suspected “Dangerous Fireworks”, how many of those calls either of the departments responded to, how many of those calls resulted in seizures and/or administrative fine citations, the status of payment of those administrative fines, and how many fireworks seizures resulted in no citations and if so, why.
4. An itemization of what city expenses are requested to be allocated against the surcharge collected pursuant to Section 13A-15 (b).

**SECTION 3. IMPLEMENTATION.** Every section, subsection, sentence, clause, phrase or word of this initiative measure, whether existing in the Municipal Code at the time of adoption of this initiative measure, or added or deleted by this initiative measure, shall be subject to Section 9217 of the Elections Code, and shall not be repealed or amended by the City Council without submitting the proposed repeal or amendment to the voters of the City.

#### **SECTION 4. CONFLICTING BALLOT MEASURES.**

In the event that this initiative and any other measure addressing in whole or in part the same subject matter as this initiative are approved by the voters at the same election, and this initiative receives a greater number of affirmative votes than any other such measure or measures, this initiative shall control in its entirety and the other measure or measures shall be rendered void and without any legal effect.

If this initiative is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other measure addressing in whole or in part the same subject matter as this initiative at the same election, this initiative shall take effect to the extent permitted by law.

#### **SECTION 5. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or word of this Chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competence jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The People of the City of Salinas hereby declare that they would have passed this Chapter and each section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or words be declared invalid or unconstitutional.

**SECTION 6. CODIFICATION.** Upon adoption of this ordinance pursuant to the voter approval reference herein, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Salinas City Code.

**SECTION 7. EFFECTIVE DATE.** Pursuant to Elections Code Section 9217, this ordinance shall become effective ten (10) days after the City Council declares the results of the election.

**SECTION 8. PUBLICATION.** The City Clerk is hereby directed to cause the ordinance to be published by one (1) insertion in The Salinas Californian, a newspaper of general circulation published and circulated in the City of Salinas.

**APPROVED** by the following vote of the voters of the City of Salinas on June 7, 2016:

YES: 13,096

NO: 9,349

**ADOPTED** by declaration of the vote by the City Council of the City of Salinas on July 12, 2016:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

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Joe Gunter, Mayor

ATTEST:

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Patricia M. Barajas, City Clerk